



Office *of the* Inspector General

SOCIAL SECURITY ADMINISTRATION

*Audit Report*

Beneficiaries Who Worked After  
Their Disability Onset Dates and  
Before Favorable Hearing Decisions

*A-02-16-20132 | July 2017*



Office of the Inspector General

SOCIAL SECURITY ADMINISTRATION

**MEMORANDUM**

**Date:** July 18, 2017

**Refer To:**

**To:** The Commissioner

**From:** Acting Inspector General

**Subject:** Beneficiaries Who Worked After Their Disability Onset Dates and Before Favorable Hearing Decisions (A-02-16-20132)

The attached final report presents the results of the Office of Audit's review. The objective was to determine whether the Social Security Administration appropriately addressed Old-Age, Survivors and Disability Insurance claimants' earnings after their disability onset dates and before favorable hearing decisions.

If you wish to discuss the final report, please call me or have your staff contact Rona Lawson, Assistant Inspector General for Audit, 410-965-9700.

A handwritten signature in blue ink that reads 'Gale Stallworth Stone'.

Gale Stallworth Stone

Attachment

# Beneficiaries Who Worked After Their Disability Onset Dates and Before Favorable Hearing Decisions

## A-02-16-20132



July 2017

Office of Audit Report Summary

### Objective

To determine whether the Social Security Administration (SSA) appropriately addressed Old-Age, Survivors and Disability Insurance (OASDI) claimants' earnings after their disability onset dates and before favorable hearing decisions.

### Background

To qualify for disability benefits, an individual must have a medical condition that prevents him/her from engaging in substantial gainful activity (SGA) and is expected to last at least 12 months or result in death. SGA is the performance of significant physical and/or mental activities in work for pay or profit. Generally, individuals who engage in SGA are not considered disabled, regardless of how severe their physical or mental impairment is and their age, education, or work experience. If SSA initially denies an applicant's claim, he/she may request a hearing before an administrative law judge (ALJ).

We identified 35,845 beneficiaries who had multiple years of earnings after their disability onset dates but before favorable hearing decisions, and the earnings in at least 1 of the years after the onset of their disabilities exceeded 12 times the monthly SGA limit.

### Findings

SSA did not always address SGA-level earnings OASDI claimants earned after their disability onset dates and before favorable hearing decisions. In some cases, ALJs discussed the earnings during the hearings but did not include the results of those discussions in their written decisions. In other cases, the ALJs did not address the earnings during the hearings or in their written decisions, but another SSA component did so after the hearings. In other cases, neither ALJs nor other SSA components addressed SGA-level earnings after applicants' reported disability onset dates.

This latter group of cases led to over \$684,000 in improper payments because SSA awarded benefits before the dates the applicants should have been determined disabled. Projecting our results to the population, SSA did not appropriately address SGA-level earnings nearly 4,000 OASDI applicants earned after their disability onset dates and before favorable hearing decisions, which resulted in improper payments of over \$109 million.

In a previous audit, we found SSA improperly paid SSI recipients because it did not always address earnings on the recipients' records after their disability onset dates and before favorable hearing decisions. Based on the results of this review, we believe the Agency encountered similar issues with OASDI disability claimants. SSA missed the opportunity to use information at its disposal to prevent improper payments.

### Recommendations

We made five recommendations, including to remind staff to refer to appropriate policy to identify and address earnings applicants earned after disability onset and before their hearing decisions, review the cases with above SGA-level earnings OASDI applicants earned after disability onset that the Agency did not address, and determine the cost-effectiveness of establishing a system alert to detect potentially disqualifying earnings within 12 months of an applicant's disability onset.

SSA agreed with our recommendations.

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## ABBREVIATIONS

ALJ	Administrative Law Judge
C.F.R.	Code of Federal Regulations
FY	Fiscal Year
GAO	Government Accountability Office
HALLEX	Hearings, Appeals and Litigation Law Manual
MEF	Master Earnings File
NDNH	National Directory of New Hires
OASDI	Old-Age, Survivors and Disability Insurance
OIG	Office of the Inspector General
POMS	Program Operations Manual System
SGA	Substantial Gainful Activity
SSA	Social Security Administration
SSI	Supplemental Security Income

## OBJECTIVE

Our objective was to determine whether the Social Security Administration (SSA) appropriately addressed Old-Age, Survivors and Disability Insurance (OASDI) claimants' earnings after their disability onset dates and before favorable hearing decisions.

