



SOCIAL SECURITY

Office of the Inspector General

MEMORANDUM

Date: AUG. 21 2001

Refer To: 31233-23-204

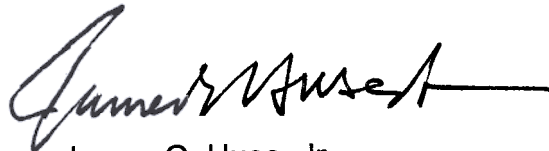
To: Larry G. Massanari
Acting Commissioner
of Social Security

Inspector General

Approval of Claimant Representatives and Fees Paid to Attorneys (A-12-00-10027)

The attached final report presents the results of our evaluation. Our objectives were to determine the extent of duplicate fees paid to attorneys and to assess the Social Security Administration's screening process at the Office of Hearings and Appeals level for claimant representatives.

Please comment within 60 days from the date of this memorandum on corrective action taken or planned on each recommendation. If you wish to discuss the final report, please call me or have your staff contact Steven L. Schaeffer, Assistant Inspector General for Audit, at (410) 965-9700.



James G. Huse, Jr.

Attachment

**OFFICE OF
THE INSPECTOR GENERAL**

SOCIAL SECURITY ADMINISTRATION

**APPROVAL OF CLAIMANT
REPRESENTATIVES AND
FEES PAID TO ATTORNEYS**

August 2001

A-12-00-10027

EVALUATION REPORT



Mission

We improve SSA programs and operations and protect them against fraud, waste, and abuse by conducting independent and objective audits, evaluations, and investigations. We provide timely, useful, and reliable information and advice to Administration officials, the Congress, and the public.

Authority

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

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

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

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

Vision

By conducting independent and objective audits, investigations, and evaluations, we are agents of positive change striving for continuous improvement in the Social Security Administration's programs, operations, and management and in our own office.

Executive Summary

OBJECTIVE

Our objectives were to determine the extent of duplicate fees paid to attorneys and to assess the Social Security Administration's (SSA) screening process at the Office of Hearings and Appeals (OHA) level for claimant representatives.

BACKGROUND

State Disability Determination Services make disability determinations under the Disability Insurance (DI) and Supplemental Security Income programs. Claimants may appeal the determinations to Administrative Law Judges (ALJ) located at Hearing Offices (HO) throughout the nation. The ALJ has the responsibility of ensuring the fair application of SSA laws and regulations by issuing *de novo* decisions on appealed disability determinations for which claimants have a right to a hearing. OHA administers the hearings and appeals program for SSA.

At all administrative levels, a claimant may designate an attorney or other qualified individual to represent him or her at a hearing with SSA. Claimant representatives may charge and receive a fee for their services. The fee must be approved by SSA. If the representative is an attorney and the claimant is entitled to past-due DI benefits, SSA will withhold up to 25 percent of the past-due benefits and pay the attorney all or part of the fee authorized. If the representative is not an attorney, SSA assumes no responsibility for payment of the fee. Eight Processing Centers (PC) issue attorney fee payments. In Calendar Year (CY) 2000, the PCs processed over \$510 million in attorney fee payments. However, six of the eight PCs do not track duplicate attorney fee payments—only PC 7 and PC 8 at the Office of Central Operations (OCO) track these payments. OCO is a component that consists of PC 7 and PC 8. PC 8 does prepare attorney fee payments, however, these payments are keyed in PC 7. In CY 2000, PC 7 processed 153,749 attorney fee payments totaling over \$357 million.

SSA has established standards of conduct and responsibility for a person serving as a claimant representative before the Agency. Among other duties, OHA's Special Counsel Staff (SCS) serves as agency representatives when addressing conduct referrals of claimant representatives. SCS investigates potential violations of the laws and regulations governing the conduct of claimant representatives in SSA proceedings. When evidence exists that a representative fails to meet SSA's qualification requirements or has violated SSA's rules, SCS may begin proceedings to suspend or disqualify that individual from acting as a representative. About once a year, SCS sends an updated list of disqualified/suspended representatives to SSA Senior and Executive staffs; the Offices of the 10 Regional Chief Administrative Law Judges; all regional attorneys; all Administrative Appeal Judges; all Appeals Officers; all Branch

Chiefs in the Office of Appellate Operations; all hearing offices; the Regional Commissioners; and others with a need to know. The list is also redistributed to SSA district offices.

RESULTS OF REVIEW

Even though PC 7 implemented a new system in 1997 to prevent duplicate payments to attorneys, PC 7 made 12 duplicate payments totaling \$23,558 in January 1999 and 15 duplicate payments totaling \$30,850 in March 2000. Further, we could not assess whether SSA made duplicate payments at six of eight PCs since these PCs do not track duplicate attorney fee payments. In addition, we believe the claimant representative screening process needs to be improved.

ATTORNEY FEE PAYMENT PROCESS

Six of the eight PCs do not track duplicate attorney fee payments. SSA estimates that these 6 PCs process 30 percent of the attorney fee payments. PC 7 does track duplicate attorney fee payments, and, therefore, this was the only attorney fee payment process we were able to review. However, PC 7 uses the claimant's Social Security number (SSN) for tracking attorney fee payments and not the attorney's SSN. Since PC 7 does not track attorney fee payments using the attorney's SSN, SSA is unable to determine the amount of fees a specific attorney has been paid during the year, nor does SSA prepare IRS Form 1099 for attorneys.

SSA uses an error-prone, labor-intensive system called One-Check Only A- (OCO A) to process attorney fee payments. In 1997, SSA installed an automated Duplicate Payment Prevention System (DPPS) at PC 7 to catch possible duplicate attorney fee payments. Our analysis revealed that DPPS is generally working as intended. However, we examined attorney fee payment reports for January 1999 and March 2000 and discovered the following:

- Benefit authorizers (BA) did not always follow procedures when using the override indicator, causing duplicate payments to occur. The override indicator is placed on the attorney fee payment form and allows an attorney fee payment to bypass DPPS. As a result, 12 duplicate payments totaling \$23,558 were made to attorneys in January 1999 and 15 duplicate payments totaling \$30,850 were made in March 2000.
- Claimant records in the Payment History Update System (PHUS) were erroneous because SSA used incorrect SSNs when the payments were posted to the PHUS. An incorrect SSN is a valid SSN belonging to an individual other than the claimant who used the attorney's services. We determined that there are two causes why incorrect SSNs are used. Either the BAs entered the incorrect SSN onto the payment authorization forms or keyers in the Data Input Unit (DIU) entered the incorrect SSN into the OCO A system. Thirty-four records in PHUS were incorrectly

credited with attorney fee payments in January 1999 and 30 were incorrectly credited in March 2000 totaling \$64,991 and \$67,689, respectively. The likelihood of duplicate payments increases when an attorney fee payment is processed with an incorrect SSN. For example, an attorney may receive a payment processed with an incorrect SSN and later receive a duplicate payment processed with the correct SSN.

- There are no system controls to prevent OCO A from processing invalid SSNs for attorney fee payments. An invalid SSN is one that has not been issued by SSA. Ten attorney fee payments were made using invalid SSNs in January 1999 and 11 were made in March 2000.

