OIG Office of the Inspector General
SOCIAL SECURITY ADMINISTRATION

Audit Report

The Social Security Administration's Use of Averaging When it Determined Substantial Gainful Activity for Disabled Beneficiaries

A-07-18-50394 | June 2019

OIG Office of the Inspector General
SOCIAL SECURITY ADMINISTRATION

MEMORANDUM

Date: June 26, 2019 **Refer To:**

To: The Commissioner

From: Inspector General

Subject: The Social Security Administration's Use of Averaging When it Determined Substantial Gainful Activity for Disabled Beneficiaries (A-07-18-50394)

The attached final report presents the results of the Office of Audit's review. The objective was to determine whether the Social Security Administration's policy for averaging earnings ensured staff made accurate and consistent substantial gainful activity determinations.

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.

Gail S. Ennis

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Attachment

The Social Security Administration's Use of Averaging When it Determined Substantial Gainful Activity for Disabled Beneficiaries
A-07-18-50394

June 2019 **Office of Audit Report Summary**

Objective

To determine whether the Social Security Administration's (SSA) policy for averaging earnings ensured staff made accurate and consistent substantial gainful activity (SGA) determinations.

Background

When a disabled beneficiary has earnings from work activity, SSA conducts a work continuing disability review (CDR) to determine whether the beneficiary engaged in SGA. SGA describes a level of work activity and earnings. Work is "substantial" if it involves significant physical or mental activities and earnings exceed the SGA threshold.

The Code of Federal Regulations states SSA can average earnings for a period of work when it determines whether a disabled beneficiary engaged in SGA. During the period for which SSA averages earnings, the beneficiary must have worked continuously, without a significant change in work pattern or earnings. SSA has not established a monetary earnings amount that represents a significant change. However, policy directs staff to consider whether the beneficiary changed positions, job duties, or hours when determining whether a significant change occurred. If SSA finds the beneficiary's monthly earnings average is below the SGA threshold, it pays benefits for all months.

Findings

Of the 200 sampled beneficiaries, we identified 58 for whom SSA applied averaging inconsistently or incorrectly when it made SGA determinations. Of these, SSA made questionable payments to 51 based on its SGA determination.

SSA issued or withheld payments totaling over $651,000 because it did not apply averaging provisions consistently. As a result of the questionable determinations, SSA

- paid benefits, totaling more than $607,000, to 40 beneficiaries and
- withheld benefits, totaling more than $44,000, from 7 beneficiaries.

SSA's policy allows employees to exercise their own judgment and discretion when deciding whether to average earnings. As a result, the policy for averaging earnings results in decisions that are not consistent and equitable among beneficiaries.

We estimate SSA applied averaging provisions inconsistently to more than 30,000 beneficiaries. This led to questionable benefit payments or withholding totaling almost $419 million.

Additionally, SSA made errors while processing the work CDRs for five beneficiaries that caused it to calculate average earnings amounts incorrectly. Based on these errors, SSA incorrectly paid four of the beneficiaries more than $382,000.

Recommendation

We recommend SSA establish objective criteria for staff to follow when averaging earnings to minimize inequity and unfairness in its determinations. SSA agreed with our recommendation.

Agency Actions Resulting from the Audit

In February 2019, we provided the Agency with the five cases on which we identified errors it made while processing work CDRs. In April 2019, SSA informed us it had taken corrective actions on these cases. We reviewed the cases and determined SSA had either taken or initiated the appropriate corrective actions.

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ABBREVIATIONS

CDR	Continuing Disability Review
EPE	Extended Period of Eligibility
OIG	Office of the Inspector General
SGA	Substantial Gainful Activity
SSA	Social Security Administration
TWP	Trial Work Period

OBJECTIVE

Our objective was to determine whether the Social Security Administration's (SSA) policy for averaging earnings ensured staff made accurate and consistent substantial gainful activity (SGA) determinations.

BACKGROUND

All Disability Insurance beneficiaries are entitled to a trial work period (TWP) that allows them to test their ability to work without the threat of losing benefits. A beneficiary completes a TWP by working 9 months above an established earnings threshold within a rolling 60-month period. After the TWP ends, the extended period of eligibility (EPE) begins.