## BACKGROUND

SSA pays disability benefits to eligible individuals under Title II of the *Social Security Act*.<sup>1</sup> To qualify for disability benefits, an applicant must meet certain earnings requirements<sup>2</sup> and have a medical condition that is expected to result in death or last at least 12 months.<sup>3</sup> To meet the 12-month duration requirement, the condition must prevent the applicant<sup>4</sup> from engaging in any substantial gainful activity (SGA)<sup>5</sup> for 12 months and must have lasted, or be expected to last, for a continuous period of not less than 12 months.<sup>6</sup>

SGA is the performance of significant physical and/or mental activities for pay or profit.<sup>7</sup> SSA generally considers earnings averaging over \$1,170 a month in 2017 as a demonstration of SGA for individuals who have disabilities other than blindness.<sup>8</sup> For blind individuals, the monthly earnings amount that demonstrates SGA is \$1,950.<sup>9</sup>

The *Social Security Act*<sup>10</sup> has a five-step sequential evaluation process for determining whether an individual is disabled.<sup>11</sup> The five steps determine whether the claimant is working; has a severe medical condition; has a condition that meets or equals a listed impairment under SSA's regulations; can perform past work based on the determined residual functional capacity; or can perform other work. The steps are followed in order, so if an applicant is determined to be disabled or not disabled at a step in the evaluation process, the evaluation does not proceed to the next step.

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<sup>1</sup> *Social Security Act*, 42 U.S.C. § 423.

<sup>2</sup> *Social Security Act*, 42 U.S.C. § 423(c)(1).

<sup>3</sup> *Social Security Act*, 42 U.S.C. § 423(d)(1)(A).

<sup>4</sup> "Applicant" refers to an adult over age 18.

<sup>5</sup> *Social Security Act*, 42 U.S.C. § 423(d)(1).

<sup>6</sup> SSA, *POMS, DI-Disability Insurance*, ch. DI 255, subch. DI 25505.025, sec. B (August 11, 2016). The duration period can begin before the date an individual is first insured under the Disability Insurance program.

<sup>7</sup> SSA, *POMS, DI-Disability Insurance*, ch. DI 101, subch. DI 10105.065, sec. B (December 21, 2007).

<sup>8</sup> SSA, *POMS, DI-Disability Insurance*, ch. DI 105, subch. DI 10501.015, sec. B (October 19, 2016).

<sup>9</sup> See Appendix B for SGA earnings guidelines.

<sup>10</sup> *Social Security Act*, 42 U.S.C. § 1382c(3)(A)-(B).

<sup>11</sup> 20 C.F.R. § 404.1520(a)(4).

During the five-step process, SSA must first determine whether the claimant is working.<sup>12</sup> Generally, if an individual engages in SGA,<sup>13</sup> he/she is not considered disabled for OASDI eligibility purposes, regardless of how severe his/her physical or mental impairment is and his/her age, education, or work experience.

If, before adjudicating a claim, SSA finds a claimant has engaged in SGA within 12 months of the disability onset date, the Agency will deny the claim. If, after a disability claim is awarded, the Agency becomes aware of the beneficiary's SGA, it may reopen the claim and revise the decision to a denial. SSA may also consider a later disability onset date rather than denying the disability claim if the SGA stopped.<sup>14</sup>

To help determine whether a claimant engaged in SGA, SSA staff can review the claimant's earnings records. Staff has access to SSA's Master Earnings File (MEF), which contains the earnings of the working population provided by reports from employers and the Internal Revenue Service. These data include regular wages and salaries, tips, self-employment income, and deferred compensation. Additionally, the Agency's Continuing Disability Review Enforcement Operation generates alerts when OASDI and concurrent beneficiaries have potentially uninvestigated substantial earnings after disability onset. However, earnings posted for the year of onset will usually not generate an alert.<sup>15</sup>

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<sup>12</sup> 20 C.F.R. § 404.1520(b).

