



SOCIAL SECURITY

MEMORANDUM

Date: February 10, 2009

Refer To:

To: The Commissioner

From: Inspector General

Subject: Effectiveness of Title XVI Installment Agreements (A-02-09-29007)

The attached final Quick Response Evaluation presents the results of our review. Our objective was to determine the effectiveness of the Social Security Administration's efforts to collect Title XVI overpayments from individuals who agreed, but failed, to honor an installment agreement.

If you wish to discuss the final report, please call me or have your staff contact Steven L. Schaeffer, Assistant Inspector General for Audit, at (410) 965-9700.

A handwritten signature in black ink, appearing to read "Patrick P. O'Carroll, Jr." with a stylized flourish at the end.

Patrick P. O'Carroll, Jr.

Attachment

QUICK RESPONSE EVALUATION

Effectiveness of Title XVI Installment Agreements

A-02-09-29007



February 2009

Mission

By conducting independent and objective audits, evaluations and investigations, we inspire public confidence in the integrity and security of SSA's programs and operations and protect them against fraud, waste and abuse. We provide timely, useful and reliable information and advice to Administration officials, Congress and the public.

Authority

The Inspector General Act created independent audit and investigative units, called the Office of Inspector General (OIG). The mission of the OIG, as spelled out in the Act, is to:

- Conduct and supervise independent and objective audits and investigations relating to agency programs and operations.
- Promote economy, effectiveness, and efficiency within the agency.
- Prevent and detect fraud, waste, and abuse in agency programs and operations.
- Review and make recommendations regarding existing and proposed legislation and regulations relating to agency programs and operations.
- Keep the agency head and the Congress fully and currently informed of problems in agency programs and operations.

To ensure objectivity, the IG Act empowers the IG with:

- Independence to determine what reviews to perform.
- Access to all information necessary for the reviews.
- Authority to publish findings and recommendations based on the reviews.

Vision

We strive for continual improvement in SSA's programs, operations and management by proactively seeking new ways to prevent and deter fraud, waste and abuse. We commit to integrity and excellence by supporting an environment that provides a valuable public service while encouraging employee development and retention and fostering diversity and innovation.

OBJECTIVE

Our objective was to determine the effectiveness of the Social Security Administration's (SSA) efforts to collect Title XVI overpayments from individuals who agreed, but failed, to honor an installment agreement.

BACKGROUND

Individuals are considered overpaid when they receive funds in excess of the correct amount.¹ With few exceptions, overpaid individuals are responsible for repaying the overpayments.² SSA prefers a full refund of an overpayment.³ If a full refund is not possible, SSA has several methods of collecting a Title XVI overpayment. If the overpaid individual is receiving Title XVI payments, SSA's systems automatically withhold 10 percent of the individual's benefit payment 60 days after an overpayment notice is sent if the individual does not respond to the overpayment notice within 30 days. The Agency will delay withholding from the individual's benefit payment if reconsideration or waiver of the overpayment is requested.⁴ If the individual is not currently receiving Title XVI payments, SSA can collect the Title XVI overpayment from any Title II benefits due, which is referred to as Cross Program Recovery.⁵

Some beneficiaries cannot manage or direct the management of their finances because of their youth or mental or physical impairment. For such beneficiaries, Congress provided for payment to be made through a representative payee who receives and

¹ *Social Security Act* § 1631(b); 42 United States Code § 1383(b); Title 20 Code of Federal Regulations (C.F.R.) § 416.537(a); see also SSA's Program Operations Manual System (POMS) GN 02201.001 *Overpayments- General*.

² POMS, SI 02260.001 *Supplemental Security Income (SSI) Overpayment- Basic Requirements Concerning Waiver*, individuals may not be responsible for repaying an overpayment when they are without fault in causing the overpayment and recovery would either defeat the purpose of Title XVI of the *Social Security Act*, be against equity and good conscience, or impede effective or efficient administration of Title XVI of the *Social Security Act* because of the amount involved. Additionally, according to POMS, GN 02215.235, *Suspension or Termination of Collection Action for Title II and Title XVI Debts*, SSA may discontinue collection efforts if the debtor cannot repay, the debtor cannot be located, or the costs of collection are expected to exceed the amount recoverable. However, the debt is still subject to future collection and may be recovered if the debtor returns to payment status or through the use of external collection sources.