During the EPE, when a disabled beneficiary has earnings from work activity, SSA conducts a work continuing disability review (CDR) to determine whether the beneficiary engaged in SGA. SGA describes a level of work activity and earnings. Work is "substantial" if it involves significant physical or mental activities and earnings exceed the SGA threshold.[1]

SSA does not stop benefits the first month the beneficiary's earnings exceed the SGA threshold. Instead, it grants each beneficiary a 3-month grace period, during which it pays benefits regardless of the beneficiary's earnings amount. After the grace period, the Agency suspends benefits for any month in which earnings exceed the SGA threshold during the first 36 months of the EPE. If the beneficiary's earnings exceed the SGA threshold after the 36th month, SSA terminates benefits.

For example, if a beneficiary completes the TWP in January 2019 and has earnings over the SGA threshold in February 2019, SSA pays benefits for February through April regardless of the earnings amount. SSA will suspend benefits for any month earnings exceed SGA from May 2019 through January 2022. The first time earnings exceed SGA after January 2022, SSA will terminate benefits.

[1] SSA, *POMS*, DI 13010.210 (January 13, 2010). See Appendix C for the SGA threshold.

The Code of Federal Regulations states SSA can average earnings for a period of work to determine whether a disabled beneficiary engaged in SGA.[2] If SSA finds the beneficiary's average monthly earnings is below the SGA threshold, it pays benefits for all months. According to SSA policy, during the period for which SSA averages earnings, the beneficiary's work must be "continuous; without a significant change in work pattern or earnings."[3] However, SSA policy further states, "there is not an established monetary earnings amount that represents a significant change." Instead, policy states staff, "can determine if a significant change has occurred by considering [whether the beneficiary changed] job duties or hours . . . or position."[4]

Using data we obtained from eWork, we identified 128,562 beneficiaries for whom SSA averaged earnings for a work CDR initiated between January 2013 and November 2017.[5] From this population, we selected a random sample of 200 beneficiaries for detailed analysis.

SSA's policy for averaging earnings does not provide an established monetary amount for determining a significant change in earnings. Therefore, we established a process using the existing TWP and SGA thresholds that SSA relies on when making other work determinations to ensure we identified potential significant changes consistently when analyzing our sample cases. These thresholds are not arbitrary monetary amounts, but are established by law and adjusted annually based on changes in the national average wage index. Thus, they provided an objective starting point from which we assessed earnings fluctuations for each beneficiary. Specifically, we

- determined the period for which SSA averaged earnings,
- identified cases for which SSA applied averaging when beneficiaries had months with earnings below the TWP threshold and above the SGA threshold for further analysis, as these fluctuations could indicate a significant change,[6] and
- evaluated SSA's evidence to determine whether the beneficiary's job duties, hours, pay rate, or position changed.

See Appendix A for our detailed scope and methodology.

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[2] 20 C.F.R. §§404.1574 and 404.1574a (govinfo.gov 2018).

[3] SSA, *POMS*, DI 10505.015, A (August 27, 2013).

[4] SSA, *POMS*, DI 10505.015, B.3 (August 27, 2013).

[5] The eWork system is a Web-based application that automates the initiation, development, adjudication, and effectuation of work CDRs.

[6] See Appendix C for detailed information about the TWP and SGA thresholds.

Results of Review

Of the 200 sampled beneficiaries, we identified 58 (29 percent) for whom SSA applied averaging inconsistently or incorrectly when it made SGA determinations.