<sup>13</sup> See Appendix B for SGA Earnings Guidelines. To determine whether an OASDI applicant performed SGA, SSA subtracts the value of subsidized earnings and the costs of any impairment-related work expenses from the applicant's gross earnings. SSA may also deduct sick/vacation pay and bonus or incentive payments. The remainder is used to determine whether an applicant has performed SGA. SSA, *POMS, DI-Disability Insurance*, ch. DI 105, subch. DI 10505.001, sec. C.1 (January 17, 2017). In 2017, the level of earnings that constituted SGA was \$1,170 per month for sighted individuals and \$1,950 for blind individuals.

<sup>14</sup> SSA, *POMS, DI-Disability Insurance*, ch. DI 130, subch. DI 13010.105 (March 2, 2016).

<sup>15</sup> SSA, *POMS, DI-Disability Insurance*, ch. DI 130, subch. DI 13001.005, sec. A.4 (April 24, 2017).

## Hearings

If SSA denies a claim,<sup>16</sup> the claimant may request a hearing before an administrative law judge (ALJ).<sup>17</sup> After ALJs review evidence and hold hearings,<sup>18</sup> they independently decide to allow or deny disability claims using the same five-step process.<sup>19</sup> ALJs' decisions are written and, in most cases, drafted by decision writers. Per policy,<sup>20</sup> ALJs are responsible for providing decision writers with complete, clear, and policy-compliant instructions. Most importantly, ALJs need to include rationales supporting the findings that affect their conclusions. The decision writing instructions must cite the pertinent evidence or testimony on which the ALJs relied to reach their conclusions.

## Prior Office of the Inspector General Report

In an October 2012<sup>21</sup> review, we determined that SSA did not fully address earnings Supplemental Security Income (SSI)<sup>22</sup> applicants earned after their disability onset dates and before favorable hearing decisions. Based on our recommendation, SSA agreed to remind ALJs to address earnings posted after an SSI applicant's disability onset date and before his/her hearing date to determine whether the related work activity affected the applicant's disability onset date or SSI eligibility.

We also recommended SSA assess the feasibility of creating a systems alert that identifies cases where an applicant had significant earnings before a favorable ALJ decision is recorded. SSA disagreed, stating it had tools in place to identify cases with significant earnings before an ALJ decision. Rather than creating a new tool, SSA stated that reminding staff to use the tools already in place would meet the intent of our recommendation.

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<sup>16</sup> When an individual applies for disability benefits, a State disability determination services makes the initial determination on whether the individual is disabled based on medical and other related evidence. If the disability determination services denies the claim, the individual may request a reconsideration of the initial determination. If the claimant is dissatisfied with a reconsideration or revised reconsideration determination, he/she may request a hearing. Some States do not have a reconsideration step. In these states, an initial determination is appealed directly to the Office of Disability Adjudication and Review.

<sup>17</sup> 20 C.F.R. §§ 404.944 and 404.946.

<sup>18</sup> While most cases are decided after an ALJ holds a hearing with the applicant, ALJs and senior attorney adjudicators have the authority to issue on-the-record decisions if the evidence in the hearing record supports a finding in the applicant's favor, based on a preponderance of the evidence, without holding a hearing.

<sup>19</sup> 20 C.F.R. § 404.953.

<sup>20</sup> SSA, *HALLEX*, vol. I, ch. I-2-8, sec. I-2-8-20 (March 10, 2016).

<sup>21</sup> SSA, OIG, *Supplemental Security Income Applicants with Earnings Received After Their Disability Onset Dates and Before Favorable Hearing Decisions*, A-02-10-20128 (October 26, 2012).

<sup>22</sup> The SSI program provides cash assistance to financially needy individuals who are aged, blind, or disabled.