We worked closely with Integrity and Security Branch (ISB) staff at OCO during this evaluation. As of June 2001, ISB staff had recovered \$40,838 in duplicate payments and are in the process of collecting others that we identified. ISB has also corrected the PHUS records.

SCREENING OF DISQUALIFIED/SUSPENDED CLAIMANT REPRESENTATIVES

Based on attorney fee payments made at PC 7 from January 1999 through March 2000, we determined that no disqualified or suspended representatives were representing claimants. However, we believe the claimant representative screening process needs to be improved. Twenty-four percent of the 139 HO's told us that they do not receive the claimant representative disqualification/suspension list. In addition, 32 percent of the HO's that received the list reported that they did not receive instructions on what to do with the list, once received.

CONCLUSIONS AND RECOMMENDATIONS

In 1997, PC 7 improved its controls over attorney fee payments by implementing DPPS. However, PC 7 continues to make duplicate payments to attorneys representing claimants. Further, SSA does not track duplicate attorney fee payments at six of eight PCs. SSA estimates that these 6 PCs process 30 percent of all attorney fee payments. While PC 7 does track duplicate attorney fee payments, they use the claimant's SSN for tracking purposes and process these payments through an inefficient and error-prone OCO A system.

During our evaluation, we reviewed attorney fee payments made in January 1999 and March 2000. Our review found duplicate attorney fee payments during both of these months. Since SSA did not improve its controls over the attorney fee payment process since our evaluation began, we believe that similar errors have occurred in the intervening months and are still occurring. Based on the results of our review of January 1999 and March 2000 payments, and using a non-statistical weighted average process, we estimate PC 7 paid \$510,000 in duplicate payments to attorneys during CYs 1999 and 2000.

We recommend that SSA:

- Establish an automated system to account for attorney fee payments at all PCs;
- Collect each attorney's SSN, name and address information so IRS Form 1099 can be issued to attorneys;
- Develop procedures for other recovery options when SCS is unable to collect duplicate payments to attorneys, such as offsetting future payments to attorneys or referring these debts to the Treasury Offset Program;
- Identify and recover duplicate attorney fee payments made since January 1999 due to incorrect use of the override indicator by BAs;
- Establish a procedure for reviewing the override indicator reports as they are generated;
- Correct PHUS records for all accounts where incorrect and invalid SSNs were processed to make attorney fee payments since January 1999;
- Develop a system edit in the OCO A system so that invalid beneficiary SSNs cannot be processed for attorney fee payments;
- Remind BAs of correct procedures when using the override indicator;
- Establish quality control measures for keyers in DIU to prevent input errors of SSNs into the OCO A;
- Set a priority for automating the OCO A system, so that attorney fee payments can be validated against the Master Beneficiary Record; and
- Issue instructions for screening disqualified or suspended claimant representatives and place the disqualification/suspension list on SSA's intranet, so that every SSA office that needs to identify attorneys will have instant access to screening procedures and an up-to-date list.

AGENCY COMMENTS

SSA agreed with nine of our recommendations, but did not concur with our seventh and tenth recommendations—addressing modifications and automate of the OCO A system. SSA plans to install a new Single Payment System in 2002 to process attorney fee payments. As a result, SSA does not want to shift resources from this new system to improve the OCO A system since it will be replaced soon. (See Appendix F for SSA's comments.)

OIG RESPONSE

Once SSA completes the corrective actions described in its response, staff should have quality controls to reduce the number of duplicate attorney fee payments being issued and to prevent disqualified/suspended claimant representatives from participating in the process. However, we believe that duplicate payments will continue until the OCO A system is improved or replaced. Further, we believe that SSA will have a difficult time meeting its goal of implementing a new Single Payment System by 2002, since there are challenging technical difficulties in automating such a large, complicated system.

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Acronyms

ALJ	Administrative Law Judge
BA	Benefit Authorizer
CY	Calendar Year
DI	Disability Insurance
DIU	Data Input Unit
DPPS	Duplicate Payment Prevention System
HO	Hearing Office
ISB	Integrity and Security Branch
MBR	Master Beneficiary Record
OCO	Office of Central Operations
OCO A	One-Check Only A-
OHA	Office of Hearings and Appeals
OIG	Office of the Inspector General
OIO	Office of International Operations
PAS	Payment Accounting Section
PC	Processing Center
PHUS	Payment History Update System
SCS	Special Counsel Staff
SSA	Social Security Administration
SSI	Supplemental Security Income
SSN	Social Security number
TA	Technical Assistant

Introduction

OBJECTIVE

Our objectives were to determine the extent of duplicate fees paid to attorneys and to assess the Social Security Administration's (SSA) screening process at the Office of Hearings and Appeals (OHA) level for claimant representatives.

BACKGROUND

State Disability Determination Services make disability determinations under the Disability Insurance (DI) and Supplemental Security Income (SSI) programs. Claimants may appeal the determinations to Administrative Law Judges (ALJ) located at Hearing Offices (HO) throughout the nation. The ALJ has the responsibility of ensuring the fair application of SSA laws and regulations by issuing *de novo* decisions on appealed disability determinations for which claimants have a right to a hearing. OHA administers the hearings and appeals program for SSA.

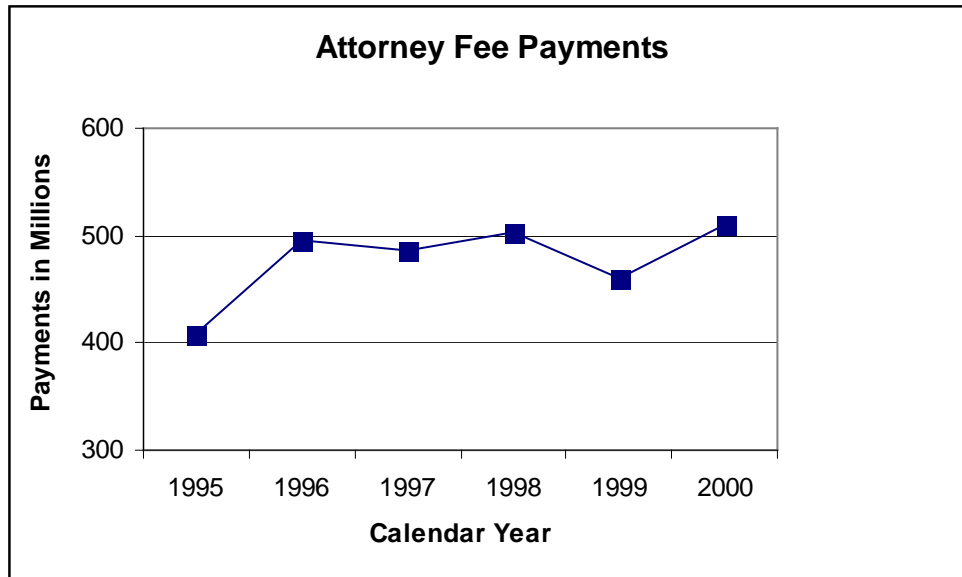
At all administrative levels, a claimant may designate an attorney or other qualified individual to represent him or her at a hearing with SSA. The claimant must sign a written notice of appointment and file the notice with SSA. The notice constitutes proof of appointment. Without evidence to the contrary, SSA presumes that an appointed representative is of good character and reputation, and capable of providing assistance to the claimant.¹

In Fiscal Year 2000, about 75 percent of disability claims had attorney representation.² Claimant representatives may charge and receive a fee for their services. The fee must be approved by SSA. If the representative is an attorney and the claimant is entitled to past-due DI benefits, SSA will withhold up to 25 percent of the past-due benefits and pay the attorney all or part of the fee authorized. If the representative is not an attorney, SSA assumes no responsibility for payment of the fee. The amount of attorney fee payments paid by SSA since 1995 is shown in Figure 1.