- For 53 beneficiaries, SSA applied averaging in a manner inconsistent with its guidelines. For some beneficiaries, the Agency inappropriately averaged earnings during periods when beneficiaries had significant changes in work patterns or earnings. For others, SSA did not average earnings when it should have because their earnings did not change significantly. As a result of these questionable determinations, SSA
  - paid benefits, totaling more than $607,000, to 40 beneficiaries and
  - withheld benefits, totaling more than $44,000, from 7 beneficiaries.[7]

  We estimate SSA applied averaging provisions inconsistently to more than 30,000 beneficiaries. This led to questionable benefit payments or withholding totaling almost $419 million (see Table B–2 and Table B–3).[8]
- For the remaining five beneficiaries, SSA made errors when it calculated the average earnings amounts. These errors included miscalculating the average earnings amounts and incorrectly identifying the end of the TWP. Because of these errors, SSA paid four beneficiaries approximately $382,000 more than it should have.[9]

SSA Applied Averaging Provisions Inconsistently

For 53 of the 200 beneficiaries we reviewed, SSA applied averaging provisions inconsistently. As a result, SSA issued or withheld payments to 47 beneficiaries based on questionable averaging determinations.[10]

Federal regulations state SSA will average earnings, when appropriate, to determine whether a beneficiary's monthly earnings exceed the SGA threshold for a period of work.[11] SSA policy states it, "will average earnings if an employee or self-employed person's work was continuous;

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[7] As of the date of our review, SSA's inconsistent application of averaging for six beneficiaries had not resulted in a questionable payment.

[8] Some of SSA's determinations affected payments to multiple beneficiaries on the same payment record. In these cases, we included all incorrect payments in our findings and projections.

[9] For one beneficiary, SSA's error had not resulted in a payment error as of the time of our review.

[10] For six beneficiaries, SSA's inconsistent application of averaging had not resulted in questionable payments as of the date of our review. Additionally, although SSA's averaging determinations were not consistent with procedural guidelines, we are not recommending the Agency retroactively change the benefit payments. SSA's policy does not define significant change, therefore we cannot conclude that staff violated policy for these cases. Accordingly, this report refers to these payments as questionable rather than over- or underpayments.

[11] 20 C.F.R. §§404.1574 and 404.1574a (govinfo.gov 2018).

without significant change in work patterns or earnings." The policy emphasizes that staff should "not average earnings simply because it is or is not advantageous" for the beneficiary.[12] However, SSA has not established an amount that represents a significant change in earnings.[13]

Instead, SSA leaves the determination of whether a significant change occurred to each technician. The Agency informed us that, ". . . it is always up to the technician's discretion whether to apply averaging." Further, SSA stated, ". . . since there is no established earnings guideline, each technician exercises his/her own judgment." As our sample review showed, this leads to inconsistent determinations and inequitable treatment for beneficiaries based on how each technician assesses earnings fluctuations. We identified inconsistencies because staff averaged earnings when it should not have for some beneficiaries who had significant changes in their work patterns or earnings. Conversely, staff did not average earnings when it should have for other beneficiaries who did not have significant changes.

For the 47 beneficiaries, the questionable payment amounts ranged from $490 to more than $82,000, with a median amount of $4,600. The amount of the questionable payments varied widely because the number of months for which SSA issued or withheld payments after it made the questionable averaging determinations ranged from 1 to 75 (see Table 1).

Table 1: Months of Questionable Payment or Withholding

Months	Cases
1-12	31
13-24	6
25-36	4
37 or more	6
Total	**47**

Additional factors, including monthly benefit amounts and the number of beneficiaries affected by the determinations, further contributed to the variation in the questionable payment amounts. In all, SSA made or withheld payments totaling more than $651,000 because it inconsistently applied averaging provisions for these 47 beneficiaries. Accordingly, we estimate the Agency issued or withheld payments totaling almost $419 million to more than 30,000 beneficiaries based on questionable averaging determinations (see Table B–2 and Table B–3).

[12] SSA, *POMS*, DI 10505.015, A (August 27, 2013).

[13] SSA, *POMS*, DI 10505.015, B.3 (August 27, 2013).

SSA Did Not Consistently Identify Significant Changes

Of the 47 beneficiaries for whom SSA made questionable averaging determinations, it paid benefits to 40 beneficiaries for months their earnings exceeded the SGA threshold. For these beneficiaries, SSA included months in the averaging periods that it should not have because evidence showed the beneficiaries had significant changes in work patterns or earnings. As a result of these questionable averaging determinations, SSA paid more than $607,000.

