



Office *of the* Inspector General

SOCIAL SECURITY ADMINISTRATION

*Audit Report*

Agency Actions Concerning Misuse  
of Benefits by Organizational and  
Volume Individual Representative  
Payees

*A-13-12-21247 | February 2016*



Office of the Inspector General

SOCIAL SECURITY ADMINISTRATION

MEMORANDUM

Date: February 25, 2016

Refer To:

To: The Commissioner

From: Inspector General

Subject: Agency Actions Concerning Misuse of Benefits by Organizational and Volume Individual Representative Payees (A-13-12-21247)

The attached final report presents the results of the Office of Audit's review. Our objective was to review Agency actions concerning misuse of benefit payments by organizational and volume individual representative payees.

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

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

Patrick P. O'Carroll, Jr.

Attachment

# Agency Actions Concerning Misuse of Benefits by Organizational and Volume Individual Representative Payees

## A-13-12-21247



February 2016

Office of Audit Report Summary

### Objective

To review Agency actions concerning misuse of benefit payments by organizational and volume individual representative payees.

### Background

Some individuals are not able to manage or direct the management of their benefit payments because of their youth or a mental or physical condition. For such beneficiaries, the Social Security Administration (SSA) will select an individual or an organization to serve as payee to receive and manage payments on a beneficiary's behalf.

The *Social Security Protection Act of 2004* (SSPA) defines benefit misuse and identifies actions SSA should take regarding benefit misuse by certain representative payees. To protect the beneficiary's best interests, SSA examines allegations of misuse, determines the facts, and makes a formal determination of whether misuse occurred.

Once misuse is determined, SSPA directs SSA to reissue misused benefits to the beneficiary and recover the misused benefits from the payee found to have misused benefits.

SSA policy also requires that staff refer misuse to the Office of the Inspector General and document the payee's suitability to continue serving as payee.

### Findings

SSA generally complied with SSPA requirements and its procedures when organizational and volume individual representative payees misused benefits. However, in some cases, SSA did not (1) reissue benefits misused by organizational and volume individual payees, as required; (2) obtain restitution from payees that misused benefits; (3) document its decision to allow payees that misused benefits to continue serving as payees, as required by its policies; or (4) report all payee misuse cases to the Office of the Inspector General.

### Recommendations

We recommended SSA take several actions to improve how it addresses instances of misuse by organizational and volume individual representative payees, including reissuing certain benefit payments, obtaining restitution from certain organizational and volume individual representative payees, and documenting its decision to retain payees that misused benefits.

SSA agreed with our recommendations.

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## ABBREVIATIONS

C.F.R.	Code of Federal Regulations
eRPS	Electronic Representative Payee System
OASDI	Old-Age, Survivors and Disability Insurance
OFPO	Office of Financial Policy and Operations
OIG	Office of the Inspector General
POMS	Program Operations Manual System
Pub. L. No.	Public Law Number
ROAR	Recovery of Overpayments, Accounting and Reporting System
RPS	Representative Payee System
SSA	Social Security Administration
SSI	Supplemental Security Income
SSPA	<i>Social Security Protection Act of 2004</i>
Stat.	U.S. Statutes at Large
U.S.C.	United States Code
VA	Department of Veterans Affairs

## OBJECTIVE

Our objective was to review Agency actions concerning misuse of benefit payments by organizational and volume individual representative payees.

## BACKGROUND

Some individuals are not able to manage or direct the management of their benefit payments because of their youth or a mental or physical condition.<sup>1</sup> For such beneficiaries,<sup>2</sup> Congress provided for payment through a representative payee who receives and manages the beneficiary's payments.<sup>3</sup> The Social Security Administration (SSA) will select an individual or organization to serve as a representative payee.<sup>4</sup> SSA selects representative payees for Old-Age, Survivors and Disability Insurance (OASDI)<sup>5</sup> and Supplemental Security Income (SSI)<sup>6</sup> beneficiaries when payments to a representative payee would serve the individual's interests.<sup>7</sup>

Representative payees are required to use SSA benefits for the beneficiary's use and benefit. The *Social Security Protection Act of 2004* (SSPA) defines benefit misuse and identified actions SSA should take regarding benefit misuse by certain representative payees.<sup>8</sup> SSPA states misuse of benefits occurs when a payee "...receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person."<sup>9</sup> To protect the beneficiary's best interests, SSA examines allegations of misuse, determines the facts, and makes a formal determination of whether misuse had occurred.

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<sup>1</sup> 20 C.F.R. §§ 404.2001(b) and 416.601(b).

