
**OFFICE OF
THE INSPECTOR GENERAL**

SOCIAL SECURITY ADMINISTRATION

**CLAIMANT REPRESENTATIVE FEES
PAID THROUGH THE SOCIAL SECURITY
ADMINISTRATION'S ONE-TIME PAYMENT SYSTEM**

November 2010

A-04-10-11026

AUDIT REPORT



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.**
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SOCIAL SECURITY

MEMORANDUM

Date: November 24, 2010

Refer To:

To: The Commissioner

From: Inspector General

Subject: Claimant Representative Fees Paid Through the Social Security Administration's One-Time Payment System (A-04-10-11026)

OBJECTIVE

The objective of our audit was to determine whether the Social Security Administration (SSA) accurately paid authorized fees to attorneys and non-attorney representatives (referred to collectively as representatives) for Title XVI claims, through its One-Time Payment system.

BACKGROUND

The Supplemental Security Income program is administered under Title XVI of the *Social Security Act*. The basic purpose of Title XVI is to provide a minimum level of support to qualified individuals who are blind, disabled, or aged and who have limited income and resources.¹ To assist with obtaining Title XVI payments, claimants may appoint a qualified representative to act on their behalf in matters before SSA. In certain situations, claimants agree to compensate representatives for services provided to resolve disability claims.

Generally, SSA calculates claimants' representative fees based on past-due benefits. Past-due benefits typically accrue from the claimant's benefit entitlement date through the month in which SSA certifies the claim for payment. For example, a claimant applied for Title XVI disability payments on January 1, 2009, and SSA processed the final actions to pay benefits on July 31, 2009. SSA determined the claimant became disabled before filing the claim and was therefore entitled to benefits beginning February 2009 – the month after applying for Title XVI disability benefits. As such, the claimant accrued 6 months of past-due benefits from February through July 2009. The representative fee is based on the 6 months of past-due benefits.

¹ The *Social Security Act* § 1601 *et seq.*, 42 U.S.C. § 1381 *et seq.*

A representative who wants to charge or collect a fee for services provided in any proceeding before SSA must first obtain SSA's approval.² To obtain approval, a representative must submit to SSA either a fee agreement or a fee petition.³ Both the fee agreement and fee petition specify the maximum fee that SSA determines a representative can charge for services. Under a fee agreement, SSA established the maximum fee as the lesser of \$5,300 or 25 percent of past-due benefits.⁴ Under a fee petition, the maximum fee is the "reasonable fee" determined by SSA.⁵ The "reasonable fee" is based on several factors⁶ and, unlike a fee agreement, is not limited to \$5,300.⁷ Claims representatives in SSA's field offices have authority to approve Title XVI fee agreements up to \$5,300.⁸ Fee authorizers in SSA's processing centers approve all fee petitions up to \$7,000. Staff in SSA's Office of Disability Adjudication and Review must approve all fees in excess of \$7,000.⁹

A claimant's representative may also be eligible for "direct" payment. That is, SSA will withhold the fee from the claimant's benefits and issue payment directly to the representative.¹⁰ However, in certain situations, SSA limits the fee it will pay directly to the representative. Specifically, under a fee petition, SSA limits direct payment to 25 percent of the claimant's past-due benefits. In situations where the approved fee exceeds 25 percent of past due benefits, the representative must collect the remainder of the fee from the claimant. For example, SSA approves an \$8,000 fee. The claimant's past-due benefits total \$28,000. As such, SSA would only pay the

² In certain situations, SSA is not required to authorize representatives' fees. In general, SSA is not required to authorize fees when the claimant is relieved of all liability to pay the fee. For example, when the fee is waived or settled through a nonprofit organization or third-party entity. SSA, Program Operations Manual System (POMS), GN 03920.010 A and B.

³ SSA, POMS, GN 03920.001 A.

⁴ SSA, POMS, GN 03940.003 A.3. Effective February 1, 2002 the limit was \$5,300. Effective June 22, 2009, the limit was increased to \$6,000.