For these 40 beneficiaries, monthly earnings fluctuations should have alerted staff of potential material changes in the beneficiaries' employment. SSA policy states the Agency should not include "work months with significantly lower earnings [to] avoid artificially lowering the . . . average monthly earnings" amount, as these months "may not be representative of the rest of the period of employment."[14] By including these months, staff may allow beneficiaries to continue receiving benefits though their work demonstrates they can sustain SGA. Additionally, policy instructs staff to "consider . . . earnings, number of days worked, and job duties and responsibilities," when it determines whether there is a significant change in the pattern of work activity when compared to the rest of the period of employment.[15] SSA's lack of clear policy leads staff to make inconsistent decisions that create inequity because SSA continues to pay some beneficiaries, but withholds benefits from others with substantially similar work patterns and earnings.

For example, SSA initiated work CDRs for two beneficiaries in our sample based on systems alerts that indicated their earnings for 2012 could affect their disability benefits. These beneficiaries had comparable earnings and a similar work pattern in the same year. Both beneficiaries had self-employment earnings that were below the TWP threshold, $720, throughout the year and also earned wages from an employer, which caused their earnings to exceed the SGA threshold, $1,010, for some months (see italicized text, Table 2).

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[14] SSA, *POMS*, DI 10505.015, F (August 27, 2013).

[15] See Footnote 14.

Table 2: Example Cases Monthly Earnings

Month	Beneficiary 1	Beneficiary 2
January	$621.67	$265.58
February	$621.67	$265.58
March	$621.67	$265.58
April	$621.67	$265.58
May	$621.67	$265.58
June	$621.67	$265.58
July	$621.67	*$1,447.34*
August	$621.67	*$1,456.98*
September	$621.67	*$1,187.33*
October	$621.67	*$1,528.68*
November	*$1,323.57*	$849.64
December	*$1,713.82*	$265.58
Average	**$771.17**	**$694.09**

Staff should have considered whether a significant change occurred for each beneficiary when they began receiving earnings from an employer in addition to self-employment income because this could indicate a "change in job duties . . . or position," as detailed in policy. However, the lack of clear guidance or a monetary earnings amount that represents a significant change led the employees who processed these cases to make inconsistent determinations despite the similarities in earnings and work patterns.

Specifically, an employee averaged the earnings for beneficiary 1 and determined the $771 average was less than the SGA threshold. Thus, SSA continued paying benefits. Conversely, for beneficiary 2, although the average monthly earnings amount—$694—was well below the SGA threshold, an employee identified a significant change in the work pattern beginning in July. Therefore, the Agency did not apply averaging, but granted a 3-month grace period through September and suspended benefits for October 2012.

Based on the methodology we used to identify significant changes in earnings, the employee should have identified a significant change in the work pattern for beneficiary 1, as the other employee did for beneficiary 2. The employee then would have granted a 3-month grace period beginning in November 2012 and subsequently terminated benefits in February 2013. Instead, the employee inappropriately averaged the earnings for beneficiary 1, continued benefits, and paid nearly $23,000 for February 2013 through March 2014.[16] In response to our review, SSA confirmed our findings, stating, "self-employment months should not be averaged with the other wage months…as this does constitute a significant change."

[16] SSA terminated benefits in April 2014 because the beneficiary's earnings exceeded the SGA threshold.

For these two beneficiaries with substantially similar earnings amounts and work patterns, SSA should have made the same determination. However, because policy does not provide clear guidance for identifying a significant change, one beneficiary continued to receive monthly benefits while another had benefits withheld. SSA must ensure it provides objective criteria for staff to follow when averaging earnings to ensure it makes equitable determinations for all beneficiaries.

SSA Did Not Consistently Apply Averaging When It Should Have

Of the 47 beneficiaries for whom SSA made questionable averaging determinations, we identified 7 for whom it should have averaged earnings but did not. This inconsistency led to suspense or termination of disability benefits for months when beneficiaries should have been entitled. As a result, the Agency withheld more than $44,000.