<sup>2</sup> We use the term "beneficiary" generically in this report to refer to both OASDI beneficiaries and SSI recipients.

<sup>3</sup> *Social Security Act* §§ 205(j)(1)(A) and 1631(a)(2)(A)(ii)(I), 42 U.S.C. §§ 405(j)(1)(A) and 1383(a)(2)(A)(ii)(I).

<sup>4</sup> 20 C.F.R. §§404.2001(a) and 416.601(a).

<sup>5</sup> The OASDI program provides retirement and disability benefits to qualified individuals and their dependents as well as to survivors of insured workers. *Social Security Act* § 201 *et seq.*, 42 U.S.C. § 401 *et seq.*

<sup>6</sup> The SSI program provides payments to individuals who have limited income and resources and who are age 65 or older, blind, or disabled. *Social Security Act* § 1601 *et seq.*, 42 U.S.C. § 1381 *et seq.*

<sup>7</sup> 20 C.F.R. §§404.2001(b) and 416.601(b).

<sup>8</sup> *Social Security Protection Act of 2004*, Pub. L. No. 108-203, §§101(a) and (c), 118 Stat. 495, 496 (2004).

<sup>9</sup> *Social Security Protection Act of 2004*, Pub. L. No. 108-203, §§101(a) (2) and (c) (3), 118 Stat. 495, 496 (2004).

When misuse occurs, SSPA directs SSA to do the following.

- Reissue benefits to the beneficiary or an alternate representative payee in an amount equal to the amount of benefits misused by the payee when the payee is an organization; or an individual who, for any month during the period the misuse occurred, served 15 or more beneficiaries.<sup>10</sup> SSA defines volume individual representative payees as serving 15 or more beneficiaries.
- Hold the representative payee liable for the amount misused once SSA has determined misuse has occurred and treat the misused amount as an overpayment to the representative payee for purposes of recovery for all payees that are not Federal, State, or local government agencies.<sup>11</sup>

In limited circumstances, SSA permits payees who misuse beneficiaries' payments to continue serving as a payee. As of May 2009, staff should document in the Agency's automated records its decision to allow a payee who misused benefits to continue serving. SSA is also required to refer cases to the Office of the Inspector General (OIG) when it finds misuse.

To conduct our review, we obtained an electronic data extract from the Representative Payee System (RPS) of misuse determinations made by SSA. The Agency made its determinations from October 1, 2008 through August 31, 2012. The September 2012 data extract identified instances of misuse committed by organizational and volume individual representative payees. See Table 1 for details.

**Table 1: SSA Representative Payee Misuse Determinations  
October 1, 2008 Through August 31, 2012**

Payee Type	Instances of Misuse	Number of Payees	Beneficiaries Affected <sup>12</sup>	Benefits Misused
Organizational	3,501	151	3,496	\$3,035,288
Volume Individual	175	14	175	454,645
<b>Total</b>	<b>3,676</b>	<b>165</b>	<b>3,671</b>	<b>\$3,489,933</b>

Using these data, we selected and examined instances of misuse to assess SSA's compliance with SSPA and applicable Agency policies and procedures. In addition to reviewing data recorded in RPS and the Electronic Representative Payee System (eRPS) Misuse System, we examined information in the Master Beneficiary and Supplemental Security Records as well as the Claims File Record Management, Recovery of Overpayments, Accounting and Reporting

<sup>10</sup> *Social Security Protection Act of 2004*, Pub. L. No. 108-203, §§101(a) (1) and (c) (1), 118 Stat. 495, 496 (2004).

<sup>11</sup> *Social Security Protection Act of 2004*, Pub. L. No. 108-203, §§105(a)(4) and (c) (2), 118 Stat. 504, 505 (2004).

<sup>12</sup> Five beneficiaries served by organizational payees had two instances of misuse each.

(ROAR), and Treasury Check Information Systems. See Appendix A for our scope and methodology and Appendix B for our sampling methodology.

## RESULTS OF REVIEW

SSA generally complied with SSPA requirements and procedures when organizational and volume individual representative payees misused benefits. However, in some cases, the Agency did not (1) reissue benefits misused by organizational and volume individual payees, as required; (2) obtain restitution from payees that misused benefits; (3) document its decision to allow payees that misused benefits to continue serving as payees, as required by its policies; or (4) report all payee misuse cases to the Office of the Inspector General.

### Reissuance of Misused Benefits

SSA did not always reissue benefits misused by organizational and volume individual payees, as required. To determine whether SSA reissued payments for payee misuse, we reviewed 230 instances of misuse (see Table 2).