¹ Representation of Parties – 20 C.F.R. §§ 404.1700 through 404.1799 and 416.1500 through 416.1599.

² SSA's Office of Information Management data derived from OHA's case control system.

Figure 1



Source: Payment History Update System (PHUS)

THE OFFICE OF CENTRAL OPERATIONS PROCESSES 70 PERCENT OF ALL ATTORNEY FEE PAYMENTS

Attorney fee payments are processed by SSA's Processing Centers (PC). There are eight PCs located in different regions throughout the U.S., including the Office of Central Operations (OCO)³ in Baltimore, Maryland. PC 7 processes payments for claimants who are under 55 years of age, PC 8 processes international attorney fee payments, and the other six PCs process payments for claimants who are aged 55 and older.

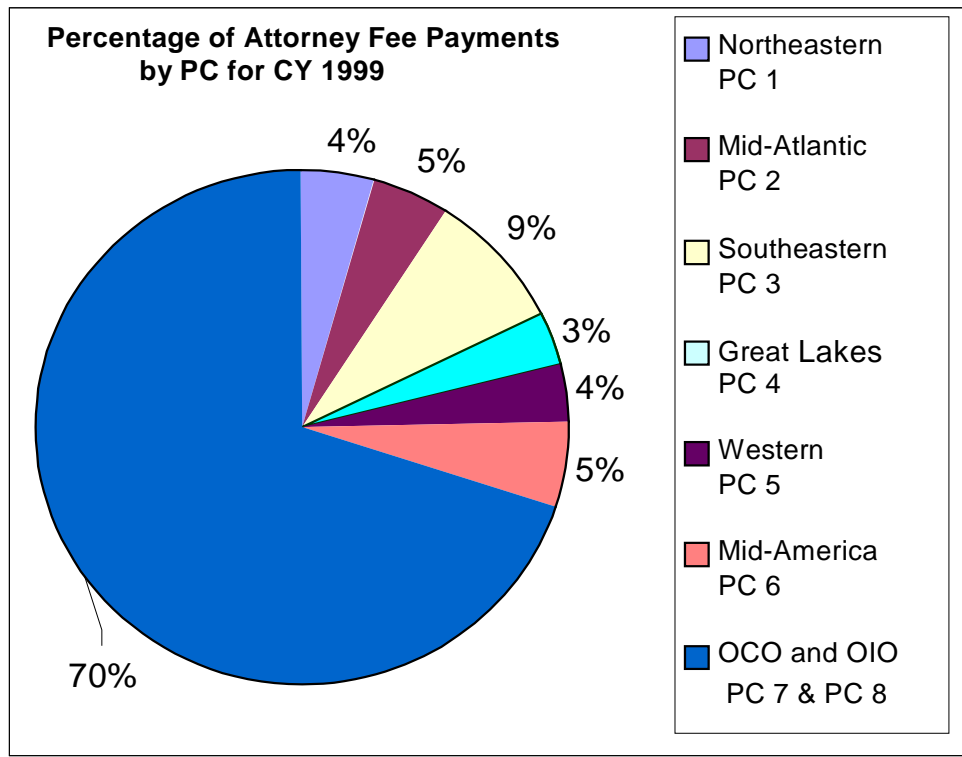
In CY 1991, PC 7 processed 71,600 attorney fee payments totaling \$140 million. The numbers have grown dramatically since 1991. In CY 2000, PC 7 processed 153,749 attorney fee payments totaling over \$357 million. This represents a 115 percent increase in the number of payments and a 155 percent increase in the amount of payments.

Figure 2 illustrates SSA's estimate of the percentage of attorney fee payments processed by each PC.⁴

³ OCO is a component that consists of two PCs, the Office of Disability Operations (ODO or PC 7) and the Office of International Operations (OIO or PC 8). PC 8 does prepare fee payments for attorneys; however, these payments are keyed in PC 7 by the same data entry clerks who key the ODO payments.

⁴ Percentages are based on SSA estimates of attorney fee payments processed by each processing center.

Figure 2



THE ONE-CHECK ONLY A- PROCESS AT PC 7

In the mid-1990s, attorneys began filing lawsuits against SSA because of extremely long delays in receiving their payments for representing claimants at hearings. Due to this significant litigation risk, SSA assembled a team in 1997 to examine the cause of delays in processing attorney fee payments. The team's report discussed systems improvements and concluded that automation of the attorney fee process would greatly enhance the processing of attorney fees and streamline a fairly complex process.⁵ The team recommended that SSA strictly maintain its schedule for automating the attorney fee payment process. However, competing automation priorities have repeatedly delayed automation of the attorney fee payment process.

At PC 7, the attorney fee payment system, called the One-Check Only A- (OCO A) system, requires extensive human resources (see Appendix A). The manual process begins when a benefit authorizer (BA) calculates the amount of the attorney fee. The BA verifies previous payments made to the attorney using the Master Beneficiary Record (MBR) and PHUS. The MBR contains special messages for items relating to the attorney fee. A historical record of payments made to a claimant's account is

⁵ SSA *Attorney Fee Processing Team Report*, December 16, 1997. The team was composed of staff from OHA, OCO, Office of Systems, Office of the General Counsel, and the Litigation Staff.

archived in PHUS. The system tracks payments made to a claimant's account and generates IRS Form 1099 for claimants. PHUS uses the claimant's Social Security number (SSN) and a code to identify attorney fee payments.

If the BA determines that no attorney fee payment was previously made, or that an additional payment will not exceed mandated limits, the BA prepares a Form 2795. This Form contains the beneficiary's SSN, the attorney's name and address, the payment amount, and signatures of approving officials. The forms are collected by personnel in the modules and then carried to the Payment Accounting Section (PAS). Technical Assistants (TA) in the PAS review every form for accuracy, completeness, and proper signatures. The forms are returned to the BA if any discrepancies are found. The TAs batch the forms into groups of 20 and use an adding machine to total the amount of payments per batch. The adding machine tape is stapled to the top form of the batch and is used as an audit check. The batched forms are then carried to the Data Input Unit (DIU). Keyers in DIU access the Falcon⁶ system and enter payment information into the OCO A application program. After the keying operation, the forms are returned to PAS for archiving. The payment information is then processed electronically through the Duplicate Payment Prevention System (DPPS).

DUPLICATE PAYMENTS AT PC 7 WERE IDENTIFIED BY DPPS

In a 1992 Office of the Inspector General (OIG) audit⁷ of the attorney fee payment process at PC 7, we recommended that SSA periodically identify and review cases that contain two or more identical attorney fee payments to determine if duplicate payments were made. SSA agreed with the recommendation. In 1997, SSA installed DPPS—an automated system that reviews attorney fee payments before they are issued and flags payments that match or closely match SSNs to attorney fee payments that were made in the past (see Appendix B). When a possible duplicate is identified, the attorney fee payment record is removed from processing and no payment is made.