For example, SSA initiated work CDRs for two beneficiaries who had established long patterns of work below the TWP threshold in prior years before exceeding the SGA threshold, $1,130, for 1 month during 2016 (see italicized text, Table 3). In each case, SSA should have considered whether the work was, "continuous; without significant change in the work patterns or earnings." The Agency's documentation showed each beneficiary worked for one employer for several years prior to and throughout 2016, and there was no evidence their positions, job duties, or pay rate changed. Accordingly, SSA should have applied its policy consistently for both beneficiaries but it did not.

Table 3: Example Cases Monthly Earnings

Month	Beneficiary 1	Beneficiary 2
January	$892.86	$1,093.64
February	$940.92	$802.29
March	$1,076.54	$804.00
April	*$1,133.92*	$815.42
May	$922.70	$701.15
June	$995.69	$809.67
July	$821.61	$733.26
August	$955.79	$966.55
September	$943.38	*$1,155.67*
October	$975.14	$920.95
November	$880.18	$992.29
December	$973.90	$1,085.43
Average	**$959.39**	**$906.69**

For beneficiary 1, the employee did not average the earnings for 2016. Instead, because the beneficiary's earnings for April were over the SGA threshold, SSA granted a 3-month grace period beginning that month and terminated benefits effective July. As a result, for July 2016 through November 2017, SSA assessed overpayments totaling more than $23,000 and did not pay another $2,000.[17] However, for beneficiary 2, an employee averaged earnings and, because the average was less than the SGA threshold, continued to pay benefits.

For both beneficiaries, SSA could have averaged earnings for 2016 and continued benefits because the average earnings amounts—$959 and $907, respectively—were less than the SGA threshold and there was no indication of a significant change in the work patterns. Based on the methodology we used to identify significant changes in earnings, SSA should not have terminated benefits or assessed a $23,000 overpayment for beneficiary 1. These examples illustrate how SSA's policy leads to inconsistent determinations and inequitable outcomes for disabled beneficiaries.

Insufficient Guidance Led to Inconsistent Application of Policy

SSA's determinations were inconsistent because policy did not specify an objective measure for staff to use to determine whether earnings fluctuations were significant. This caused inequitable treatment, as some beneficiaries continued receiving benefits despite having earnings above SGA, while others with similar circumstances had their benefits suspended or terminated. SSA policy does identify factors for staff to consider when they determine whether there was a significant change in a beneficiary's work pattern.[18] These include determining whether the beneficiary's job duties, hours, or position changed during the period of employment. However, by choosing not to establish a benchmark that represents a significant change in earnings, SSA allowed staff to determine whether to apply averaging based on their own discretion and judgment.

According to Agency staffing reports, nearly 19,000 employees make work CDR determinations in offices nationwide. Without a clearly defined measure or guidance to objectively quantify whether an earnings fluctuation is significant, SSA cannot expect these employees to make consistent, equitable decisions. SSA cannot allow beneficiaries to receive disparate treatment because staff interpret and apply its policy inconsistently. The outcome of any work CDR should be based on objective facts and should not vary depending upon which technician or office conducts the review.

In its response to our sample case review, SSA stated the determination of significant change is subjective and cannot be determined based solely on a fluctuation in earnings. We agree each case has a number of variables and specific circumstances to consider. However, this should not preclude the Agency from providing its employees clear guidance to assist them in making consistent and equitable decisions.

For example, in other aspects of its work CDR process, SSA policy directs staff to apply clearly defined guidelines to evaluate work activity while still allowing staff to apply judgment and discretion on a case-by-case basis. When disabled beneficiaries work, staff uses the TWP and

[17] In September 2017, the beneficiary took a new position and had earnings above the SGA threshold. Thus, after a grace period from September through November, benefits would have terminated in December 2017.

[18] SSA, *POMS*, DI 10505.015, B.3 (August 27, 2013).

SGA thresholds to evaluate their work activity. These thresholds provide a specific, objective measure against which staff can compare any beneficiary's earnings to determine whether benefits should continue. After identifying work that exceeds the SGA threshold, staff then completes additional work and obtains evidence from the beneficiary, employer, and third parties to determine whether certain exceptions, such as averaging, apply that allow benefits to continue. This process ensures the Agency can equitably compare work activity for all beneficiaries despite significant variation in individual circumstances.