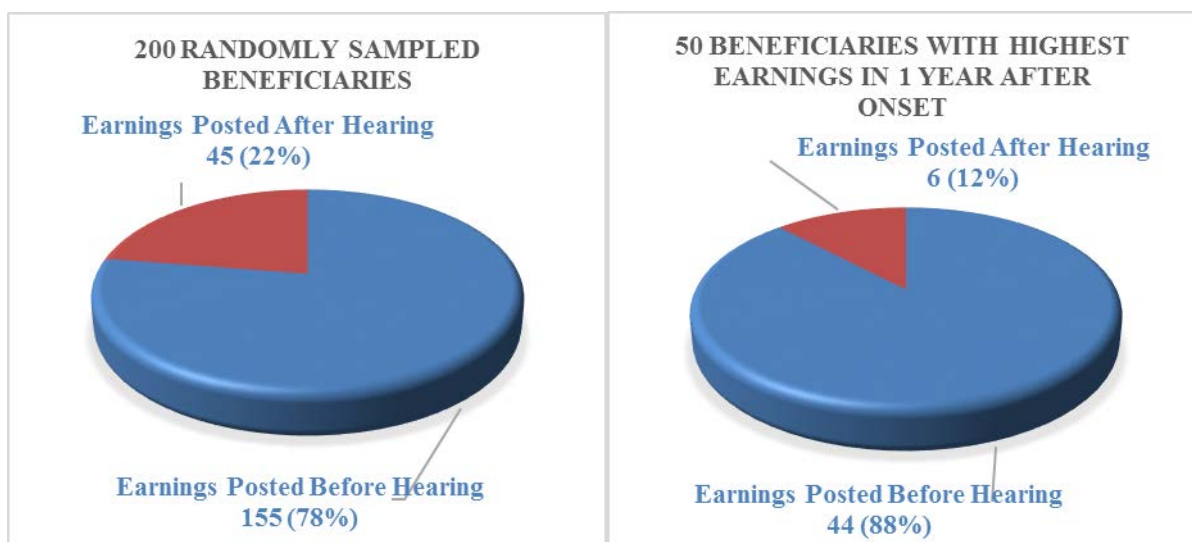


## Audit Sample

We identified 35,845 beneficiaries who had multiple years of earnings after their disability onset dates<sup>23</sup> but before favorable decisions in Fiscal Years (FY) 2011 through 2015. The earnings in at least 1 of the years exceeded 12 times the monthly SGA limit.<sup>24</sup> From this group, we reviewed the 50 beneficiaries who had the highest earnings in a year after their disability onset year and a random sample of 200 of the remaining 35,795 beneficiaries.

In 199 of the 250 cases reviewed, the applicants' earnings after their disability onset dates were posted on the individuals' MEF<sup>25</sup> before their hearing dates. In the remaining 51 cases, the applicants' earnings were posted after the hearings (see Figure 1).

**Figure 1: Number of Cases with Earnings Posted Before and After the Hearings**



We reviewed the ALJs' written decisions to determine whether they addressed the earnings posted on the individuals' MEF records before the hearing dates. If the earnings were posted after the hearings, we determined whether other sources of evidence were available, such as the National Directory of New Hires (NDNH) Query, to review the claimants' earnings when the hearings occurred. We also determined whether other SSA components, such as its field offices or payment service centers, considered the effect of the earnings on beneficiaries' disability onset dates and benefit entitlement after the hearings.

<sup>23</sup> The disability onset date is the date the beneficiary meets the *Social Security Act* definition of disability and all the relevant entitlement or eligibility factors. SSA, *POMS, DI-Disability Insurance*, ch. DI 255, subch. DI 25501.200, sec. A (August 10, 2015).

<sup>24</sup> We used the appropriate SGA amount for each year reviewed. See Appendix B for SGA earnings guidelines.

<sup>25</sup> The earnings data we extracted from MEF showed annual earnings.

We referred our sample cases to SSA. The Offices of Operations and Disability Adjudication and Review reviewed them and provided additional evidence on the steps the Agency took to address the earnings for some cases, which we included in our analysis and conclusions presented in this report.

## RESULTS OF REVIEW

While SSA appropriately addressed earnings claimants earned after their disability onset dates and before favorable hearing decisions in about 75 percent of the cases we reviewed, it did not fully address the earnings in 65 of the 250 cases in our sample.

- In 19 cases, the ALJs discussed the earnings after disability onset during the hearings, but they did not include the results of those discussions in their written decisions.
- In 20 cases, the ALJs did not discuss the earnings during the hearings or include any discussion of the earnings in their written decisions, but other SSA components addressed the earnings after the hearings.
- In 26 cases, neither the ALJs nor any other SSA component addressed the earnings after the claimants' disability onset dates before the Agency made favorable decisions.

Neither ALJs nor other SSA components addressed above SGA-level earnings after the claimants' disability onset in 26 cases. We determined the applicants' disability onset dates should have occurred after the earnings, so they began receiving benefits sooner than they should have. Accordingly, SSA paid 24 of the 26 beneficiaries<sup>26</sup> over \$684,000 more than they were due through December 2016. Projecting our results to the population, SSA did not appropriately address SGA-level earnings 3,973 OASDI claimants earned after their disability onset dates and before favorable hearing decisions, which resulted in improper payments of about \$109 million.