⁵ SSA, POMS, GN 03920.001 B.1.

⁶ A "reasonable fee" is based on such factors as the complexity of the case, extent and type of services provided, level of skill and competence required, time spent on the case, and results achieved. SSA, POMS, GN 03930.010 A.

⁷ SSA, POMS, GN 03930.015 D (effective June 9, 2006) and GN 03920.015 A.1.a and B (effective January 28, 2010).

⁸ SSA, POMS, GN 03920.015 A.1.b, GN 03940.003 A.3, and GN 03940.002 A and B.

⁹ SSA, POMS, GN 03930.015 D (effective June 9, 2006 the limit was \$7,000) and GN 03920.015 A.1.a and B (effective January 28, 2010 the limit was increased to \$10,000).

¹⁰ To recover the administrative costs of issuing direct payments, SSA charges a user fee against the representative fee. The user fee is the lower of a flat fee or a percentage applied to the total representative fee. Effective December 1, 2008, the flat rate was \$83 and the percent rate was 6.3 percent. The previous user rate (effective December 1, 2007) applied a \$79 flat rate or a 6.3 percent rate. SSA, POMS, GN 03920.019 A.

representative \$7,000 (\$28,000 X 0.25). The representative would have to collect the remaining \$1,000 fee from the claimant. Table 1 details the characteristics of fee agreements and fee petitions.

Table 1: Characteristics of Fee Agreements and Fee Petitions¹¹

Fee Type	Time to File	Fee Limit	SSA Payment Limit
Agreement	Before SSA decides the claim	Lesser of \$5,300 or 25 percent of past-due benefits	Same as the fee limit
Petition	After the representative's services have ended	"Reasonable" fee for the services provided	Lesser of 25 percent of past-due benefits or the approved fee

For most Title XVI claims, SSA's systems automatically calculate and pay the claimant's representative fee. However, in certain situations, SSA must manually calculate the fee and make payment through the Agency's One-Time Payment system. Generally, claims representatives in SSA field offices are responsible for calculating and paying the Title XVI-related fee. From July 1, 2007 to June 30, 2009, SSA issued 27,121 one-time payments, totaling about \$27.7 million, for representative fees on Title XVI claims that also involved a concurrent Title II¹² claim.

SCOPE AND METHODOLOGY

We reviewed 250 randomly selected Title XVI claimant representative fee payments issued through SSA's One-Time Payment system during the 2-year period July 1, 2007 to June 30, 2009. The 250 payments were for fees of \$7,000 or less that SSA authorized under either a fee agreement or a fee petition. We also reviewed 54 representative fees related to 39 claimants for whom a fee petition authorized a representative fee in excess of \$7,000.

Our sampled claimant representative fees involved concurrent Title XVI and II benefits. As such, the Title XVI representative fee is impacted by the Title II fee due and paid. Accordingly, we performed limited tests on the accuracy of Title II representative fees. To perform our tests, we used information recorded on the claimant's Master Beneficiary Record. Specifically, we recalculated the Title II representative fee based on the benefit entitlement date, claim approval/decision date, and benefits payable.

¹¹ SSA, POMS, GN 03940.003 A, GN 03940.050 C.3, GN 03920.001 B, and GN 03920.017 D.2.

¹² SSA administers the Old-Age, Survivors and Disability Insurance program under Title II of the *Social Security Act*, as amended. The Title II program provides monthly benefits to disabled individuals, qualified retirees, and survivors, as well as their eligible dependents. (The *Social Security Act* §§ 202 and 223, 42 U.S.C. §§ 402 and 423.)

For cases with Title II fee payment errors, we did not calculate a Title XVI representative fee error.¹³ For further details on our scope and methodology, see Appendix A.

RESULTS OF REVIEW

In total, 95 (38 percent) of the 250 randomly sampled Title XVI claimant representative fees had payment errors totaling \$68,532. Projecting our sample results to the population, we estimate that approximately 10,306 fees had about \$7.4 million in payment errors during the period July 1, 2007 to June 30, 2009. See Appendix B for our sampling methodology and test results.