**Table 2: Instances of Payee Misuse Reviewed  
October 1, 2008 Through August 31, 2012**

Payee Type	Instances of Misuse and Beneficiaries Affected	Number of Payees	Benefits Misused
Organizational	200	11	\$825,241
Volume Individual	30	8	\$361,971
<b>Total</b>	<b>230</b>	<b>19</b>	<b>\$1,187,212</b>

### Misuse by Organizational Payees

The Agency reissued \$537,713 (91 percent) of the \$588,185 of payments misused by organizational payees, as required. Table 3 contains information concerning the Agency's reissuance of payments.

**Table 3: Reissuance of Benefits  
Misused by 11 Organizational Representative Payees as of September 2015**

Benefit Reissuance Status	Instances of Misuse	Benefits Misused	Benefits Reissued
Reissued	38	\$537,713	\$537,713
Not Reissued	4	50,472	0
Reissuance Not Required	158	237,056	N/A
<b>Total</b>	<b>200</b>	<b>\$825,241</b>	<b>\$537,713</b>

Of the 200 instances of organizational misuse we reviewed, 154 were recorded in RPS as \$99,999. Two organizational payees committed all 154 instances. SSA's RPS shows all dollar amounts of \$100,000 or more as \$99,999. One organizational payee committed one instance of misuse that totaled \$165,250. The two owners misused the beneficiary's payments. Both individuals pled guilty to stealing the beneficiary's payments. SSA reissued \$165,250 to the beneficiary's new payee. The other organizational payee committed 153 instances of misuse. An employee stole \$219,012 of beneficiaries' funds. SSA's documents indicate the payee reimbursed the beneficiaries by depositing \$219,012 into the beneficiaries' accounts for these 153 instances of misuse. Consequently, SSA was not required to reissue funds to these 153 beneficiaries.

For the remaining 46 instances reviewed, as of September 2015, the Agency had reissued payments for 37 instances of misuse. For another five instances, SSA's records indicated the payee repaid about \$18,045 in misused funds directly to the beneficiaries.<sup>13</sup> Therefore, SSA was not required to reissue funds for these five instances.

The four beneficiaries for whom SSA had not reissued benefits were deceased. Of the four deceased beneficiaries, two died before SSA's misuse determination. When a payee misuses beneficiary payments, and the beneficiary is deceased, SSA is supposed to reissue the payments to the beneficiary's estate after it collects the misused funds from the payee. Had the Agency reissued the funds within 1 year after it made the misuse determinations, it could have paid the two beneficiaries who died after SSA determined misuse had occurred about \$12,293 before their deaths.<sup>14</sup>

Regarding the \$50,472 owed the four deceased beneficiaries, SSA reported it was establishing as debts the funds one payee owed two beneficiaries. The Agency was collecting misused funds from two payees for the remaining two deceased beneficiaries. Of these two, staff reported an estate or legal representative could not be located for one beneficiary; and SSA collected about \$1,000 of about \$33,000 in misuse owed the other beneficiary's estate. Agency records indicate SSA had paid no funds to the estates as of September 2015.

According to a Federal regulation, SSA will make every reasonable effort to obtain restitution of misused benefits so that it can repay the beneficiaries those misused benefit payments.<sup>15</sup> However, the regulation does not provide guidance for when SSA should reissue misused payments to the estates of deceased beneficiaries. SSA policy does not indicate a timeframe for reissuing misused funds to deceased beneficiaries' estates after SSA has located the estate and received any portion of the funds from the misuser. SSA staff reports the Agency intends to pursue a policy change that will require that the Agency reissue misused funds to the estates of

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<sup>13</sup> In RPS, the amount recorded for each of five instances of misuse is \$18,045. However, other data indicated the payee misused \$18,045 in total affecting five beneficiaries.

<sup>14</sup> In December 2010, SSA determined misuse had occurred involving funds of both beneficiaries. The first beneficiary died in December 2011, and the second died in February 2012.

<sup>15</sup> 20 C.F.R. §404.2041(a).

deceased beneficiaries served by organizational and volume individual payees even if it has not yet obtained restitution from the payees that misused benefits. According to SSA staff, this policy change will provide a timelier reissuance of misused funds to the estates of deceased beneficiaries served by the organizational and volume individual payees.

### *Misuse by Volume Individual Payees*

We reviewed 30 instances of misuse committed by 8 volume individual payees. SSA staff informed us that one instance selected for review was not actually misuse. We excluded this instance from further review. The Agency reissued \$139,479 (56 percent) of the \$250,789 misused by volume individual payees, as required (see Table 4).