Based on the results of our sample review, we believe the lack of clear guidance for making averaging determinations unnecessarily increases the level of subjectivity, which leads to disparate and inequitable treatment for beneficiaries, as illustrated in our examples. It is imperative the Agency take steps to ensure staff makes determinations as consistently as possible.

Accordingly, we recommend SSA establish objective criteria for staff to follow when averaging earnings to minimize inequity and unfairness in its determinations. Staff could then evaluate all available evidence to determine whether any fluctuations represent a significant change according to policy. This could reduce subjectivity in the work CDR process, thereby ensuring staff neither unfairly benefits nor unduly harms disabled beneficiaries who work. Additionally, it could reduce confusion for beneficiaries and lead to greater understanding of, and trust in, the Agency's determinations because staff could support and explain their decisions in the context of a clear and objective policy.

SSA Processed Averaging Determinations Incorrectly

Staff made errors while processing the work CDRs for five beneficiaries that caused them to calculate average earnings amounts incorrectly. These determinations were incorrect because the average monthly earnings amount was not below the SGA threshold, yet SSA paid benefits for all months. These errors led to more than $382,000 of incorrect payments to four beneficiaries (see Table 4).[19]

Table 4: Incorrect Payments Caused by Erroneous Averaging Determinations

Error	Incorrect Payment Amount
1	$1,758
2	$10,738
3	$5,356
4	$364,445
Total	$382,297

[19] As of the date of our review, SSA's error had not resulted in a payment error for one beneficiary.

For example, SSA initiated a work CDR for one beneficiary whose earnings exceeded the SGA threshold from January through April 2012 (see italicized text, Table 5).[20] The Agency averaged the beneficiary's earnings for January through May and incorrectly determined the average was less than the SGA threshold.[21] Thus, SSA continued to pay benefits.

Table 5: Example Case Monthly Earnings

Month	Earnings
January	*$1,059.42*
February	*$1,550.32*
March	*$1,079.32*
April	*$1,241.67*
May	$851.96
Average	**$1,156.54**

SSA should have determined the average monthly earnings amount for January through May 2012, $1,157, exceeded the SGA threshold of $1,010. SSA's documentation shows it incorrectly calculated the average earnings amount and did not stop benefits when it should have.

SSA should have granted the beneficiary a 3-month grace period beginning in January 2012 and suspended benefits for April 2012.[22] Instead, the Agency continued benefits incorrectly. Subsequent to our analysis, SSA reviewed the case and began taking corrective actions.

CONCLUSIONS

The Agency did not establish an objective measure to aid staff in determining whether a significant change in earnings occurred when considering whether to average earnings. As a result, staff did not make consistent, equitable decisions for all beneficiaries. In response to our analysis, SSA stated technicians exercise their own judgment and discretion when they decide whether to average earnings. Thus, determining whether a change is significant is subjective. Though each determination has unique characteristics, the Agency can limit subjectivity by providing clear guidance for staff. This would ensure beneficiaries receive fair and equal treatment regardless of which technician or office conducts their work CDR.

[20] The monthly SGA threshold for 2012 was $1,010.

[21] SSA did not average earnings for the entire year because the beneficiary changed jobs. According to policy, the new job was a significant change. Thus, the Agency appropriately excluded June through December 2012 from its averaging calculation.

[22] After April 2012, the beneficiary's earnings did not exceed SGA until April 2015. At that time, SSA should have terminated benefits. As of the date of our review, SSA continued paying benefits incorrectly.

RECOMMENDATION

We recommend SSA establish objective criteria for staff to follow when averaging earnings to minimize inequity and unfairness in its determinations.

AGENCY COMMENTS

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

AGENCY ACTIONS RESULTING FROM THE AUDIT

In February 2019, we provided the Agency with the five cases on which we identified errors it made while processing work CDRs. In April 2019, SSA informed us it had taken corrective actions on these cases. We reviewed the cases and determined SSA had either taken or initiated the appropriate corrective actions. Therefore, we are not recommending further actions for these five records.