Additionally, SSA did not pay the correct amount for 18 of the 39 fee petitions greater than \$7,000. The incorrect payments totaled \$36,155. For 16 of the 39 claims, SSA overpaid the claimants' representatives by \$28,461. For the other two claims, SSA underpaid the representatives \$7,694.

Our sampled claimant representative fees involved concurrent Title XVI and II benefits. As such, Title XVI representative fees are impacted by the Title II fees due and paid.¹⁴ During our review, we identified situations in which SSA properly adjusted underpaid Title II representative fees by increasing the representative's Title XVI-related fee. However, for 7 of the 250 sampled fees, SSA did not adjust the Title XVI fee to correct for the underpaid Title II fees. As a result, SSA underpaid representative fees by \$11,882.

PAYMENT ERRORS FOR FEE AGREEMENTS AND PETITIONS \$7,000 OR LESS

In total, 95 (38 percent) of the 250 randomly sampled Title XVI claimant representative fees had payment errors totaling \$68,532. The 95 payment errors consisted of 82 overpayments totaling \$63,576 and 13 underpayments totaling \$4,956.

Of the 82 overpayment errors, 44 (54 percent) occurred because SSA employees did not properly offset the Title II benefits. Additional overpayments occurred when SSA employees did not always consider the Title II attorney fee amount previously paid, resulting in combined Title XVI and II fees that exceeded the applicable fee limit. Table 2 summarizes the type of overpayment errors.

¹³ Our audit objective was to determine whether the *Title XVI* portion of the representative fee was correct. However, because our sampled fees involved concurrent Title XVI and II benefits, we occasionally identified errors in Title II fees due and paid. To estimate the Title XVI errors fairly in the population, we excluded these cases.

¹⁴ SSA usually pays Title II-related representative fees in advance of the Title XVI fees. The Title XVI fee processor is then notified of a pending Title XVI representative fee. SSA, POMS, GN 03940.030 A and GN 03930.080 A.

Table 2: Types of Fee Payment Errors—Overpayments

Type of Fee Error	Number of Fees in Error	Amount of Fees in Error
Title XVI past-due benefits should have been entirely reduced by the Title II benefits payable during the offset period	44	\$38,223
Title XVI past-due benefits were not properly reduced for income or, in part, by Title II benefits or other benefits	27	13,271
Computation errors	7	2,383
No Title XVI representative fee due—maximum fee was paid from Title II Benefits	4	9,699
Totals	82	\$63,576

We acknowledge the complexity of manually computing Title XVI claimant representative fees for cases that also involve concurrent Title II benefits. To calculate a fee, staff first determines the claimant's past-due Title XVI benefits. If a claimant had earned or unearned income during the past-due period, SSA must deduct the income from the past-due benefits. Further, SSA excludes certain benefit payments from the Title XVI past-due benefit amount. For example, emergency advance payments and benefits paid to claimants deemed eligible because presumptive disability or blindness are excluded.¹⁵ Staff must then determine the Title II benefits paid or due during the past-due period. SSA reduces the Title XVI past-due benefits¹⁶ by the amount of the Title II benefits. In some situations, a claimant's Title II benefits exceed the Title XVI benefits during the past-due period. When this occurs, the claimant has no past-due Title XVI benefits, and the representative is not due a Title XVI fee.

SSA recognized the potential for payment errors in this workload and issued policy instructions and administrative message reminders on this subject, with the most recent reminder effective April 2010.¹⁷ The reminders reiterated the importance of accurately determining the Title XVI past-due benefit amount for attorney fee purposes, especially when the calculation involved concurrent Title II and XVI benefits.

FEE PETITIONS GREATER THAN \$7,000

We reviewed 54 representative fees related to 39 claimants for whom a fee petition authorized fees in excess of \$7,000. For 18 (46 percent) of the 39 claimants, SSA incorrectly paid representative fees totaling \$36,155.

¹⁵ SSA, POMS, GN 03920.031 C.