**Table 4: SSA Reissuance of Benefits Misused by Eight Volume Individual Representative Payees as of September 2015**

<b>Benefits Reissuance Status</b>	<b>Instances of Misuse</b>	<b>Benefits Misused</b>	<b>Benefits Reissued</b>
Reissued	12	\$139,479	\$139,479
Not Reissued	9	111,310	0
<b>Subtotal</b>	<b>21</b>	<b>250,789</b>	<b>139,479</b>
Reissued by the Department of Veterans Affairs	8	105,251	0
<b>Grand Total</b>	<b>29</b>	<b>\$356,040</b>	<b>\$139,479</b>

SSA reissued \$49,566 in misused payments to two beneficiaries and reissued \$4,941 of \$13,347 in misused payments to another beneficiary. During our audit, we discussed some of these cases with staff in the Office of Public Support and Operations Support. In response to our inquiries, SSA reissued the balance of \$8,406 of misused funds to one beneficiary whose benefits were partially reissued and reissued in full \$76,567 to nine other beneficiaries or their newly appointed payees.

We identified nine instances of misuse where SSA had not reissued benefits to the victims of misuse by volume individual payees.

- In five instances, SSA updated its records to note reissuance of \$54,820 in misused payments was due the deceased beneficiaries’ estates. SSA has recovered \$12,885 from this payee. Three of the beneficiaries died before the misuse determination. Two of these beneficiaries could have received \$27,563 before their deaths had the Agency reissued the funds.<sup>16</sup> As of November 2015, SSA staff had confirmed it had not repaid the benefits to the five deceased beneficiaries’ estates.

<sup>16</sup> In January 2011, SSA determined the payee misused both beneficiaries’ payments. One beneficiary died on February 6, 2013, and the other died May 10, 2013.

- Agency records indicated one beneficiary who had \$6,250 misused could not be located. Staff indicated it will repay the funds when the beneficiary is located.
- In one instance (totaling \$6,745), Agency records indicated the beneficiary was incarcerated. Misused funds should not be reissued until the beneficiary is no longer incarcerated. According to SSA’s documents, as of September 2015, the beneficiary was still incarcerated. SSA did not reissue the funds to the beneficiary.
- For two misuse cases involving \$43,495, SSA staff initially said the payees were not volume individual payees when the misuse occurred. However, we questioned the Agency’s classification of the payees.
  - For one payee, we identified information indicating SSA had classified the payee as a volume individual payee at the time of misuse. In September 2014, the Agency agreed; however, the beneficiary had died. Had the Agency initially considered the payee as a volume individual payee, this beneficiary could have been paid \$32,951 before her death.<sup>17</sup>
  - For the second case (\$10,544), SSA did not agree the payee should be reclassified as a volume individual payee. We did not locate Agency policy specifying how SSA determines an individual payee serves 15 or more beneficiaries for any month during the period misuse occurs.

According to Agency staff, “If a volume individual payee falls below the threshold of 15 beneficiaries, the regional offices archive the fact they were a volume payee within Philadelphia’s Representative Payee Monitoring Application (RPMA). On an annual basis, Systems provides a current listing of volume and Fee for Service (FFS) payees. The regions update RPMA using the current listing.” If SSA is relying on this annual listing to determine whether the payee is a volume payee subject to SSPA, the Agency may not know for any given month whether the individual payee was serving 15 or more beneficiaries. Using the Treasury Check Information System, we determined the payee received payments for 15 or more beneficiaries for whom the payee received payments during the period in which misuse of about \$10,544 occurred. Therefore, we believe SSA should reissue the misused benefits.

Furthermore, for eight instances, SSA staff explained the payee misused Social Security and Department of Veterans Affairs (VA) payments. For the beneficiaries we reviewed, the Social Security payments totaled \$105,251. Initially, staff reported VA repaid beneficiaries the Federal payments the payee misused, including the misused Social Security payments. Agency staff advised it would provide an update on this matter. SSA staff reported it was awaiting VA’s confirmation of these payments. As of December 2015, VA had not provided additional information to SSA.

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<sup>17</sup> Misuse for this payee was determined in June 2010. The beneficiary died in May 2011.

## Efforts to Obtain Restitution of Misused Benefits

SSA did not always obtain restitution from payees that misused benefits, as required by SSPA. Also, Federal regulations state SSA will make every reasonable effort to obtain restitution of misused benefits.<sup>18</sup> A payee that misuses benefits is indebted to the beneficiary and is obligated to make restitution. Further, SSA will take action to obtain restitution on the beneficiary's behalf.