Rona Lawson

Rona Lawson
Assistant Inspector General for Audit

APPENDICES

Appendix A – Scope and Methodology

To accomplish our objective, we:

- Reviewed applicable Federal laws and regulations and sections of the Social Security Administration's (SSA) policies and procedures related to SSA's work continuing disability review (CDR) process. This includes provisions of the trial work period (TWP) and extended period of eligibility, and, specifically, regulations and policy detailing requirements for averaging earnings when making substantial gainful activity (SGA) determinations.
- Obtained data from SSA's eWork system that identified 128,562 Disability Insurance beneficiaries for whom SSA averaged earnings on SGA determinations for work CDRs initiated between January 2013 and November 2017.
- Selected a random sample of 200 Disability Insurance beneficiaries for detailed analysis.
  - Reviewed each beneficiary's Master Beneficiary Record to determine the payment status and payment amounts for the period of review and whether SSA's determination affected other beneficiaries.
  - Obtained annual earnings amounts from the Detailed Earnings Query for the period of review.
  - Reviewed monthly earnings amounts and case notes in the Disability Control File for the period of review.
    - Identified for further analysis instances in which SSA averaged earnings for a period that included months above SGA and below TWP thresholds.[1]
  - Obtained evidence related to earnings reporting and SSA's CDR determinations from the Claims File User Interface, Paperless Processing Center, National Directory of New Hires, and Online Retrieval System.
    - Used these sources to determine whether any changes identified in DI 10505.015 occurred that indicate a "significant change in work patterns or earnings," such as
      - change in job duties or hours,
      - change of position or job,
      - months with zero earnings, or
      - partial work months.
  - For cases where SSA applied averaging inconsistently because staff either did not identify a significant change in work patterns or earnings or did not apply averaging when appropriate:

[1] From 2001 through 2018, the TWP threshold averaged 71.7 percent of the non-blind SGA amount, ranging from 71.1 to 72.1 percent. Thus, beneficiary wages had to vary by a minimum of almost 30 percent for us to consider the possibility that a significant change occurred.

    - Re-assessed the period during which work was “continuous, without significant change in work patterns or earnings,” to exclude those months in which we identified a significant change in work and earnings based on SSA’s policy.
    - Calculated the average monthly earnings for the revised period.
    - Determined whether the revised averaging determination affected payments.
    - Calculated the questionable amount SSA paid or withheld based on the inconsistent application of averaging.
  - For cases where SSA miscalculated the average monthly earnings amount, we
    - recalculated the average monthly earnings amount for the period identified based on monthly earnings posted to the Disability Control File,
    - determined whether the revised averaging determination affected payments, and
    - calculated the amount SSA paid or withheld in error based on the inconsistent application of averaging.

The entity reviewed was the Office of Disability Operations. We conducted our review in the Office of Audit in Kansas City, Missouri, between October 2018 and January 2019. We determined the data used in this report were sufficiently reliable given the review objectives and its intended use. 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 that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Appendix B – SAMPLE FINDINGS AND PROJECTIONS

We established our population and selected a sample as detailed in Appendix A. We made statistical projections for the entire population based on the results of our sample analysis of the beneficiaries for whom SSA applied averaging provisions inconsistently.

Table B–1: Sample Size

Description	Beneficiaries
Population	128,562
Sample Size	200

We identified 58 beneficiaries (29 percent) for whom the Social Security Administration (SSA) applied averaging inconsistently or incorrectly when it made Substantial Gainful Activity (SGA) determinations. Of the 58 beneficiaries, SSA issued or withheld payments to 47 because of its inconsistent SGA determinations. We estimate SSA issued or withheld payments to over 30,000 beneficiaries based on these questionable determinations (see Table B–2).

Table B–2: Beneficiaries With Payments Issued or Withheld Based on Inconsistent Use of Averaging

Description	Beneficiaries
Sample Results	47
Projected Quantity	30,212
Projection – Lower Limit	23,967
Projection – Upper Limit	37,226

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

The Agency issued or withheld $651,450 because it averaged earnings in a manner inconsistent with its policy. This includes some beneficiaries who received more than they should have and others who received less. We project SSA issued or withheld a total of $418,758,446 in benefits (see Table B–3).