### Earnings After Disability Onset

We determined that SSA did not fully address earnings beneficiaries earned after their disability onset dates and before they received favorable hearing decisions in some of the 250 cases we reviewed. In 199 of the 250 cases, SSA posted the earnings to the MEF before the hearing dates. In the remaining 51 cases, the earnings were not posted to the MEF before the hearings. We discuss each of these types of cases below.

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<sup>26</sup> SSA did not issue any improper payment to 2 of the 26 beneficiaries. Please refer to Footnotes 30 and 31 for details. Of the 24 beneficiaries SSA improperly paid, the earnings after onset were posted before the hearings for 19 beneficiaries and after the hearings for 5 beneficiaries.

## *Earnings Posted Before Hearings*

Earnings were posted to SSA's MEF before the hearing dates for 199 of the 250 individuals we reviewed. Per policy, an ALJ or hearing office staff must develop all work activity after potential disability onset dates.<sup>27</sup>

- In 148 cases, the ALJ decisions addressed the claimants' earnings. Specifically, the ALJs noted in their written decisions that the beneficiaries had earnings after their alleged disability onset dates and either established later onset dates or noted the earnings did not constitute SGA.
- In 17 cases, the ALJs discussed the claimants' earnings during the hearings. Based on our review of the testimonies, it was reasonable to conclude the earnings did not constitute SGA. However, the ALJs did not address the earnings in their written decisions.<sup>28</sup> Specifically, the decisions did not cite the pertinent evidence or testimony on which the ALJs relied to conclude the beneficiaries did not engage in SGA after their disability onset dates.
- In 13 cases, the ALJs did not address the earnings during the hearings or in their written decisions. However, other SSA components addressed the earnings after the hearings. Specifically, SSA field offices and/or payment centers reviewed the earnings and determined that the earnings did not constitute SGA.
- In 21 cases, neither the ALJs nor any other SSA employee addressed the claimants' earnings.<sup>29</sup>

In 20 of the 21 cases<sup>30</sup> with unaddressed earnings by both the ALJ and SSA components, the claimants returned to work fewer than 12 months after their disability onset and earned more than the SGA limit. They later stopped engaging in SGA. In these cases, the ALJs did not develop the earnings during the hearings and wrote in their decision rationales that the claimants did not engage in SGA after the disability onset dates despite the fact that the earnings records indicated otherwise. Also, we did not find evidence that SSA concluded the earnings did not constitute SGA.

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<sup>27</sup> SSA, HALLEX, vol. I, ch. I-2-5, sec. I-2-5-72 (September 28, 2005).

<sup>28</sup> Two of the cases were on-the-record decisions. Based on the evidence in the applicants' claim files, it was reasonable to conclude the earnings after disability onset did not constitute SGA.

<sup>29</sup> To determine whether work performed constituted SGA, SSA considered such factors as impairment-related work expenses, special employment situation, subsidized earnings, or earnings received for non-work activity (that is, sick and vacation pay). SSA may also determine the work activity was part of the beneficiary's unsuccessful work attempts. In the 21 cases, we did not locate evidence that SSA evaluated the beneficiaries' earnings and excluded them from the SGA determination. Based on the evidence in the applicants' claim files, we determined that the earnings constituted SGA.

<sup>30</sup> In the one remaining case, the beneficiary's earnings occurred more than 12 months after the disability onset date. Therefore, the beneficiary met the 12-month duration requirement. However, the ALJ should have addressed the earnings to ensure decisional accuracy.

SSA did not properly consider their earnings and adjust their disability onset dates.<sup>31</sup> As a result, the beneficiaries began receiving OASDI payments earlier than they should have. We concluded that 19 of the 20 claimants improperly received over \$525,500.

### *Earnings Posted After Hearing*

In 51 of the 250 cases we reviewed, the beneficiaries' earnings were posted to the MEF after their hearings. However, the ALJs could have used other sources of evidence, such as the NDNH query,<sup>32</sup> to identify the earnings.