### *Misuse by Organizational Payees*

Of the 200 instances of organizational representative payee misuse reviewed, 9 payees owed \$588,185 in restitution for 42 instances of misuse. The Office of Financial Policy and Operations (OFPO) maintains information about restitution collected for organizational representative payee misuse. OFPO staff explained the Agency's accounting system did not maintain recovery information by a specific instance of misuse. Rather, OFPO maintains a subsidiary schedule that tracks the total amount of misused benefits due to SSA by each organization. Therefore, SSA records do not enable the reporting of restitution collected for the 200 instances of misuse we reviewed. Rather, we can report the total amount of all restitution owed by, and collected from, payees included in our review. According to information provided by OFPO, the Agency recovered \$346,572 (30 percent) of the \$1,144,828 it was required to recover from the payees. Table 5 summarizes the results of our review.

**Table 5: Restitution Paid by Organizational Representative Payees for Misuse Tracked by OFPO as of September 2015**

Status of Restitution Payments	Number of Payees	Instances of Misuse in our Sample	Misused Funds in our Sample	Total Misused Funds to be Recovered from Payee <sup>19</sup>	Amounts Recovered by SSA <sup>20</sup>
Fully Recovered	1	7	\$63,916	\$182,118	\$182,118
Partially Recovered	5	17	411,566	785,881	164,454
No Recovery	2	15	95,397	159,523	0
<b>Subtotal</b>	<b>8</b>	<b>39</b>	<b>570,879</b>	<b>\$1,127,522</b>	<b>\$346,572</b>
Recovery Not Required <sup>21</sup>	1	3	17,306	17,306	0
<b>Grand Total</b>	<b>9</b>	<b>42</b>	<b>\$588,185</b>	<b>\$1,144,828</b>	<b>\$346,572</b>

<sup>18</sup> 20 C.F.R. §416.641(a) and §404.2041(a).

<sup>19</sup> The amount shown is the total amount of funds misused for all instances of misuse committed by the payee, not necessarily the specific instances of misuse in our sample.

<sup>20</sup> The amount shown is the total amount recovered for all instances of misuse committed by the payee, not necessarily the specific instances of misuse in our sample.

<sup>21</sup> Recovery is not required from payee because it is a Government entity. See *Social Security Protection Act of 2004*, Pub. L. No. 108-203, §§105(a)(4) and (c)(2), 118 Stat. 504, 505 (2004).(codified 42 U.S.C. § 405(j)(7)(A)).

Of the five payees, from which the Agency had partially recovered funds, SSA had not established a debt in its systems for one payee as of June 2015. In response to our inquiries, SSA established a \$134,540 receivable for the payee. As of September 2015, SSA had recovered \$45,309 from this payee.

### *Misuse by Volume Individual Payees*

Of the 30 instances reviewed, SSA informed us that 1 instance of misuse by 1 payee was actually not misuse. We obtained documentation supporting the Agency’s reversal of its initial misuse determination. The remaining 7 volume individual payees owed \$356,040 in restitution for 29 instances of misuse. Once misuse by an individual payee is determined, SSA treats the misused amount as an overpayment to the representative payee.<sup>22</sup> If the payee is receiving benefits from SSA, it can recover misused benefits by offsetting the payee’s own Social Security benefits.

We reviewed restitution-related information recorded in ROAR for volume individual representative payees for our sampled misuse cases. The Agency recovered \$40,538 (11 percent) of the \$356,040 it was required to recover. Table 6 summarizes the ROAR data as of September 2015.

**Table 6: Restitution Paid by Individual Representative Payees as of September 2015**

Status of Restitution Payments	Number of Payees	Instances of Misuse	Misused Funds	Amounts Recovered by SSA <sup>23</sup>
Fully Recovered	2	2	\$16,878	\$16,878
Partially Recovered	3	25	295,667	23,660
No Recovery <sup>24</sup>	2	2	43,495	0
<b>Total</b>	<b>7</b>	<b>29</b>	<b>\$356,040</b>	<b>\$40,538</b>

Of the three payees who had partially recovered restitution amounts, SSA was collecting two beneficiaries’ misused benefits (\$52,285) by offsetting the payee’s monthly Social Security benefits. SSA was offsetting the benefits of a second payee, but the payee died in February 2014 before making full restitution (\$138,131) for 15 beneficiaries’ misused benefits. While SSA had repaid the misused benefits to living beneficiaries, it had not reissued benefits to the deceased beneficiaries’ estates. SSA is not supposed to reissue payments to the deceased beneficiaries’

<sup>22</sup> SSA, POMS GN 02210.001 B.2.j (July 20, 2010).