¹⁶ The Title XVI program is needs-based. As such, for those claimants concurrently eligible for Title II and Title XVI benefits, receipt of Title II benefits will result in a reduction or elimination of Title XVI benefits.

¹⁷ SSA, Administrative Message-10048, *Reminders on Appointed Representative Process*.

A fee petition, unlike a fee agreement, allows a claimant's representative to receive fees in excess of \$5,300.¹⁸ If eligible, representatives often elect to collect the fees directly from SSA. That is, SSA withholds the fee from the claimant's past-due benefits and issues payment to the representative.¹⁹ However, under a fee petition, SSA limits the amount of fees it will pay the representative to 25 percent of the total past-due benefits. When the approved fee is greater than 25 percent of the total past-due benefits, the claimant is responsible for paying the remainder of the approved fee.²⁰

SSA overpaid claimants' representative fees, totaling \$28,461, for 16 of the 39 claimants. In each of the cases, SSA paid fees in excess of the payment limit—25 percent of the claimants' total past-due benefits. For example, in one case, SSA authorized a \$12,228 representative fee. SSA initially paid \$9,609 in Title II-related fees. SSA subsequently paid the remaining fee—\$2,620—from the claimant's Title XVI past-due benefits. However, based on the claimant's past-due benefits, SSA should have limited its payment to \$9,652. As such, SSA overpaid the representative by \$2,576. Additionally, for 2 of the 16 claimants, SSA paid more than the authorized fee. The overpayments totaled \$5,792. For one claimant, SSA personnel incorrectly recorded in the Agency's system that they authorized a fee petition of \$12,836. However, our review of the actual fee petition noted that the approved amount was only \$5,724. Nevertheless, SSA paid the representative \$10,947—a \$5,223 overpayment. In the other case, the representative fee paid was \$569 more than the approved fee.

Finally, for 2 of the 39 claimants, SSA did not pay the total fees authorized under the fee petitions. For these two claimants, SSA should have paid additional representative fees of \$7,694.

TITLE II CLAIMANT REPRESENTATIVE FEES WERE UNDERPAID

During our review, we identified situations in which SSA initially underpaid the Title II claimant representative fee, but staff appropriately corrected the underpayment by increasing the Title XVI-related fee. However, for 7 (2.8 percent) of the 250 sampled fees, SSA did not adjust the Title XVI fee to correct for the underpaid Title II fees. As a result, SSA underpaid representative fees by a total of \$11,882.²¹

¹⁸ SSA, POMS, GN 03930.015 D (effective June 9, 2006), GN 03920.015 A.1.a, and GN 03920.015 B (effective January 28, 2010).

¹⁹ SSA, POMS, GN 03920.017 B.1.

²⁰ SSA, POMS, GN 03920.017 D.2.b.

²¹ We did not include these seven cases in our error projections. To estimate the Title XVI errors fairly in the population, we excluded these seven errors.

For five of the seven underpayment cases, the claimants' records included auxiliary beneficiaries.²² However, SSA only paid the Title II fees related to the claimants' past-due benefits. As a result, for these five cases, SSA underpaid representative fees by \$7,199. According to SSA policy, a representative is considered to act on behalf of both the claimant and the claimant's auxiliary(s), unless the auxiliary appoints his or her own representative.²³ For example, in one case, SSA paid total fees of \$2,297. However, based on the auxiliaries' past-due Title II benefits, the representative should have received the maximum \$5,300 fee—a \$3,003 underpayment.

For the other two underpayments, the claimants' representative fee did not involve auxiliaries' past-due benefits. The representatives were only due a Title II-related fee. In one case, the maximum fee of \$5,300 should have been paid from the claimant's Title II past-due benefits. In the other case, the claimant's past-due Title II benefits entirely offset the Title XVI benefits. In both cases, SSA paid Title XVI related fees; however, the payments were less than the Title II fees due. SSA underpaid the representative fees by \$4,683. Table 3 summarizes the seven underpaid Title II fees.