The OCO A system prints daily, weekly and monthly reports on payments made to attorneys. A daily report of “no payment made” cases is also generated. When a payment is flagged as a possible duplicate, a TA in PAS pulls the Form 2795 from the batch and returns it to the BA who initiated the payment. The BA determines whether the attorney fee payment is a “true” duplicate. It is a slow and time-consuming process to verify duplicate payments. The BA must examine PHUS and printed payment reports. If the BA is able to determine that the attorney fee payment is a “true” duplicate, the BA must obtain copies of cancelled checks from the Department of Treasury proving the attorney cashed the duplicate check. After obtaining copies of the cashed check, PC 7 attempts to collect the duplicate payment from the attorney. If the

⁶ The Falcon system is the automated system which SSA uses to record all OCO A payments. Access to the system is controlled either by an external security package (TOP Secret) or by a single log-on password system.

⁷ SSA/OIG report, “Better Controls are Needed to Help Prevent or Detect Duplicate Payment to Attorneys,” (A-13-92-000219), September 1992.

BA is unable to collect the overpayment, the case is sent to Special Counsel Staff (SCS) for collection and any appropriate administrative action regarding the representative, which can include suspension and disbarment from the program. In CY 2000, SCS collected approximately \$70,000 in remittances from attorneys. For those duplicate attorney fees that SCS is unable to collect, SSA does not currently pursue other recovery options, such as offsetting future payment of fees to attorneys⁸ or referring these debts to the Treasury Offset Program.⁹

AN OVERRIDE INDICATOR ALLOWS SELECTED ATTORNEY FEE PAYMENTS TO BYPASS DPPS

Not all attorney fee payments flagged by DPPS are “true” duplicates. SSA refers to these payments as “false” duplicates. There are two main causes of “false” duplicates. The first is a returned check that has not been cashed due to a wrong attorney address. If the BA tried to submit another payment to this attorney, the DPPS would flag the payment because the claimant's SSN matched the previous payment. The second reason a “false” duplicate payment occurs is when more than one attorney represents a claimant. If more than one attorney is authorized a payment, multiple checks must be issued against the claimant's SSN. The DPPS would flag these payments because more than one check was issued to the same SSN. To get around the problem of “false” duplicates, the override indicator is used. The override indicator allows a payment to bypass DPPS. A daily report of attorney fee payments paid using the override indicator is printed and stored by the Integrity and Security Branch (ISB) at OCO.

RULES GOVERNING CLAIMANT REPRESENTATION

Effective September 3, 1998, SSA amended the rules governing representation of claimants seeking DI or SSI benefits under titles II or XVI of the Social Security Act. These regulations established standards of conduct and responsibilities for representatives and further defined SSA's expectations regarding their obligations to claimants.¹⁰ Among other functions, OHA's SCS serves as the Agency representative in actions against claimant representatives and investigates potential violations of laws and regulations by claimant representatives. When evidence exists that a representative failed to meet SSA's qualification requirements, or has violated SSA's rules, SCS may begin proceedings to suspend or disqualify that individual from acting as a representative. About once a year, SCS sends an updated list of

⁸ Section 204(a)(1)(A) of the Social Security Act, 42 U.S.C. § 404(a)(1)(A), may allow the Commissioner of Social Security to prescribe regulations relating to decreasing future fees for attorneys who are paid more than the correct amount.

⁹ See Collection of overdue debts by administrative offset, 20 C.F.R. § 422.310.

¹⁰ Rules of Conduct and Standards of Responsibility for Representatives, 20 C.F.R. §§ 404.1740 and 416.1540.

disqualified/suspended representatives to SSA Senior and Executive staffs; the Offices of the 10 Regional Chief Administrative Law Judges; all regional attorneys; all Administrative Appeal Judges; all Appeals Officers; all Branch Chiefs in the Office of Appellate Operations; all hearing offices; the Regional Commissioners; and others with a need to know. The list is also redistributed to SSA district offices. If a disqualified or suspended claimant representative appears at a HO to represent a claimant, the HO is responsible for identifying that claimant representative as disqualified or suspended.

As of October 2000, there were 78 disqualified and 4 suspended claimant representatives. After more than 1 year from the date of the disqualification or suspension, a disqualified or suspended representative may ask the Appeals Council for permission to serve as a representative again.

SCOPE AND METHODOLOGY

To achieve our objectives, we:

- Interviewed staff at PC 7 and OHA headquarters.
- Examined General Series Program Circulars initiated by PC 7.
- Reviewed reports on payments made using the override indicator and the January 1999 and March 2000 reports, “*No Payments Made, Possible Duplicate One-Check Only A-*” (see Appendix C for our methodology). We selected the January 1999 report because it was the earliest data available. We attempted to review the January 2000 report on attorney fee payments flagged by DPPS to make a comparison with January 1999 results. However, we were unable to perform a similar analysis due to an error in the printed report for January 2000. ISB staff is examining the cause of the error. We randomly chose the March 2000 report and found similar errors to those identified in the January 1999 report.
- Performed a walk-through of the OCO A payment process at PC 7.
- Examined the claimant representative disqualification/suspension list as of July 1999 and compared it to the attorney fee payments made by PC 7 from January 1999 through March 2000.
- Conducted a survey of all 139 HOs to evaluate the screening process for disqualified/suspended claimant representatives.
- Examined data on attorney names, addresses and payments from PC 7.
- Reviewed Program Operations Manual System references and SSA laws and regulations governing the conduct of representatives in SSA proceedings.

In addition, we followed up on the status of pertinent recommendations contained in the following reports:

- SSA/OIG report, “Better Controls are Needed to Help Prevent or Detect Duplicate Payments to Attorneys,” (A-13-92-000219), September 15, 1992.
- SSA report, “Attorney Fee Processing,” December 16, 1997.

We planned to perform a statistical sample of attorney fee payments paid by PC 7 in CY 1999 that were processed using the override indicator. We were unable to verify the accuracy of the automated data on attorney fee payments paid using the override indicator because the records are not stored electronically.

The following table lists the number and amounts of attorney fee payments processed at PC 7 for CYs 1999 and 2000 by month. We did not conduct our review to determine whether the number and amounts of attorney fee payments reported by PC 7 presented fairly the number and amounts actually expended. Nothing came to our attention to indicate that the number and amounts of attorney fee payments made by PC 7 were not those listed in the table.

Table 1: Attorney Fee Payments by Month

	January	February	March	April	May	June	July	August	September	October	November	December
CY 1999												
Number	13,845	12,106	13,368	11,081	6,293	11,717	10,605	12,213	13,865	9,065	10,729	6,728
Amounts (in millions)	\$33.4	\$28.5	\$31.4	\$26.2	\$14.7	\$28.4	\$25	\$30	\$33.4	\$22.4	\$25.8	\$16
CY 2000												
Number	17,485	20,932	16,077	10,932	11,950	11,961	12,191	13,745	11,500	9,651	9,918	7,407
Amounts (in millions)	\$42	\$51.2	\$38.2	\$25.7	\$27.5	\$27.3	\$27.5	\$31.4	\$25.6	\$21.8	\$22.3	\$16.8

To estimate the total number of duplicate payments made to attorneys, we created a weighted average for CY 1999 using the duplicate attorney fee payments we identified in January 1999 divided by the total number of attorney fee payments made that month. We then multiplied that weighted average by the total amount of attorney fee payments for each month in CY 1999. We summed the totals for each month to get a grand total for the year. We used the same methodology for CY 2000 using the March 2000 duplicate payments identified.