<sup>23</sup> See Footnote 20.

<sup>24</sup> Agency records indicate that SSA initiated recovery efforts against one payee in February 2011 and the other in June 2014. However, as of September 2015, no funds had been recovered.

estates until the overpayment has been recovered from the misuser. However, according to Agency staff, SSA intends to pursue a policy change that will require that the Agency reissue misused funds to the estates of deceased beneficiaries served by organizational and volume individual payees before it obtains restitution from the payees that misused benefits.

SSA also has policy that governs the recovery of overpayments from estates when a representative payee dies before all misused funds belonging to deceased beneficiaries are collected. Policy states, “When an overpaid person (e.g., beneficiary or representative payee) dies, the person’s estate becomes liable. If the estate is closed, the distributees or legatees are liable to the extent of the proceeds of the estate (or property attributable to such proceeds) which are in his/her possession when notified of the overpayment.”<sup>25</sup> SSA records reflect the balance to be recovered from the misuser as well as the payments due the estates of the affected beneficiaries. However, according to SSA staff, no probate had been established for this payee, and collection of this overpayment had been terminated in SSA’s systems. Based on information in ROAR, the third payee was making court-ordered restitution for eight beneficiaries’ misused benefits (\$105,251). The Department of Justice forwards to SSA the funds collected. As of September 2015, Agency records confirmed that no recovery of restitution from two payees had occurred.

## **Payees Still Serving as Payees After Determination of Benefit Misuse**

SSA did not always document, in accordance with its policies, its decision when it allowed payees that misused benefits to continue serving as payees. Payees allowed to continue serving must have repaid, or have plans to repay, the misused benefits, and there must be a good reason to believe the payee will properly use future benefits. When this occurs, staff is to document in RPS why they decided to allow the payees to continue serving. As of September 2014, Agency records indicated 88 (53 percent) of the 165 payees we identified during our audit period continued serving as payees for 12,262 beneficiaries.

In a May 2012 audit, we reported<sup>26</sup> that SSA allowed representative payees who misused payments to continue serving as payees. We continue to recommend that the Agency follow its policy of rarely retaining misusers as payees and periodically assessing the continued suitability of payees that previously misused benefits.

From the 88 payees, we selected a sample of misuse instances to determine whether SSA documented, as required, its decision to retain the payees. Our sample consisted of 51 instances involving 36 payees. We found SSA did not document its decision, in accordance with its policies, to retain 28 of the 36 payees. We reviewed Agency documentation for the remaining eight payees and found the evidence complied with SSA’s policy in supporting the Agency’s decision to retain the payees following its misuse determinations.

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<sup>25</sup> SSA, POMS, GN 02205.001B. December 20, 2012, January 19, 1999.

<sup>26</sup> SSA OIG, *Individual Representative Payees Who Misuse Benefits* (A-13-10-10182), May 2012, p.11.

## Referring Misuse to the OIG

SSA did not report all payee misuse cases to the OIG. When SSA makes a misuse determination, it is required to refer the case to the OIG for further review. Agency staff should use the electronic version of Form SSA-8551-U4 (e8551), *Referral of Potential Violation*, to refer all instances of misuse to the OIG. Previously, this was a manual process. In October 2011, the Agency implemented eRPS, which contains a checklist of the actions SSA staff is to take during the misuse determination process, including referring misuse to OIG. In addition, eRPS adds a link to the e8551-equivalent in the misuse screens.

There were 56 instances where the Agency determined misuse occurred after eRPS was implemented. Of the 56 instances of misuse, SSA referred 18 to the OIG. SSA plans to review these cases to determine why staff only referred 32 percent of them to OIG. In the future, we may evaluate whether eRPS is effective in facilitating SSA's referral of misuse to OIG.

## CONCLUSIONS

SSA generally complied with the requirements of SSPA and its procedures when organizational and volume individual representative payees misused benefits. However, SSA can improve its actions regarding instances of misuse by organizational and volume individual representative payees. We found instances where the Agency did not (a) reissue benefits misused by organizational and volume individual payees, as required; (b) obtain restitution from payees that misused benefits; (c) document the Agency's decision to allow payees that misused benefits to continue serving as payees; or (d) report all payee misuse cases to the OIG. Therefore, SSA needs to take actions to improve its oversight and management of organizational and volume individual representative payees who misused benefit payments.