Table B–3: Questionable Payments Based on Inconsistent Use of Averaging

Description	Incorrect Payments
Sample Results	$651,450
Point Estimate	$418,758,446
Projection – Lower Limit	$258,504,999
Projection – Upper Limit	$579,011,893

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

Appendix C – SUBSTANTIAL GAINFUL ACTIVITY THRESHOLD

For Disability Insurance beneficiaries, the Extended Period of Eligibility (EPE) begins the month after the final Trial Work Period month. During the first 36 months of the EPE—the re-entitlement period—the Social Security Administration (SSA) evaluates earnings based on the substantial gainful activity (SGA) threshold. SSA considers the beneficiary's disability to have ceased the first month earnings exceed the threshold, which it calls the disability cessation date. However, the Agency pays benefits for that month and the following 2 months, regardless of the amount of the beneficiary's earnings. Following this grace period, SSA suspends benefits for all months when earnings exceed SGA. If the beneficiary's earnings fall below SGA, benefits resume. After the re-entitlement period, the Agency terminates benefits the first month earnings exceed the threshold.[1]

When evaluating a beneficiary's earnings against the SGA threshold, SSA considers the amount of countable earnings, which may be less than gross earnings. To determine countable earnings, SSA deducts the value of certain expenses, sick and vacation pay, bonus and incentive payments, and any amount of earnings subsidized by the employer.[2]

Table C–1: Monthly TWP and SGA Earnings Threshold, 2007 Through 2018

Year	TWP Threshold[3]	SGA Threshold for Non-blind Beneficiaries[4]	SGA Threshold for Blind Beneficiaries[5]
2007	$640	$900	$1,500
2008	$670	$940	$1,570
2009	$700	$980	$1,640
2010	$720	$1,000	$1,640
2011	$720	$1,000	$1,640
2012	$720	$1,010	$1,690
2013	$750	$1,040	$1,740
2014	$770	$1,070	$1,800
2015	$780	$1,090	$1,820
2016	$810	$1,130	$1,820
2017	$840	$1,170	$1,950
2018	$850	$1,180	$1,970

[1] SSA, *POMS*, DI 13010.210 (January 13, 2010).

[2] SSA, *POMS*, DI 10505.010 (February 17, 2017).

[3] SSA, *POMS*, DI 13010.060, A (October 31, 2017).

[4] SSA, *POMS*, DI 10501.015, B (December 28, 2018).

[5] SSA, *POMS*, DI 10501.015, C (December 28, 2018).

Appendix D– AGENCY COMMENTS

SOCIAL SECURITY

MEMORANDUM

Date: June 17, 2019 Refer To: S1J-3

To: Gail S. Ennis
Inspector General

Stephanie Hall

From: Stephanie Hall
Acting Deputy Chief of Staff

Subject: Office of the Inspector General Draft Report, “The Social Security Administration’s Use of Averaging When It Determined Substantial Gainful Activity for Disabled Beneficiaries” (A-07-18-50394) -- 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 Trae Sommer at (410) 965-9102.

SSA COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL DRAFT REPORT, "THE SOCIAL SECURITY ADMINISTRATION'S USE OF AVERAGING WHEN IT DETERMINED SUBSTANTIAL GAINFUL ACTIVITY FOR DISABLED BENEFICIARIES" (A-07-18-50394)

GENERAL COMMENTS

We recognize there may be opportunities to improve the policy and guidance technicians use to process work continuing disability reviews (CDR). As we explore options for improvement, we will continue our efforts to train technicians on work CDR processing, correctly applying the substantial gainful activity and averaging wages policies, and properly documenting decisions involving averaging periods of work.

Our response to the recommendation is below.

Recommendation 1

We recommend SSA establish objective criteria for staff to follow when averaging earnings to minimize inequity and unfairness in its determinations.

Response

We agree.

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