We conducted our evaluation from March 2000 through January 2001. The entities reviewed were OCO under the Deputy Commissioner for Operations and OHA under the Deputy Commissioner for Disability and Income Security Programs. Our review did

not include attorney fee payments made by PCs 1 through 6. We conducted this review in accordance with the Quality Standards for Inspections issued by the President's Council on Integrity and Efficiency.

Results of Review

We could not assess whether SSA made duplicate payments at six of eight PCs, since these PCs did not track duplicate attorney fee payments. Even though PC 7 implemented DPPS in 1997 to prevent duplicate payments to attorneys, PC 7 made duplicate payments to attorneys during January 1999 and March 2000. Based on our review of attorney fee payments made by PC 7, we found that:

- SSA made duplicate payments to attorneys during January 1999 and March 2000 totaling \$23,558 and \$30,850, respectively;
- BAs did not follow procedures when using the DPPS override indicator; and
- attorney fee payments with invalid or incorrect SSNs were not detected.

In addition, we determined that PC 7 did not pay attorney fees to any disqualified or suspended individuals during the period covered by our review. However, we believe the claimant representative screening process needs to be improved.

ATTORNEY FEE PAYMENT PROCESS

Six of the eight PCs do not track duplicate attorney fee payments. SSA estimates that these six PCs process 30 percent of the attorney fee payments. PC 7 does track duplicate attorney fee payments. However, the data that PC 7 collects on attorney fee payments are not standardized, which prevented us from taking a random sample. There are variations in spelling and the use of titles for attorney names. In one instance, there were 30 different spellings of the same attorney name. The name information contains the first and last name of the attorney in the same field, making it impossible to do a computerized search on just the last name. We also experienced difficulties in searching the address fields. The address fields are blended in with the claimant's name. Many addresses also contain numerous variations in their spelling. Because of the lack of standardization, we were unable to use data base technology to sort, query or report on the information. SSA does not track attorney fee payments by the attorney's SSN, but instead uses the claimant's SSN. We believe the process for tracking attorney payments and the prevention of duplicate payments could be improved if SSA recorded the attorney's SSN, name and address information. Recording such information would also allow SSA to prepare and send each attorney an IRS Form 1099.

In an attempt to eliminate duplicate payments from being made to attorneys, PC 7 installed DPPS in 1997. However, the Associate Commissioner for Central Operations acknowledged in a January 2000 memorandum that duplicate payments to attorneys are still being made at PC 7. In conducting our review, we attempted to uncover the

cause of the duplicate payments, identify the duplicate payments made in the past so that they could be recovered, and determine what could be done to prevent this from happening in the future.

We examined attorney fee payment reports that were generated by DPPS during January 1999 and March 2000. Based on our examination of data from these reports and our analysis of the PHUS and the MBR, we believe that DPPS is generally working as intended. However, our analysis revealed the following.

- BAs did not follow procedures when using the override indicator, causing duplicate payments to occur. The override indicator is placed on the attorney fee payment form and allows an attorney fee payment to bypass DPPS. Twelve duplicate payments totaling \$23,558 were made to attorneys in January 1999 and 15 duplicate payments totaling \$30,850 were made to attorneys in March 2000.
- Claimant records in PHUS were erroneous because SSA used incorrect SSNs when the payments were posted. An incorrect SSN is a valid SSN belonging to an individual other than the claimant who used the attorney's services. We determined that there are two causes for incorrect SSNs being processed. Either the BAs entered the incorrect SSN onto the payment authorization forms or keyers in the Data Input Unit (DIU) entered the incorrect SSN into the OCO A system. Thirty-four records in PHUS were incorrectly credited with attorney fee payments in January 1999 and 30 were incorrectly credited in March 2000 totaling \$64,991 and \$67,689, respectively. The likelihood of a duplicate payment increases when an attorney fee payment is processed with an incorrect SSN. The attorney receives a payment processed with the incorrect SSN and then later could receive a duplicate payment processed with the correct SSN.
- There are no system controls to prevent OCO A from processing invalid SSNs for attorney fee payments. An invalid SSN is one that has not been issued by SSA. Ten attorney fee payments were made using invalid SSNs in January 1999 and 11 were made in March 2000.

Duplicate Payments

BAs did not always follow procedures when using the override indicator. When these possible duplicate payments were identified by DPPS, the BA who initiated the payment was supposed to examine the attorney fee payment records to determine whether the attorney had been paid previously. Instead of examining the payment reports, the BAs issued another payment using the override indicator. The attorney then received a duplicate payment. The first payment was made using an incorrect SSN and the second payment was made using the correct SSN. Based on the results of our review of January 1999 and March 2000 payments, and using a non-statistical weighted average process, we estimate PC 7 paid \$510,000 in duplicate payments to attorneys during CYs 1999 and 2000.

Incorrect and Invalid SSNs

Attorney fee payments with invalid or incorrect SSNs are not automatically detected because OCO A does not validate SSNs against the MBR. SSA has no verification method to ensure attorney fee payments are correctly associated with the claimant's SSN in the MBR. As a result, we had to manually determine why incorrect SSNs were used to make attorney fee payments. We requested 29 case folders where incorrect SSNs were used to make attorney fee payments during January 1999. Ten of the case folders could not be analyzed because six folders did not contain the Form 2795 and four folders could not be found. For the 19 cases that we were able to analyze, human error was to blame for the SSNs being input incorrectly into OCO A. In 13 out of 19 cases (68 percent), keyers in the DIU typed incorrect SSNs into the OCO A; and in 6 out of 19 cases (32 percent), BAs entered incorrect SSNs onto the Form 2795. We also requested the 10 case folders where attorney fee payments were made using invalid SSNs. We could not determine the reason why these attorney fee payments were paid using invalid SSNs. Eight of the cases did not contain either the Form 2795 or the OCO A output information. The remaining two case folders could not be found.

We worked closely with PC 7 and ISB during this evaluation. ISB staff are working with the U.S. Department of Treasury to determine whether the attorneys cashed the duplicate payments. As of June 2001, ISB staff had recovered \$40,838 in duplicate payments and are in the process of collecting other duplicate payments we identified. ISB has also corrected the PHUS records.

ISB has printed copies of the "No Payments Made, Possible Duplicate One-Check Only A-" reports dating back to January 1999. SSA can use the methodology outlined in Appendix C to identify duplicate payments that were made using the override indicator since January 1999. Duplicate payments made using the override indicator prior to January 1999 cannot be identified, since ISB no longer has those printed reports.

SCREENING OF DISQUALIFIED/SUSPENDED CLAIMANT REPRESENTATIVES

Based on attorney fee payments made by PC 7 between January 1999 and March 2000, we determined that attorney fees were not paid to any disqualified or suspended representatives. However, we believe the claimant representative screening process needs to be improved, because not all HOs received the disqualification/suspension list and some did not get instructions on what to do with the list.