- In 37 of the 51 cases, the ALJs' written decisions addressed the claimants' earnings.
- In two cases, the ALJs discussed the earnings during the hearings. Based on our review of the testimonies, it was reasonable to conclude the earnings did not constitute SGA. However, the ALJs did not address the earnings in their written decisions.<sup>33</sup> The decisions did not cite the pertinent evidence or testimony the ALJs used to conclude the beneficiaries did not engage in SGA since their disability onset dates.
- In seven cases, the ALJs did not discuss the earnings during the hearings. The ALJs' written decisions also did not address the earnings after onset, but other SSA components addressed them after the hearing.<sup>34</sup>
- In five cases, neither the ALJs nor other SSA employees evaluated the claimants' earnings.<sup>35</sup>

In the latter five cases, the claimants engaged in SGA less than 12 months after disability onset and later stopped working. Although the earnings were not posted on the MEF before the claimants' hearings, NDNH queries showing the earnings were listed as exhibits in the claimants' hearings in four of the five cases. In the last case, an NDNH query was not included in the claimant's folder so we could not determine whether the ALJ had access to the query. We

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<sup>31</sup> In the remaining case, SSA should have considered a later disability onset date for the beneficiary. However, the later disability onset date did not cause an improper payment based on our computation, which considered the beneficiary's dates of application and benefit entitlement.

<sup>32</sup> The NDNH query contains quarterly new hire, wage, and unemployment information the States and District of Columbia reported to the Office of Child Support Enforcement. SSA and the Office of Child Support Enforcement have a Memorandum of Agreement that allows authorized SSA employees query-only access to the database. SSA employees use the database when investigating potential earnings.

<sup>33</sup> One of the cases was an on-the-record decision. Based on the evidence in the applicants' claim files, it was reasonable to conclude the earnings after disability onset did not constitute SGA.

<sup>34</sup> In one of the seven cases, the earnings after disability onset were not on the MEF at the time of the hearing. The ALJ approved the disability claim in April 2012. SSA paid the beneficiary retroactive benefits based on the alleged disability onset date. In April 2015, SSA reviewed the earnings and found the beneficiary returned to work within 1 year of onset date. It reopened the claim and determined the beneficiary was overpaid \$29,360. SSA is recovering the overpayment. In the remaining six cases, the Agency appropriately addressed the earnings after onset. It did not issue any improper payments to the beneficiaries.

<sup>35</sup> Based on the evidence in the applicants' claim files, we determined that the claimants' earnings constituted SGA.

concluded the Agency should have established later onset dates than those established at the hearings. As a result, SSA improperly paid the five beneficiaries over \$158,600.

## CONCLUSIONS

SSA did not always address SGA-level earnings OASDI claimants earned after their disability onset dates and before favorable hearing decisions. In some cases, ALJs discussed the earnings during the hearings but did not include the results of those discussions in their written decisions. In other cases, the ALJs did not address the earnings during the hearings or in their written decisions, but another SSA component did so after the hearings. In other cases, neither ALJs nor other SSA components addressed the earnings. We found this latter group was improperly paid because SSA awarded benefits before the dates the claimants should have been determined disabled.

An October 2012 audit found that SSA improperly paid SSI recipients because it did not always address earnings the recipients earned after their disability onset dates and before favorable hearing decisions.<sup>36</sup> Based on the results of this review, the Agency encountered similar issues with OASDI disability claimants. SSA still missed the opportunity to use information at its disposal to prevent improper payments.

## RECOMMENDATIONS

We recommend SSA:

1. Review the 26 cases with earnings above SGA-level earned after disability onset that were not addressed by an ALJ or another SSA component before the Agency provided a favorable hearing decision.
2. Based on the results of its review of the 26 cases, determine whether additional cases in the remaining population of 35,595 beneficiaries who also had above SGA-level earnings after disability onset and before a favorable hearing decision should be reviewed to ensure the Agency appropriately addressed the earnings.
3. Remind ALJs and other SSA components to refer to appropriate policy to identify and address earnings applicants earned after disability onset and before their hearing decisions and determine whether the related work activity affected the applicants' disability onset dates or OASDI eligibility.
4. Remind ALJs to include the rationale supporting their findings on earnings applicants earned after the disability onset dates in their written decisions.

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<sup>36</sup> SSA, OIG, *Supplemental Security Income Applicants with Earnings Received After Their Disability Onset Dates and Before Favorable Hearing Decisions*, A-02-10-20128 (October 26, 2012).