Table 3: Underpaid Claimants' Representative Fees

	Total Title XVI and Title II Fees Paid	Additional Title II Fees Due	Representative Fee Involved Auxiliary Benefits?	Total Fees Due	Adjusted Fee Error
1	\$2,297	\$3,003	Yes	\$5,300	\$(3,003)
2	705	2,355	No	3,060	(2,355)
3	2,972	2,328	No	5,300	(2,328)
4	3,456	1,844	Yes	5,300	(1,844)
5	2,881	1,246	Yes	4,127	(1,246)
6	2,955	760	Yes	3,715	(760)
7	768	346	Yes	1,114	(346)
				Total	\$(11,882)

CONCLUSION AND RECOMMENDATIONS

In total, 95 (38 percent) of the 250 randomly sampled Title XVI claimant representative fees had payment errors totaling \$68,532. Additionally, SSA did not always make accurate fee payments to claimants for whom SSA authorized fees greater than \$7,000. We acknowledge the complexity of manually computing Title XVI representative fees for cases that involve concurrent Title II benefits. However, we believe SSA needs to improve the payment accuracy of manually calculated Title XVI representative fees.

²² The Social Security program recognizes the claimant and the claimant's family. If the claimant is retired, disabled, or deceased, monthly benefits are paid to an eligible surviving spouse or parent and children. SSA refers to the claimant's family members as "auxiliaries."

²³ SSA, POMS, GN 03920.017 C.5, and Administrative Message-10048, *Reminders on Appointed Representative Process*.

As such, we recommend SSA:

1. Require that all manually calculated Title XVI claimant representative fees that involve concurrent Title II benefits be reviewed by an experienced peer or supervisor before the fee is processed through the One-Time Payment system.
2. Determine whether representatives collected additional fees from claimants when SSA paid representative fees in excess of the direct payment limit – for the 16 cases identified during our review. If additional fees were collected, take actions to have the representative return the fee to SSA for credit to the claimant.
3. Recover the overpaid representative fees identified during our review.
4. Pay the underpaid representative fees identified during our review.

AGENCY COMMENTS AND OIG RESPONSE

SSA agreed with our recommendations. See Appendix C for the full text of SSA's comments.



Patrick P. O'Carroll, Jr.

Appendices

APPENDIX A – Scope and Methodology

APPENDIX B – Sampling Methodology and Test Results

APPENDIX C – Agency Comments

APPENDIX D – OIG Contacts and Staff Acknowledgments

Scope and Methodology

From the Social Security Administration's (SSA) Supplemental Security Record, we identified 27,121 Title XVI one-time payments issued from July 1, 2007 to June 30, 2009. The payments totaled about \$27.7 million. SSA issued the one-time payments to claimants' representatives (eligible attorney and non-attorney representatives) as fees for services related to the Title XVI portion of the claimants' concurrent benefit claim. The one-time payments were less than \$7,000 and were related to representative fees authorized under a fee agreement or fee petition.

We sampled 250 of the 27,121 one-time payments. We also reviewed all representative fees over \$7,000 authorized under a fee petition—54 fees related to 39 claimants.

To accomplish our objective, we:

- Reviewed applicable Federal laws and regulations as well as SSA's policies and procedures that govern payment of claimants' representative fees.
- Reviewed previous Office of the Inspector General reports pertaining to representative fees.
- Queried and reviewed representative fee information from SSA's Supplemental Security Record, Master Beneficiary Record, Payment History Update System, and Single Payment System.
- Interviewed SSA personnel to obtain an understanding of the procedures for processing representative fees.
- Obtained and reviewed information from SSA's Paperless and E-file systems.

Because our sampled claimant representative fees involved concurrent Title XVI and Title II benefits, the Title XVI representative fee is impacted by the Title II fee due and paid. Accordingly, we performed limited tests on the accuracy of the Title II representative fees. To test the Title II fees, we used information recorded on the claimant's Master Beneficiary Record. Specifically, we calculated the Title II representative fee based on the benefit entitlement date, claim approval/decision date, and the benefits payable. For cases with Title II fee payment errors, we did not calculate a Title XVI representative fee error.