## RECOMMENDATIONS

We recommend that SSA:

1. Reissue \$50,472 to the estates of four beneficiaries after it collects misused funds from three organizational representative payees, and repay benefits of \$54,820 to the estates of five beneficiaries after it collects misused funds from one volume individual representative payee.
2. Implement policy to timely reissue misused funds to the estates of deceased beneficiaries.
3. Reissue (a) \$6,745 in benefits misused by volume individual representative payee when the beneficiary is no longer incarcerated; (b) \$6,250 in benefits misused by volume individual representative payee when the beneficiary is located; and (c) \$32,951 in benefits to one beneficiary's estate after it collects misused funds from the volume individual representative payee.
4. Reclassify one payee as a volume individual representative payee under SSPA and repay the beneficiary \$10,544 in misused benefits.

5. Take action to obtain restitution of \$95,397 we identified in misused funds from two organizational payees.
6. Remind staff to comply with Agency policies and procedures to document the decision to retain payees that misuse benefits.

## AGENCY COMMENTS

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



Steven L. Schaeffer, JD, CPA, CGFM, CGMA  
Assistant Inspector General for Audit

# *APPENDICES*

## Appendix A – SCOPE AND METHODOLOGY

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To accomplish our objective, we:

- Obtained and reviewed applicable Federal laws and related sections of the Social Security Administration's (SSA) policies and procedures regarding misuse of funds by representative payees.
- Obtained and reviewed prior Office of the Inspector General reports on the topic of misuse of benefits by representative payees.
- Interviewed and gathered information from personnel from the Offices of the Deputy Commissioners for Operations, Office of Public Support and Operations Support; Budget, Finance, Quality, and Management, Office of Financial Policy and Operation; and Deputy Commissioner for Retirement, and Disability Policy, Office of Income Security Programs.
- Obtained and analyzed electronic data extracts of SSA's misuse determinations from the Representative Payee System (RPS). The data extract included information for 3,676 instances of misuse committed by organizational representative payees and volume individual representative payees. The misuse was committed by 165 payees. SSA made its misuse determinations from October 1, 2008 through August 31, 2012.
- Obtained and analyzed an electronic data extract from RPS of organizational and volume individual representative payees that committed misuse but were serving as payees as of March 2014.
- Reviewed all 154 instances of misuse where the amount of misuse was recorded in RPS as \$99,999.
- Selected and reviewed 3 samples from the 3,676 instances of misuse committed by organizational and volume individual representative payees. See Appendix B for sampling methodology. For sample cases selected, we determined whether SSA
  - reissued misused benefits in compliance with its policies and procedures and
  - collected restitution for misused benefits in compliance with its policies and procedures.
- Reviewed 165 organizational and volume individual representative payees to determine whether payees that misused benefits still served as payees.
- Reviewed a sample of 51 instances of misuse by organizational and volume individual representative payees to determine whether SSA documented, as required, its decision to retain the payees. See Appendix B for sampling methodology.
- Reviewed the 56 instances of misuse determined by SSA after the implementation of eRPS to determine whether they were referred, as required, to the Office of the Inspector General for possible criminal prosecution.

We determined the computer-processed data used for this audit were sufficiently reliable for their intended use. Further, any data limitations were minor in the context of this assignment, and the use of the data should not lead to an incorrect or unintentional conclusion. We extracted data used in our audit from several Agency information systems, including RPS.

The entity audited was the Office of the Deputy Commissioner for Operations. We conducted our review in Baltimore, Maryland, from July 2013 to September 2015. 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## Appendix B – SAMPLING METHODOLOGY

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We reviewed three samples of misuse instances committed by organizational representative payees and volume individual representative payees<sup>1</sup>. For these instances, the Agency made its misuse determinations between October 1, 2008 through August 31, 2012. In September 2012, we obtained an electronic data extract from the Representative Payee System (RPS) of 3,676 instances of misuse.

**Table B-1: Social Security Administration Representative Payee Misuse Determinations October 1, 2008 Through August 31, 2012**

Payee Type	Payees	Instances	Beneficiaries	Dollars
Volume Individual	14	175	175	\$454,645
Organizational	151	3,501	3,496	3,035,288
<b>Total</b>	<b>165</b>	<b>3,676</b>	<b>3,671</b>	<b>\$3,489,933</b>

Using the data extract, we

- removed all instances with a recorded value in RPS of \$99,999 and
- sorted misuse benefit amounts by the highest amount by organization.

Using the sorted information, we screened the data to select our sample of organizational payees. We

- selected the top nine organizational representative payees with the highest total amount of misuse by organization;
- selected payees with one or more instances of misuse where the benefit amount misused was \$5,000 or greater; and
- reviewed each instance of misuse where the benefit amount misused was \$5,000 or greater.