³ POMS, SI 02220.025 *SSI Overpayment- Recovery By Refund*.

⁴ POMS, SI 02220.001 *Recovery Procedures for SSI Overpayments- General*.

⁵ POMS, SI 02220.020 *Cross Program Recovery (CPR) of SSI Overpayments from Monthly Title II Benefits*.

manages the beneficiary's funds.⁶ If SSA is unable to collect an overpayment from a beneficiary, and the overpaid funds were paid to a liable representative payee,⁷ the overpayment can be recovered from the representative payee's Title XVI payments or Title II benefits.

When SSA is unable to recover the overpayment through adjustment to monthly payments and an overpaid person does not make a full refund in a single payment, an individual can enter into an agreement with SSA and refund the overpayment through monthly installment payments. When a debtor makes, but later fails to honor, an installment agreement, SSA's procedures⁸ prescribe that the following outreach efforts should occur.

- The Recovery and Collection of Overpayment Process (RECOOP) sends two reminder bills, 1 month apart.
- If the beneficiary has not made a payment 30 days after the second reminder bill is sent, RECOOP sends a call-in notice, advising the debtor to call the Debt Management Section in the program service center of jurisdiction.
- If there is still no response from the beneficiary 15 days later, an alert is generated for the Debt Management Section to contact the debtor by telephone.
- The Debt Management Section controls the case until the debt is resolved.

If certain criteria are met, SSA can also recover delinquent overpayments through such options as the Treasury Offset Program (TOP), which offsets any Federal payment (for example, a tax refund) and/or Administrative Wage Garnishment (AWG), a vehicle by which a delinquent SSA debtor's wages may be garnished. Debtors who have been sent a second reminder bill by RECOOP and meet the applicable criteria for TOP and/or AWG are selected by SSA's automated External Collection Operation (ECO) system.

To meet our objective, we obtained a data extract from one segment of the Supplemental Security Record (SSR)⁹ for individuals with an open installment agreement as of October 1, 2007. From this data set, we isolated individuals with an overpayment balance of \$15,000 or more who had not made any of the agreed-upon installment payments from October 1 through December 31, 2007. For this review, we

⁶ Title 20 C.F.R. §416.601(b); see also POMS, GN 00501.005 *Overview of Representative Payment*.

⁷ POMS, SI 02201.021 *SSI Responsibility- Representative Payment*, The representative payee is personally responsible for repayment if the incorrect payments were not used for the recipient's support and maintenance. The recipient and representative payee are jointly liable when the incorrect payments have been expended on the recipient and the representative payee was aware of the facts causing the overpayment.

⁸ POMS, SM 00610.735 *Installment Agreements*.

⁹ One segment of the SSR represents 5 percent of the total population, that is, 1/20.

considered these installment agreements to be delinquent. There were 102 individuals in the SSR segment with combined overpayments totaling approximately \$2.2 million who met the selection criteria. Since there are 20 segments of the SSR, we estimate about \$44 million in overpayments met our criteria. We reviewed SSA's records for the 102 individuals to determine whether SSA took the appropriate steps to collect the delinquent amounts. We conducted a similar review of Title II Installment Agreements for our September 2008 report, *Status of Title II Installment Agreements* (A-02-08-18074). Additional details of our Scope and Methodology are in Appendix B.

Results of Review

The effectiveness of SSA's efforts to collect overpayments related to delinquent Title XVI installment agreements could be improved. While SSA generally followed its procedures for billing and contacting delinquent debtors, it did not pursue other recovery methods available for all eligible cases.

We found that 5 of the 102 cases we reviewed were eligible for TOP, but they were not referred. In four other cases, benefit withholding from a representative payee could have been pursued, but was not. In two additional cases, both TOP and benefit withholding from a representative payee could have been pursued, but were not.¹⁰ Also, we identified one debtor who was receiving Title XVI payments, but funds were not being withheld from her monthly payments to recover a prior overpayment.

By not pursuing available collection methods in these 12 cases, SSA lost the opportunity to collect \$252,685.¹¹ Estimating these results to the entire SSR, we estimate SSA failed to pursue available collection methods for 240 individuals (with overpayment balances of \$15,000 or more) or their representative payees with combined overpayments of \$5.1 million.