We determined the computer-processed data from the Supplemental Security Record, used to select our population, were sufficiently reliable for our intended use. We conducted tests to determine the completeness and accuracy of the data received. These tests allowed us to assess the reliability of the data and achieve our audit objective.

We performed our audit work in Atlanta, Georgia, between January and May 2010. The entities reviewed were SSA's Offices of Operations and Disability Adjudication and Review. We conducted our 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 objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Sampling Methodology and Test Results

SAMPLING METHODOLOGY

We sampled 250 of the 27,121 one-time payments issued through the Social Security Administration’s (SSA) One-Time Payment system during the 2-year period July 1, 2007 to June 30, 2009, which totaled about \$27.7 million. SSA issued the One-Time Payments to claimants’ representatives (eligible attorney and non-attorney representatives) as fees for services related to the Title XVI portion of the claimants’ concurrent benefit claim. The One-Time Payments were less than \$7,000 and authorized by either a fee agreement or a fee petition. The following chart details our sample selection.

Scope of Fee Agreement/Petition Sample -- \$7,000 or Less

Fee Category Dollar Amount	<u>Population Number of Fees</u>	<u>Population Amount of Fees Paid</u>	Sample Size	Sample Dollars
Fee Agreements and Fee Petitions with Fees Totaling \$7,000 or Less per Claimant	27,121	\$27,701,700	250	\$268,233

OTHER TESTS

We also reviewed all representative fees over \$7,000 authorized under a fee petition—54 fees related to 39 claimants. The following chart details the selected representative fees.

Scope of Fee Petition Review – 100 Percent of Fees over \$7,000

Fee Category Dollar Amount	<u>Population Number of Fees</u>	<u>Population Amount of Fees Paid</u>	Sample Size	Sample Dollars
Fee Petitions Authorizing Fees Over \$7,000 per Claimant	54	125,834 ¹	54	125,834

¹ The \$125,834 is the Title XVI representative fees paid for the 39 claimants. The Title II representative fees for the 39 claimants totaled \$228,842.

Because our sampled claimant representative fees involved concurrent Title XVI and Title II benefits, the Title XVI representative fee is impacted by the Title II fee due and paid. Accordingly, we performed limited tests on the accuracy of the Title II representative fees for all 304 representative fees.

SAMPLING AND TEST RESULTS

Sampling Results—Title XVI Representative Fees \$7,000 or Less Paid in Error

Projections of Attribute and Variable Appraisals	
Attribute Appraisal Projections	
Population and Sample Data	Decisions
Total Population	27,121
Sample Size	250
Title XVI Representative Fees Paid in Error	95
Projection to Population	Projections
Point Estimate	10,306
Lower Limit	8,923
Upper Limit	11,746
Variable Appraisal Projections	
Population and Sample Data	Dollars
Total Population	\$27,701,700
Sample	\$268,233
Title XVI Representative Fees Paid in Error	\$68,532
Projection to Population	Projections
Point Estimate	\$7,434,673
Lower Limit	\$5,893,359
Upper Limit	\$8,975,987

We made all projections at the 90-percent confidence level.

Test Results—Representative Fees over \$7,000 Authorized Under a Fee Petition

Number of Representative Fees (39 Claimants)	54
Total Dollars of Fees Tested	\$125,834
Number of Claimants with Representative Fees Paid in Error	18
Dollar Amount of Representative Fees Paid in Error	\$36,155

OVERALL SAMPLING AND TEST RESULTS—DOLLARS

Title XVI Representative Fees	
Projected Dollar Amount of Representative Fees Paid in Error— Point Estimate	\$7,434,673
Representative Fees Over \$7,000 Authorized under a Fee Petition	
Actual Dollar Amount of Representative Fees Paid in Error	\$36,155
Title II Fees	
Actual Dollar Amount of Representative Fees Paid in Error	\$11,882
Total Sampling and Test Results	
Total Amount of Representative Fees Paid in Error	\$7,482,710

Agency Comments



Social Security

MEMORANDUM

Date: October 26, 2010 **Refer To:** S1J-3

To: Patrick P. O'Carroll, Jr.
Inspector General

From: James A. Winn /s/
Executive Counselor to the Commissioner

Subject: Office of the Inspector General (OIG) Draft Report, "Claimant Representative Fees Paid Through the Social Security Administration's One-Time Payment System"
(A-04-10-11026)--INFORMATION

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

Please let me know if we can be of further assistance. Please direct staff inquiries to Rebecca Tothero, Acting Director, Audit Management and Liaison Staff, at (410) 966-6975.