SCS prepares a list of disqualified and suspended claimant representatives and, about once a year, sends by e-mail an updated list to the offices and personnel listed in Appendix D. The Privacy Act prevents SSA from disclosing this list to the public. The results from our survey of the HOs are illustrated in Table 2.

Table 2. Results of HO Survey

Survey Characteristic	Number of Respondents	Total Number	Percent of Total
HOs responding to the survey	139	139	100
HOs reporting that they did not receive the list	34	139	24
HOs reporting that they did receive the list but did not receive instructions on what to do with the list	34	105	32

The survey questionnaire is shown in Appendix E. We received survey responses from all 139 HOs.¹¹ From these survey results, we concluded that the current process is not working as well as it could. Thirty-four HOs stated that they never received the disqualification/suspension list and 34 HOs reported that they do not know what to do with the list.¹² By placing the list on SSA's intranet, every HO would have real-time access to the current list, and access would be limited to SSA employees.

¹¹ At the time of our survey, there were 139 HOs. As of February 2001, there were 138 HOs.

¹² Section I -1-150G (Processing an Alleged Violation) of the Hearings, Appeals and Litigation Law Manual sets forth instructions for OHA employees.

Conclusions and Recommendations

In 1997, SSA improved its controls over attorney fee payments by implementing DPPS at PC 7. However, PC 7 continues to make duplicate payments to attorneys representing claimants. Further, SSA does not track duplicate attorney fee payments at the other PCs. SSA estimates that these PCs process 30 percent of all attorney fee payments. While PC 7 does track duplicate attorney fee payments, they use the claimant's SSN for tracking purposes and process these payments through an inefficient and error-prone OCO A system.

During our evaluation, we reviewed attorney fee payments made in January 1999 and March 2000. Our review found duplicate attorney fee payments during both of these months. Since SSA did not improve its controls over the attorney fee payment process since our review began, we believe that similar errors have occurred in the intervening months and are still occurring. Based on the results of our review of January 1999 and March 2000 payments, and using a non-statistical weighted average process, we estimate PC 7 paid \$510,000 in duplicate payments to attorneys during CYs 1999 and 2000.

We recommend that SSA:

1. Establish an automated system to account for attorney fee payments at all PCs;
2. Collect each attorney's SSN, name and address information so IRS Form 1099 can be issued to attorneys;
3. Develop procedures for other recovery options when SCS is unable to collect duplicate payments made to attorneys, such as offsetting future payments to attorneys, or referring these debts to the Treasury Offset Program;
4. Identify and recover duplicate attorney fee payments made since January 1999 due to incorrect use of the override indicator by BAs;
5. Establish a procedure for reviewing the override indicator reports as they are generated;
6. Correct PHUS records for all accounts where incorrect and invalid SSNs were processed to make attorney fee payments since January 1999;
7. Develop a system edit in the OCO A system so that invalid beneficiary SSNs cannot be processed for attorney fee payments;

8. Remind BAs of correct procedures when using the override indicator;
9. Establish quality control measures for keyers in DIU to prevent input errors of SSNs into the OCO A;
10. Set a priority for automating the OCO A system, so that attorney fee payments can be validated against the Master Beneficiary Record; and
11. Issue instructions for screening disqualified or suspended claimant representatives and place the disqualification/suspension list on SSA's intranet, so that every SSA office that needs to identify attorneys will have instant access to screening procedures and an up-to-date list.

AGENCY COMMENTS

SSA agreed with nine of our recommendations, but did not concur with our seventh and tenth recommendations—addressing modifications and automate of the OCO A system. SSA plans to install a new Single Payment System in 2002 to process attorney fee payments. As a result, SSA does not want to shift resources from this new system to improve the OCO A system since it will be replaced soon.

OIG RESPONSE

Once SSA completes the corrective actions described in its response, staff should have quality controls to reduce the number of duplicate attorney fee payments being issued and to prevent disqualified/suspended claimant representatives from participating in the process. However, we believe that duplicate payments will continue until the OCO A system is improved or replaced.

We believe that SSA will have a difficult time meeting its goal of implementing a new Single Payment System by 2002, since there are challenging technical difficulties in automating such a large, complicated system. In FY 2000, there were over 500,000 attorney fee payments made at 8 PCs located across the country. Automating the attorney fee payments at one location is difficult, but coordinating the automation at 8 different locations will take time. Over the past 4 years, SSA has planned to automate the manual, error-prone OCO A system, but other automation priorities have continuously postponed this endeavor. A SSA task force in 1997 made recommendations to improve the attorney fee payment process, but SSA did not act on those recommendations.