For our sample of volume individual representative payees, we selected and reviewed all instances where the benefit amount misused was \$5,000 or greater.

From the 88 representative payees still serving as payees (82 organizational and 6 volume individual), we selected a sample of 51 instances of misuse by 36 payees to determine whether the Agency documented its decision to retain the payees, as required.

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<sup>1</sup> Social Security Administration policy defines a volume individual payee as a payee who is not an organization and who serves as payee for 15 or more beneficiaries.

- For the 82 organizational payees, we
  - sorted 1,953 instances of misuse by misuse determination date and
  - selected 42 instances of misuse by starting with the most recent date and selected no more than 2 instances for each payee until we reached a total of 30 payees to be included the sample.
- For the 6 volume individual representative payees, we
  - sorted 63 instances of misuse and
  - selected 9 instances of misuse by selecting the 2 instances with the most recent determination dates for each payee.

## Appendix C – AGENCY COMMENTS

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## SOCIAL SECURITY

### MEMORANDUM

Date: January 20, 2016 Refer To: SIJ-3

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

From: Frank Cristaudo /s/  
Counselor to the Commissioner

Subject: Office of the Inspector General Draft Report, "Agency Actions Concerning Misuse of Benefits by Organizational and Volume Individual Representative Payees" (A-13-12-21247)--  
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.

Attachment

**COMMENTS ON THE OFFICE OF THE INSPECTOR (OIG) DRAFT REPORT,  
“AGENCY ACTIONS CONCERNING MISUSE OF BENEFITS BY  
ORGANIZATIONAL AND VOLUME INDIVIDUAL REPRESENTATIVE PAYEES”  
(A-13-12-21247)**

**General Comments**

Our representative payee-monitoring program helps us to ensure that representative payees are properly managing the funds they receive on behalf of beneficiaries. We are expanding our monitoring program to increase the number and extent of our payee site reviews, which will strengthen our level of program oversight.

**Response to Recommendations**

**Recommendation 1**

Reissue \$50,472 to the estates of four beneficiaries after you collect misused funds from three organizational representative payees, and repay benefits of \$54,820 to the estates of five beneficiaries after you collect misused funds from one volume individual representative payee.

**Response**

We agree. We have already taken action on behalf of seven of the beneficiaries. We will take necessary action on behalf of the remaining two beneficiaries by June 30, 2016, based on our current policy guidelines.

**Recommendation 2**

Implement policy to timely reissue misused funds to the estates of deceased beneficiaries.

**Response**

We agree. We plan to make a policy change this year that will require us to reissue misused funds to the estates of deceased beneficiaries served by organizational and volume individual payees even if we have not yet obtained restitution from the payees that misused the benefits. This policy change will ensure a timelier reissuance of misused funds to the estates of deceased beneficiaries served by organizational and volume individual payees.

**Recommendation 3**

Reissue (a) \$6,745 in benefits misused by volume individual representative payee when the beneficiary is no longer incarcerated; (b) \$6,250 in benefits misused by volume individual representative payee when the beneficiary is located; and (c) \$32,951 in benefits to one beneficiary's estate after you collect misused funds from the volume individual representative payee.

### **Response**

We agree. For parts 3(a) and 3(b) above, we will take appropriate actions by June 30, 2016, to reissue benefits to the beneficiaries, based on our current policy guidelines. We have already taken appropriate action on part 3 (c) above.

### **Recommendation 4**

Reclassify one payee as a volume individual representative payee under SSPA and repay the beneficiary \$10,544 in misused benefits.

### **Response**

We agree. We have already posted the overpayment to the misuser's record. We will take all necessary action(s) to reclassify the payee by April 1, 2016.

### **Recommendation 5**

Take action to obtain restitution of \$95,397 we identified in misused funds from two organizational payees.

### **Response**

We agree, and by June 30, 2016, we will take all necessary action to reissue benefits to the appropriate beneficiaries based on our current policy guidelines.

### **Recommendation 6**

Remind staff to comply with agency policies and procedures to document the decision to retain payees that misuse benefits.

### **Response**

We agree. We will issue an Administrative Message to remind staff of the policies and procedures for documenting the decision to retain payees that have misused benefits.

## Appendix D – ACKNOWLEDGMENTS

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Shirley E. Todd, Director

Randy Townsley, Audit Manager

Gregory Trenchard, Auditor

Kenneth Bennett, Information Technology Specialist

Brennan Kraje, Statistician

Kimberly Beauchamp, Writer-Editor

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