5. Determine the cost-effectiveness of establishing a systems alert to detect potentially disqualifying earnings within 12 months of an applicant's disability onset.

## AGENCY COMMENTS

SSA agreed with our recommendations. The Agency's comments are included in Appendix D.

A handwritten signature in black ink that reads "Rona Lawson". The signature is written in a cursive, flowing style.

Rona Lawson  
Assistant Inspector General for Audit

# *APPENDICES*

## Appendix A – SCOPE AND METHODOLOGY

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To accomplish our objectives, we:

- Reviewed applicable Federal laws and regulations and sections of the Social Security Administration’s (SSA) policies and procedures.
- Identified 741,012 Old-Age, Survivors and Disability Insurance (OASDI) beneficiaries in current pay status as of August 2016 who had earnings<sup>1</sup> after their established disability onset dates but before favorable hearing decisions in Fiscal Years 2011 through 2015.
- Determined the amount of earnings and its relation to substantial gainful activity (SGA) for each of these beneficiaries. Of the 741,012 beneficiaries, 35,845 had multiple years of earnings after their disability onset dates but before favorable decisions, and the earnings in at least 1 of the years after their disability onset years exceeded 12 times the monthly SGA limit.
- Reviewed the 50 beneficiaries who had the highest earnings in a year after their disability onset year and a random sample of 200 of the remaining 35,795 beneficiaries to determine whether SSA appropriately addressed the earnings.
- Reviewed queries from SSA’s Claims File Records Management System, Disability Control File, Disability Determination Services Query, eView, eWork, Master Beneficiary Record, Master Earnings File, Modernized Claims System, Modernized Development Worksheet, National Directory of New Hires Query, Online Retrieval System, Paperless Read Only Query System, Processing Center Action Control System, Supplemental Security Records, and the Work Number for each sample item.
- Obtained the administrative law judges’ (ALJ) decision rationales for 250 cases from SSA’s records.
- Analyzed the decision rationales and reviewed hearing testimonies and all available evidence in SSA records.
- Determined whether SSA appropriately addressed any earnings a claimant earned after the disability onset date before providing a favorable hearing decision by reviewing the rationales, testimonies, and records.
- Requested that SSA confirm whether it agreed with the disability onset date, improper payment period, and improper payment amount because of unaddressed earnings after onset. SSA forwarded the cases to its Office of Public Service and Operations Support and Office of Disability and Hearing staff for development.

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<sup>1</sup> We extracted earnings data from the Master Earnings File, which showed annual earnings.



- Analyzed SSA's results and incorporated its response in our analysis.

We determined the computer-processed data were sufficiently reliable for our intended use. We conducted tests to determine the completeness and accuracy of the data. These tests allowed us to assess the reliability of the data and achieve our audit objective.

We conducted our audit in the New York Audit Division between September 2016 and March 2017. We tested the data obtained for our audit and determined them to be sufficiently reliable to meet our objective. The entities audited were the Office of Disability Adjudication and Review and the Office of the Deputy Commissioner for Operations.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

## Appendix B – SAMPLING METHODOLOGY AND RESULTS

We reviewed 250 beneficiaries who had multiple years of earnings after their disability onset dates but before favorable decisions, and the earnings in at least 1 of the years after their disability onset years exceeded 12 times the monthly substantial gainful activity (SGA) limit. We reviewed 50 of the 35,845 beneficiaries who had the highest earnings in a year after their disability onset year and a random sample of 200 of the remaining 35,795 beneficiaries.

**Table B–1: Population and Sample Size**

Sample	Characteristic	Population	Sample Size
1	Beneficiaries who had the highest earnings in a year after disability onset year but before favorable hearing decision	50	50
2	Beneficiaries who had earnings after their disability onset dates but before favorable hearing decisions	35,795	200
<b>Total</b>		<b>35,845</b>	<b>250</b>

We determined SSA did not always address the earnings, which resulted in improper payments.

Of the 200 beneficiaries in our random sample, SSA did not appropriately address SGA-level earnings earned by 21 claimants after their disability onset dates and before favorable hearing decisions, which resulted in improper payments of \$579,555. Projecting our results to the population, we estimate SSA did not appropriately address SGA-level earnings earned by 3,968 claimants' after their disability onset dates and before favorable hearings decisions, which resulted in improper payments of about \$109.5 million.