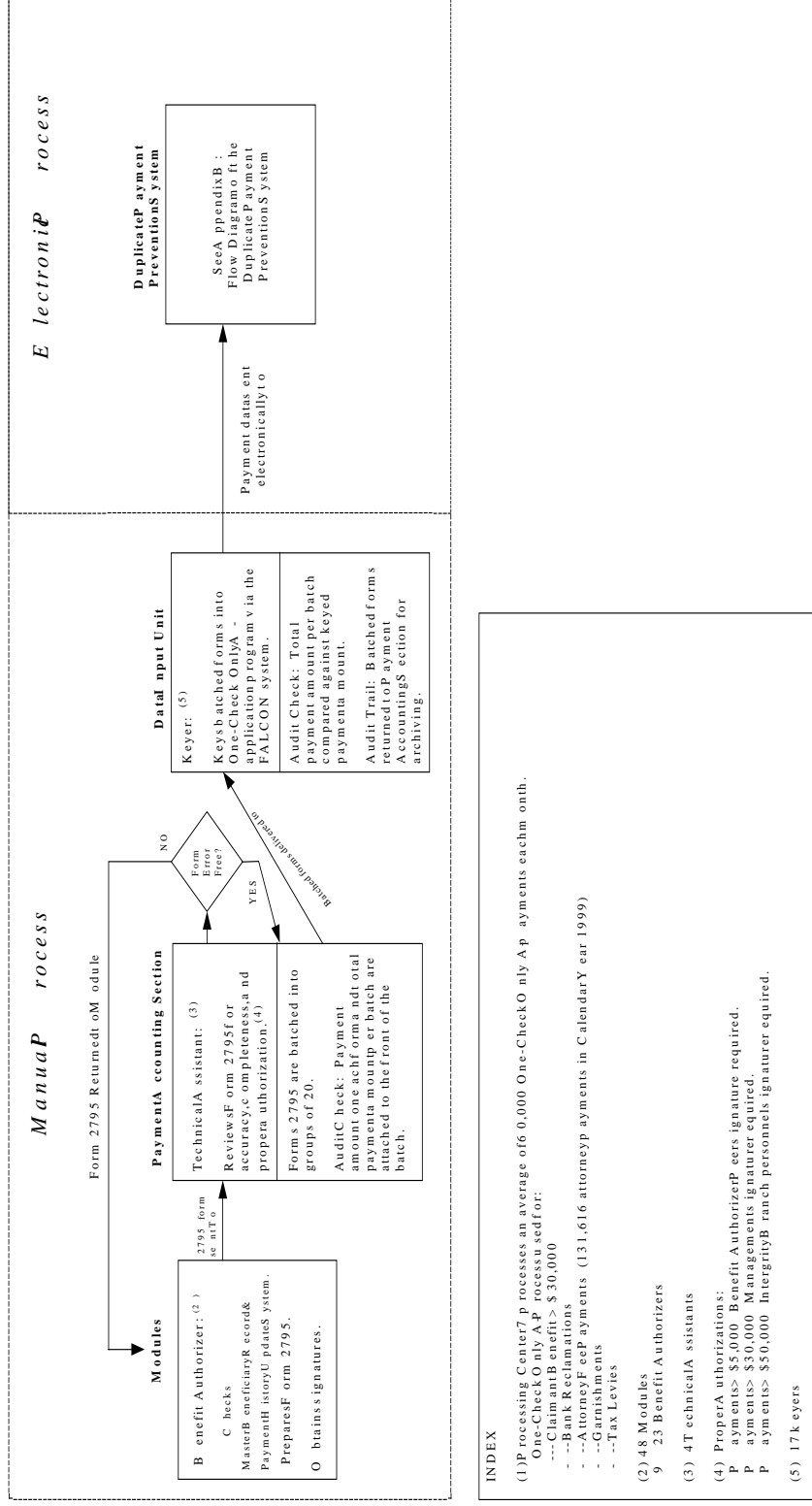
Other Matters

During the course of our review, a question came to our attention regarding SSA's legal responsibility for issuing IRS Form 1099 to attorneys. While this issue was outside the scope of our review, we believe it should be brought to management's attention. We will research this issue further and report our results to SSA separately.

Appendices

Appendix A

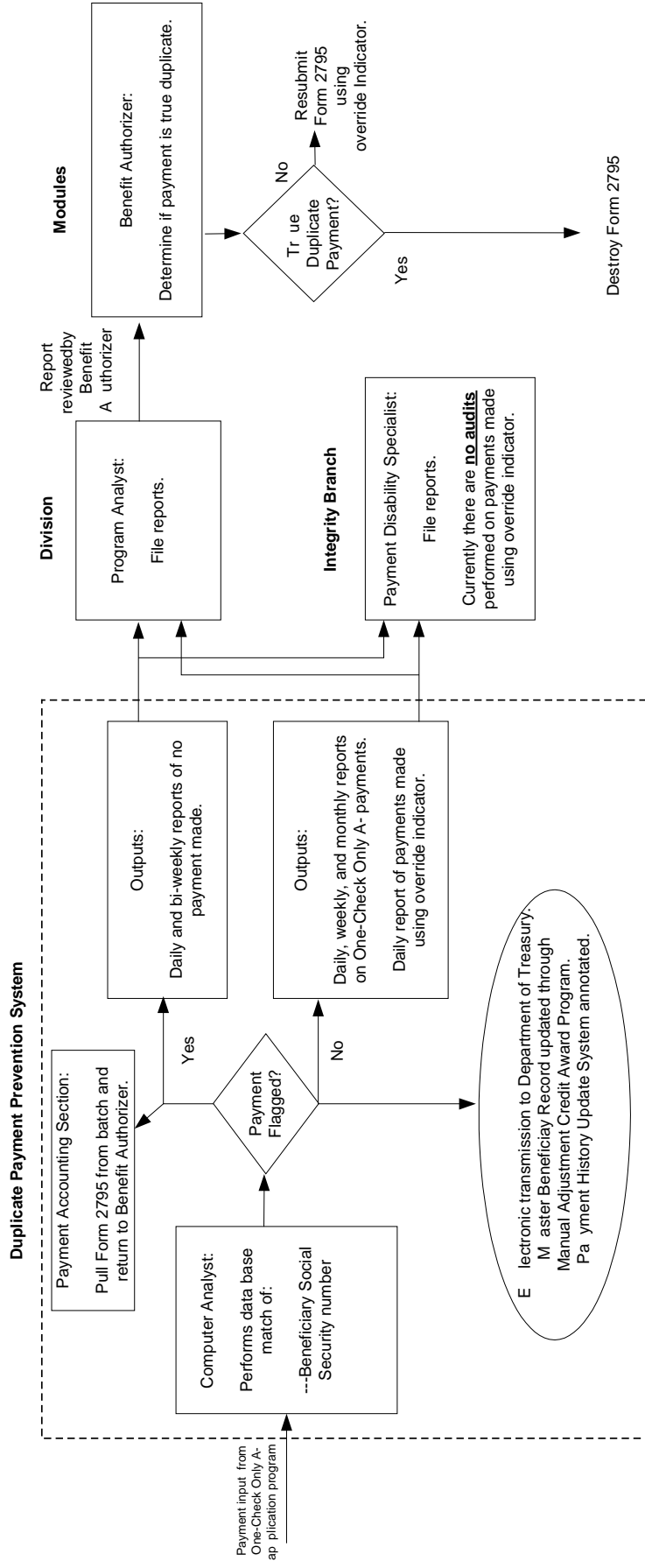
One-Check Only A- Process at Office of Central Operations (1)



INDEX

- (1) Processing Center 7 processes an average of 6,000 One-Check Only A payments each month.
- One-Check Only A Process used for:
 - Claimant Benefit > \$30,000
 - Bank Reclamations
 - Attorney Fees Payments (131,616 attorney payments in Calendar Year 1999)
 - Garnishments
 - Tax Levies
- (2) 48 Modules
- 9 23 Benefit Authorizers
- (3) 4 Technical Assistants
- (4) Proper Authorizations:
 - Payments > \$5,000 - Beneficiary Signature required.
 - Payments > \$30,000 - Management Signature required.
 - Payments > \$50,000 - Integrity Branch Personnel Signature required.
- (5) 17 Keyers

Duplicate Payment Prevention System



Methodology for Determining Duplicate Attorney Fee Payments

Steps taken to determine the number and amount of duplicate payments made by the One-Check Only A- system:

1. Obtained a copy of the January 1999 report, “No Payments Made, Possible Duplicate One-Check Only A-.”
2. Manually identified the unique records contained in the report. Reviewed every record in the report, and eliminated any duplicates. We identified 1,060 unique records that were flagged by the Duplicate Payment Prevention System as possible duplicate payments in January 1999.
3. Identified attorney fee payments that were flagged by DPPS as closely matched Social Security numbers (SSN) to attorney fee payments that were made in the past. The following record was taken from the January 1999 report, “No Payments Made, Possible Duplicate One-Check Only A-.” The attorney fee payment in the first row was paid using (SSN 088-XX-XXXX) on December 1, 1998. The attorney fee payment in the second row using (SSN 085-XX-XXXX)¹ was flagged as a possible duplicate when it was submitted on January 29, 1999. There were 160 attorney fee payments flagged by DPPS in January 1999 as possible duplicates because of closely matched SSNs.

SSN	Amount Paid	Payment Indicator Code	Module	Payee Name and Address	Zip Code	Date Paid
088-XX-XXXX	\$1,523	AT	05	Attorney and claimant info	11550	December 1, 1998
085-XX-XXXX	\$1,523	AT	J8	Identical attorney and claimant info	11550	January 29, 1999

4. Determined whether an incorrect or invalid SSN was used when inputting the attorney fee payment into OCO A. Checked the Master Beneficiary Record for both SSNs to verify which claimant used the attorney. Checked the Payment History Update System for both SSNs to verify whether the attorney fee payment was made only under the incorrect SSN, or made under both SSNs.