Attachment

COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL (OIG) DRAFT REPORT, “CLAIMANT REPRESENTATIVE FEES PAID THROUGH THE SOCIAL SECURITY ADMINISTRATION’S ONE-TIME PAYMENT SYSTEM” (A-04-10-11026)

Thank you for the opportunity to review the subject report. We offer the following responses to your recommendations.

Recommendation 1

Require that all manually calculated Title XVI claimant representative fees that involve concurrent Title II benefits be reviewed by an experienced peer or supervisor before the fee is processed through the One-Time Payment system.

Response

We agree. In your draft report, you acknowledge there is a great deal of complexity involved in manually computing Title XVI claimant representative fees for cases that also involve concurrent Title II benefits. That is one reason why we require a second personal identification number (PIN) when processing these fees in our One-Time Payment system. However, our system does not distinguish whether the second PIN is that of a technical expert or supervisor, so we are evaluating what we must do to include that functionality.

On August 20, 2010, we released a reminder to all technicians clarifying the critical steps they must follow when manually processing appointed representative fees using the One-Time Payment system.

Recommendation 2

Determine whether representatives collected additional fees from claimants when SSA paid representative fees in excess of the direct payment limit—for the 16 cases identified during our review. If additional fees were collected, take actions to have the representative return the fee to SSA for credit to the claimant.

Response

We agree. By the end of November 2010, we will review the 16 cases you cited in your draft report and we will work with the beneficiaries to determine whether representatives collected fees that exceeded the payment limits. If we determine there were excessive fees, we will pursue repayment from representatives and refund the beneficiaries.

Recommendation 3

Recover the overpaid representative fees identified during our review.

Response

We agree. By the end of November 2010, we will review the 82 cases you cited in your draft report and we will take the appropriate action to recover the overpayments and refund the beneficiaries.

Recommendation 4

Pay the underpaid representative fees identified during our review.

Response

We agree. By the end of November 2010, we will review the 13 cases you cited in your draft report and where appropriate will pay representatives their proper fees.

OIG Contacts and Staff Acknowledgments

OIG Contacts

Kimberly A. Byrd, Director, Atlanta Audit Division

Frank Nagy, Audit Manager

Acknowledgments

In addition to those named above:

Teaketa Turner, Senior Auditor

Lisa Swanson, Senior Auditor

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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.

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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.

Office of the Counsel to the Inspector General

OCIG provides independent legal advice and counsel to the IG on various matters, including statutes, regulations, legislation, and policy directives. OCIG also advises the IG on investigative procedures and techniques, as well as on legal implications and conclusions to be drawn from audit and investigative material. Also, OCIG administers the Civil Monetary Penalty program.

Office of External Relations

OER manages OIG's external and public affairs programs, and serves as the principal advisor on news releases and in providing information to the various news reporting services. OER develops OIG's media and public information policies, directs OIG's external and public affairs programs, and serves as the primary contact for those seeking information about OIG. OER prepares OIG publications, speeches, and presentations to internal and external organizations, and responds to Congressional correspondence.

Office of Technology and Resource Management

OTRM supports OIG by providing information management and systems security. OTRM also coordinates OIG's budget, procurement, telecommunications, facilities, and human resources. In addition, OTRM is the focal point for OIG's strategic planning function, and the development and monitoring of performance measures. In addition, OTRM receives and assigns for action allegations of criminal and administrative violations of Social Security laws, identifies fugitives receiving benefit payments from SSA, and provides technological assistance to investigations.