USE OF TREASURY OFFSET PROGRAM

Our audit of Title II installment agreements¹² found that TOP and AWG were the most effective methods of collection; however, they were not always pursued when applicable. Similarly, we identified seven Title XVI debtors who met the TOP eligibility criteria as of August 2008, but were not referred. As with our review of Title II installment agreements, this was due in part to the ECO system selection of debts as described in the following paragraphs.

SSA used TOP effectively with some of the debtors we reviewed. As of August 2008, SSA was pursuing offset against 21 eligible debtors and had recovered \$13,565 from 7. Additionally, SSA recovered \$15,939 from five individuals who previously met the criteria for TOP, but did not meet the eligibility criteria as of August 2008. While SSA used TOP effectively with some cases, it did not pursue it for seven additional debtors who met TOP eligibility criteria.

¹⁰ One of the debtors had previously been referred for TOP, but was no longer subject to it at the time of our review. The debtor had multiple overpayments and TOP ceased when the earliest overpayment became over 10 years old. The debtor's second overpayment was established fewer than 10 years ago, but was no longer subject to TOP.

¹¹ For the debtor mentioned in the footnote above, only the overpayment that is fewer than 10 years old is included in the balance. The overpayment that is over 10 years old, and thus ineligible for TOP, is not included in the combined overpayment balance.

¹² SSA/Office of the Inspector General, *Status of Title II Installment Agreements (A-02-08-18074)*, September 2008.

All seven debtors who were eligible and not referred for TOP had multiple overpayments recorded on their SSRs. Some of the debtors' previous overpayments did not meet the criteria for TOP.¹³ For example, the debtor was under age 18 when the debt was established or the debt was over 10 years old. Although the current debts we reviewed met the criteria for TOP, the existence of the old debts on the individuals' records prevented the eligible debts from being selected by ECO. By not pursuing TOP against these seven debtors, SSA lost the opportunity to collect \$151,791.

RECOVERY FROM REPRESENTATIVE PAYEE BENEFITS

If SSA is unable to collect an overpayment from a recipient, and the overpaid funds were paid to a liable representative payee, the overpayment can be recovered from the representative payee's own Title XVI payments or Title II benefits. We identified six representative payees who were receiving their own Title II benefits and/or Title XVI payments that could have been used to recover their recipients' overpayments. However, SSA did not propose benefit adjustment against the representative payees' own benefits despite their joint liability for the overpayments with a combined balance of \$116,252.

One-half (51 of 102) of the debtors we reviewed had representative payees. Ten of those representative payees were receiving their own Title XVI payments and/or Title II benefits. Of these 10, SSA could have pursued recovery from the representative payee's benefits in 7 cases, but only did so in 1 case. SSA did not pursue benefit withholding in the other six eligible cases.

RECOVERY FROM BENEFITS DUE THE DEBTOR

We identified one debtor who had previously received Title XVI payments and was overpaid \$16,285. After not receiving Title XVI for 7 years, she began receiving monthly payments again. However, the overpayment was not transferred to her new record, and no action was taken to recover the overpayment.

The field office is responsible for recognizing the need to transfer an overpayment from a terminated record to the new SSR. This process is performed automatically in most cases through the automated reconciliation process. However, the field office must identify those situations that can use the automated reconciliation process, as well as those that require manual processing. In this case, the field office employee who established the new Title XVI record failed to transfer the overpayment to the current record.

¹³ According to POMS, *SI 02220.012 Collection of Title XVI Overpayments By Tax Refund Offset (TRO)*, for a debtor to be selected for offset of a tax refund by the TOP system, certain criteria must be met, including the debtor must be at least 18 years old when the debt is established on SSA's records and the debt is delinquent for no more than 10 years. According to POMS, *SI 02220.013 Collection of Title XVI Overpayments by Administrative Offset*, other types of administrative offset, also processed by the TOP system, must meet these criteria as well.