Table B–2 provides the details of our sample results of the 200 beneficiaries in our random sample.

**Table B–2: Sample Estimates**

Results for All Segments of the Master Beneficiary Record of the Sampled Population	Number of Cases in which SSA Did Not Address Earnings After Onset	Improper Payment Amount
Total Sample Results	21	\$579,555
Total Point Estimates	3,968	\$109,521,425
Total Projection – Lower Limit	2,704	\$66,757,755
Total Projection – Upper Limit	5,577	\$152,285,095

Note: All projections are at a 90-percent confidence level.

Of the 50 beneficiaries who had the highest earnings in a year after their disability onset year, SSA did not appropriately address SGA-level earnings earned by 5 beneficiaries after their disability onset dates and before favorable hearings decisions, which resulted in improper payments of \$104,636.

Adding the \$109,521,425 projected improper payment amount to the \$104,636 improper payment amount from the five beneficiaries who had the highest earnings in a year after their onset year, we project total improper payments of about \$109,626,061.

## Appendix C – SUBSTANTIAL GAINFUL ACTIVITY EARNINGS BASED ON YEAR OF WORK ACTIVITY FOR NON-BLIND INDIVIDUALS<sup>1</sup>

For Month(s) in the Calendar Year	Countable Earnings of Employees Indicate Substantial Gainful Activity and Countable Income of the Self-Employed Is Substantial If the Amount Averages More Per Month Than the Following Amounts
2017	\$1,170
2016	\$1,130
2015	\$1,090
2014	\$1,070
2013	\$1,040
2012	\$1,010
2011	\$1,000
2010	\$1,000
2009	\$980
2008	\$940
2007	\$900
2006	\$860
2005	\$830
2004	\$810
2003	\$800
2002	\$780
2001	\$740

<sup>1</sup> SSA, *POMS, DI-Disability Insurance*, ch. DI 105, subch. DI 10501.015, sec. B (October 19, 2016).

## Appendix D – AGENCY COMMENTS

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### SOCIAL SECURITY

#### MEMORANDUM

Date: July 7, 2017 Refer To: SIJ-3

To: Gale S. Stone  
Acting Inspector General

From: Stephanie Hall /s/  
Acting Deputy Chief of Staff

Subject: Office of the Inspector General Draft Report, “Beneficiaries Who Worked After Their Disability Onset Dates and Before Favorable Hearing Decisions” (A-02-16-20132) -- INFORMATION

Thank you for the opportunity to review the draft report. Please see our attached comments.

Please let me know if we can be of further assistance. You may direct staff inquiries to Gary S. Hatcher at (410) 965-0680.

Attachment

**COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL DRAFT REPORT,  
“BENEFICIARIES WHO WORKED AFTER THEIR DISABILITY ONSET DATES  
AND BEFORE FAVORABLE HEARING DECISIONS” (A-02-16-20132)**

**General Comment**

We are committed to improving the quality of our hearing decisions. It is important that we award benefits to claimants who are disabled under the Social Security law, but as stewards of the disability trust fund and other public resources, it is equally important that we do not award benefits to those who are not entitled.

**Recommendation 1**

Review the 26 cases with earnings above SGA-level earned after disability onset that were not addressed by an ALJ or another SSA component before the Agency provided a favorable hearing decision.

**Response**

We agree.

**Recommendation 2**

Based on the results of its review of the 26 cases, determine whether additional cases in the remaining population of 35,595 beneficiaries who also had above SGA-level earnings after disability onset and before a favorable hearing decision should be reviewed to ensure the Agency appropriately addressed the earnings.

**Response**

We agree.

**Recommendation 3**

Remind ALJs and other SSA components to refer to appropriate policy to identify and address earnings applicants earned after disability onset and before their hearing decisions and determine whether the related work activity affected the applicants’ disability onset dates or OASDI eligibility.

**Response**

We agree.

#### **Recommendation 4**

Remind ALJs to include the rationale supporting their findings on earnings applicants earned after the disability onset dates in their written decisions.

#### **Response**

We agree.

#### **Recommendation 5**

Determine the cost-effectiveness of establishing a systems alert to detect potentially disqualifying earnings within 12 months of an applicant's disability onset.

#### **Response**

We agree.

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