¹ The last six digits are the same.

Offices and Personnel Sent the List of Disqualified/Suspended Representatives

Social Security Administration (SSA) Executive Staff

Office of Hearings and Appeals (OHA) Headquarters Executive Staff

All Administrative Appeals Judges, All Adjudication Officers, All Branch Chiefs

The Regional Chief Administrative Law Judge in each of SSA's 10 regions

All Regional Attorneys in SSA's 10 regions

All 139 HOs in SSA's 10 regions

All Regional Commissioners in each of SSA's 10 regions

Office of the Inspector General Survey Instrument

Your Name	
Title	
Hearing Office	
Phone Number	

Questions to Determine Claimant Representative Screening Process

1. Do you receive a list of disqualified, suspended or not recognized claimant representatives? If not, please stop here.	
2. How often do you receive the list?	
3. How do you receive the list? Email? List placed on bulletin board? Other? Please specify!	
4. What is the date on the latest list?	
5. How many disqualified, suspended, or not recognized claimant representatives are on the list you currently have?	Number of disqualified = Number of suspended =
6. What are you instructed to do with the list of disqualified, suspended or not recognized claimant representatives?	
7. Are there instructions for screening persons appointed by claimants against the disqualified, suspended, or not recognized list?	
8. Has your office ever experienced or witnessed a disqualified, suspended, or not recognized person who has tried to represent a claimant?	
9. If you responded yes to number 8, what did you or anyone else do about it?	
10. Do you have any suggestions for how to improve the screening process to prevent disqualified, suspended, or not recognized persons from representing claimants?	

Agency Comments



SOCIAL SECURITY

MEMORANDUM

Date: August 13, 2001

Refer To: S1J-3

To: James G. Huse, Jr.
Inspector General

From: Larry G. Massanari
Acting Commissioner of Social Security

Subject: Office of the Inspector General (OIG) Draft Report, "Approval of Claimant Representatives and Fees Paid to Attorneys" (A-12-00-10027)—INFORMATION

We appreciate the OIG's efforts in conducting this review. Our comments on the draft report and the specific recommendations are attached.

Please let us know if we may be of further assistance. Staff questions may be referred to Robert Berzanski on extension 52675.

Attachment:
SSA Response

COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL (OIG) DRAFT REPORT,
“APPROVAL OF CLAIMANT REPRESENTATIVES AND FEES PAID TO ATTORNEYS”
(A-12-00-10027)

Thank you for the opportunity to review and provide comments on this draft report.

Before addressing the specific recommendations, we would like to note that we have been examining the attorney fee process over the last year. Among its activities, the Representative’s Fee Process Review Workgroup, established in May 2000, reviewed the current level of automation, data collection and management information. Subsequently, in May 2001, the Acting Commissioner established an Executive Task Force to oversee the development of a plan for improvement of the attorney fee payment process and to build on the work of the Representative's Fee Process Review Workgroup. The Task Force is developing an approach for improving the attorney fee process that includes improvements in automation.

Following are our comments on the recommendations.

Recommendation 1

Establish an automated system to account for attorney fee payments at all seven Processing Centers (PCs).

Comment

The Social Security Administration (SSA) will implement a new Single Payment System (SPS) in 2002 that will:

- Record all attorney fee payments nationwide;
- Provide for Customer Information Control System screens to automate the payment (eliminating the Data Input Unit participation in paying attorney fees);
- Check Master Beneficiary Record (MBR)/Payment History Update System(PHUS)/Critical Payment System data bases to ensure that the attorney fee payment is not a duplicate;
- Release attorney fee payments only when a MBR has been established with attorney fee withholding present;
- Establish a record of who issued the payment; and
- Establish a record of who and why an override was input.

Recommendation 2

Collect each attorney’s Social Security number (SSN), name and address information so IRS Form 1099 can be issued to attorneys.

Comment

SSA's Executive Task Force is addressing the issue of providing IRS Form 1099 to attorneys and is developing a business process for issuing these forms. A timeline for implementation has not yet been determined.

Recommendation 3

Develop procedures for other recovery options when the Office of Hearings and Appeals' (OHA) Special Counsel Staff (SCS) is unable to collect duplicate payments to attorneys, such as offsetting future payments to attorneys or referring these debts to the Treasury Offset Program.

Comment

We concur. We currently are exploring the availability and use of the various recovery options and plan to develop procedures using those recovery tools that prove feasible.

Recommendation 4

Identify and recover duplicate attorney fee payments made since January 1999 due to incorrect use of the override indicator by Benefit Authorizers (BAs).

Comment

We concur. SSA identified the duplicate payments and started the recovery process in August 2000. The completion date depends upon the degree of verification and/or documentation requested by the recipients of the duplicate payments.

Recommendation 5

Establish a procedure for reviewing the override indicator reports as they are generated.

Comment

We concur. SSA will establish a procedure for reviewing the reports by January 2002.

Recommendation 6

Correct PHUS records for all accounts where incorrect and invalid SSNs were processed to make attorney fee payments since January 1999.

Comment

We concur. SSA initiated corrective actions on the PHUS records in September 2000.

Recommendation 7

Develop a system edit in the One-Check Only A- (OCO A) system so that invalid beneficiary SSNs cannot be processed for attorney fee payments.

Comment

We do not concur. The SPS described in the response to Recommendation 1 will perform validation against the beneficiary's SSN. We do not want to shift resources from the SPS project to a system that will soon be obsolete.

Recommendation 8

Remind BAs of correct procedures when using the override indicator.

Comment

We concur. SSA will issue a reminder item by August 31, 2001.

Recommendation 9

Establish quality control measures for keyers in the Data Input Unit to prevent input errors of SSNs into the OCO A.

Comment

We concur. Control measures will be implemented by October 1, 2001.

Recommendation 10

Set a priority for automating the OCO A system, so that attorney fee payments can be validated against the MBR.

Comment

We do not concur. The SPS will perform validation against the beneficiary's SSN. We do not want to shift resources from the SPS project to a system that will soon be obsolete.

Recommendation 11

Issue instructions for screening disqualified or suspended claimant representatives and place the disqualification/suspension list on SSA's Intranet, so that every SSA office that needs to identify attorneys will have instant access to screening procedures and an up-to-date list.

Comment

We agree and have already implemented this recommendation. HALLEX and POMS, which are both available through the SSA Intranet, provide extensive instructions on how to proceed if a claimant representative is identified as suspended or disqualified from representing claimants.

In April 2001, we informed our employees in field and hearing offices that future lists of currently disqualified or suspended representatives would appear on the SSA Intranet and would be promptly updated by the SCS as soon as a suspension or disqualification decision became final. We emphasize that it is not only attorneys that can appear on the disqualified/suspension list.

On June 18, 2001, we sent a follow up message to our employees identifying the Intranet site address for the list, making clear that the site is currently operational and identifying the SCS contact for further questions.

We expect revisions with more detailed instructions for the Intranet site to be available by September 30, 2001.

OIG Contacts and Staff Acknowledgements

OIG Contacts

Rona Rustigian, Acting Director, Disability Program Audit Division, (617) 565-1819

Michael Maloney, Deputy Director, (703) 578-8844

Acknowledgements

In addition to those named above:

Nicholas Milanek, Program Analyst

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