Matters for Consideration

Based on the results of our review, SSA is not fully using all recovery methods available to recover delinquent Title XVI overpayments. SSA can pursue benefit withholding from representative payees when it is available if attempts to recover the overpayment from the recipient have failed. We recommended in our prior report, *Status of Title II Installment Agreements (A-02-08-18074)*, that SSA maximize recovery via TOP in both Title II and Title XVI cases. Additionally, SSA should transfer overpayments from terminated SSRs to new SSRs when a new record is put into payment status.

SSA is already pursuing corrective actions in response to our September 2008 audit¹⁴ that should also address the issues identified in this review. We provided SSA a list of the 12 cases identified during our review so the Agency can take appropriate action.

¹⁴ SSA/Office of the Inspector General, *Status of Title II Installment Agreements (A-02-08-18074)*, September, 2008.

Appendices

APPENDIX A – Acronyms

APPENDIX B – Scope and Methodology

APPENDIX C – OIG Contacts and Staff Acknowledgments

Acronyms

AWG	Administrative Wage Garnishment
C.F.R.	Code of Federal Regulations
ECO	External Collection Operation
OIG	Office of the Inspector General
POMS	Program Operations Manual System
RECOOP	Recovery and Collection of Overpayment Process
SSA	Social Security Administration
SSI	Supplemental Security Income
SSR	Supplemental Security Record
TOP	Treasury Offset Program

Scope and Methodology

Our objective was to determine the effectiveness of the Social Security Administration's (SSA) efforts to collect Title XVI overpayments from individuals who agreed to, but failed to honor, an installment agreement. To meet our objective, we:

- Reviewed applicable Federal laws, regulations and SSA's policies and procedures regarding the collection of Title XVI overpayments.
- Contacted staff within SSA's Office of Public Service and Operations Support for information about the input of Title XVI Installment Agreements into SSA's systems.
- Obtained a data extract from one segment of the Supplemental Security Record (SSR) of individuals with an open installment agreement as of December 31, 2007. We determined which individuals were in default of the agreement by selecting only those individuals who made an agreement October 1, 2007 or earlier, but had not made a remittance from October through December 2007.

We focused our review on individuals with overpayment balances of \$15,000 or more. To limit our review to only those individuals who agreed to make regular monthly installment payments, we excluded individuals whose monthly installment amount was coded as the full overpayment amount. We determined that 102 individuals in the segment met our selection criteria. The combined overpayment balance for these individuals was about \$2.2 million.

We reviewed SSRs, Debt Management System queries, and notices obtained via the Online Retrieval System to determine whether the procedures described in SSA's Program Operations Manual System, Systems and Methods 00610.735, *Installment Agreements*, were followed. We also determined whether other recovery methods, such as the Treasury Offset Program, Administrative Wage Garnishment, and reporting to credit bureaus, were applicable and used. Lastly, we reviewed the SSRs, Master Beneficiary Records, and earnings records of payees representing the recipients we reviewed to determine whether recovery from the representative payee was applicable and, if so, pursued.

We determined the data used for our review were sufficiently reliable given our objective and their intended use and should not lead to incorrect or unintended conclusions. We performed our review in the New York Audit Division in November and December 2008. The entity reviewed was the Office of Public Service and Operations Support under the Deputy Commissioner for Operations. We conducted our review in accordance with the President's Council on Integrity and Efficiency's *Quality Standards for Inspections*.

OIG Contacts and Staff Acknowledgments

OIG Contacts

Tim Nee, Director, New York Audit Division, (212) 264-5295

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Acknowledgments

In addition to those named above:

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Office of Audit

OA conducts financial and performance audits of the Social Security Administration's (SSA) programs and operations and makes recommendations to ensure program objectives are achieved effectively and efficiently. Financial audits assess whether SSA's financial statements fairly present SSA's financial position, results of operations, and cash flow. Performance audits review the economy, efficiency, and effectiveness of SSA's programs and operations. OA also conducts short-term management reviews and program evaluations on issues of concern to SSA, Congress, and the general public.

Office of Investigations

OI conducts investigations related to fraud, waste, abuse, and mismanagement in SSA programs and operations. This includes wrongdoing by applicants, beneficiaries, contractors, third parties, or SSA employees performing their official duties. This office serves as liaison to the Department of Justice on all matters relating to the investigation of SSA programs and personnel. OI also conducts joint investigations with other Federal, State, and local law enforcement agencies.

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