



Office of the Inspector General  
SOCIAL SECURITY ADMINISTRATION

*Informational Report*

Summary of Direct Payments to  
Claimant Representatives

*062318 July 2023*



Office of the Inspector General  
SOCIAL SECURITY ADMINISTRATION

**MEMORANDUM**

**Date:** July 18, 2023

**Refer to:** 062318

**To:** Kilolo Kijakazi  
Acting Commissioner

**From:** Gail S. Ennis *Gail S. Ennis*  
Inspector General

**Subject:** Summary of Direct Payments to Claimant Representatives

The attached final report presents a summary of (1) direct payments SSA made to claimant representatives during Calendar Years 2018 through 2022, and (2) user fees SSA charged claimant representatives to process the direct payments during Fiscal Years 2018 through 2022.

If you wish to discuss the report, please call me or have your staff contact Michelle L. Anderson, Assistant Inspector General for Audit.

Attachment

## BACKGROUND

The Old-Age, Survivors and Disability Insurance (OASDI) program provides monthly benefits to retired and disabled workers and their dependents as well as the survivors of deceased workers.<sup>1</sup> The Supplemental Security Income (SSI) program provides payments to individuals who have low income and resources and are aged, blind, or disabled.<sup>2</sup> In January 2023, SSA paid approximately \$16 billion in disability-related payments to approximately 12 million OASDI beneficiaries and SSI recipients.<sup>3</sup>

Claimants under either program may appoint an individual (attorney or non-attorney) to represent them in matters before SSA. SSA requires that the claimant representative meet certain qualifications and complete an appointment process.<sup>4</sup> Generally, claimant representatives must file either a fee agreement or a fee petition that SSA must approve before they can charge claimants a fee, which SSA deducts from the claimants' past-due benefits when certain criteria are met. Representatives may not charge more than the amount SSA authorizes. Before SSA decides the claim, the claimant representative or the claimant may file a fee agreement. Alternatively, after their services in the case have ended, claimant representatives may petition for a fee. Based on the fee petition, SSA may approve a "reasonable" fee for the specific services provided.<sup>5</sup> There are some exceptions to SSA's fee-authorization process, such as when representatives perform services at no cost to the claimants and waive the right to charge or collect a fee from the claimant, or when a court authorizes a fee for services provided as a legal guardian or a court appointed representative.<sup>6</sup>

SSA makes direct payment of claimant representative fees when certain criteria are met.<sup>7</sup> From June 22, 2009 through November 29, 2022, the amount specified in a fee agreement could not exceed the lesser of 25 percent of the total amount of past-due benefits or \$6,000. Effective November 30, 2022, the maximum fee agreement amount increased to \$7,200.<sup>8</sup> A greater amount can be paid under the fee petition process.<sup>9</sup>

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<sup>1</sup> *Social Security Act* § 201 *et seq.*, 42 U.S.C. § 401 *et seq.*

<sup>2</sup> *Social Security Act* § 1601 *et seq.*, 42 U.S.C. § 1381 *et seq.*

<sup>3</sup> SSA, *Monthly Statistical Snapshot*, January 2023.

<sup>4</sup> SSA POMS GN 03910.020 (December 29, 2022). Throughout the report, we refer to both attorney and non-attorney claimant representatives as claimant representatives.

<sup>5</sup> *Social Security Act* § 206(a)(1) *et seq.*, 42 U.S.C. § 406 *et seq.* We did not assess the reasonableness of fees paid to claimant representatives.

<sup>6</sup> 20 C.F.R. §§ 404.1720(e), 416.1520(e).

<sup>7</sup> SSA POMS GN 03920.017 (July 25, 2012). SSA makes direct payment to claimant representatives when a valid fee agreement or fee petition exists, the claimant representative is eligible for direct payment, and a favorable determination is made that results in past-due benefits.

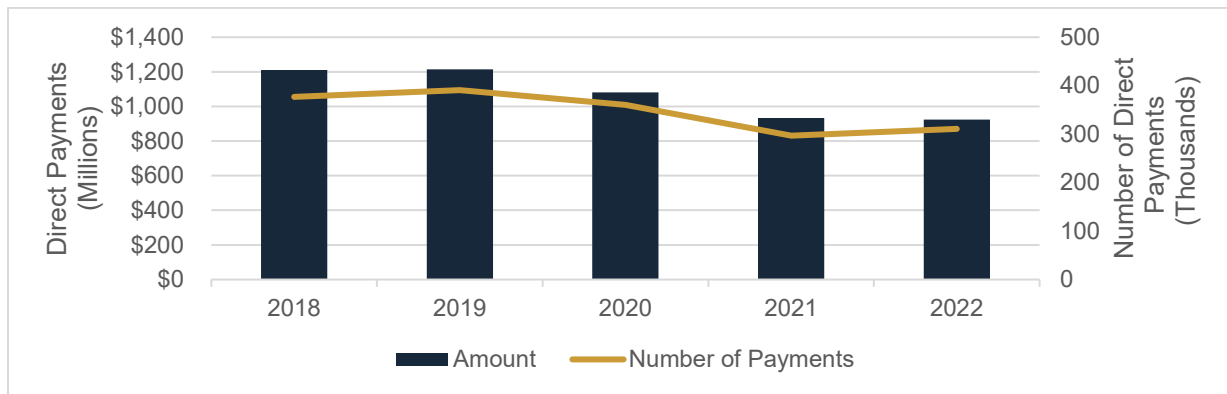
<sup>8</sup> SSA POMS GN 03920.006 (November 30, 2022).

<sup>9</sup> SSA POMS GN 03930.010 (July 18, 2018). We did not determine how often a fee petition was selected.

## Claimant Representative Fees Paid from Past-due Old-Age, Survivors and Disability Insurance Benefits

SSA made approximately \$5.4 billion in direct payments to claimant representatives from claimants' past-due OASDI benefits (SSA withheld nearly all of this amount from claimants' past due Disability Insurance benefits) during CYs 2018 through 2022. The total amounts paid ranged from approximately \$924 million to \$1.2 billion per CY, while the number of payments ranged from approximately 297,000 to 391,000 per CY (see Figure 1).

**Figure 1: OASDI Direct Payments to Claimant Representatives—CYs 2018 Through 2022<sup>10</sup>**

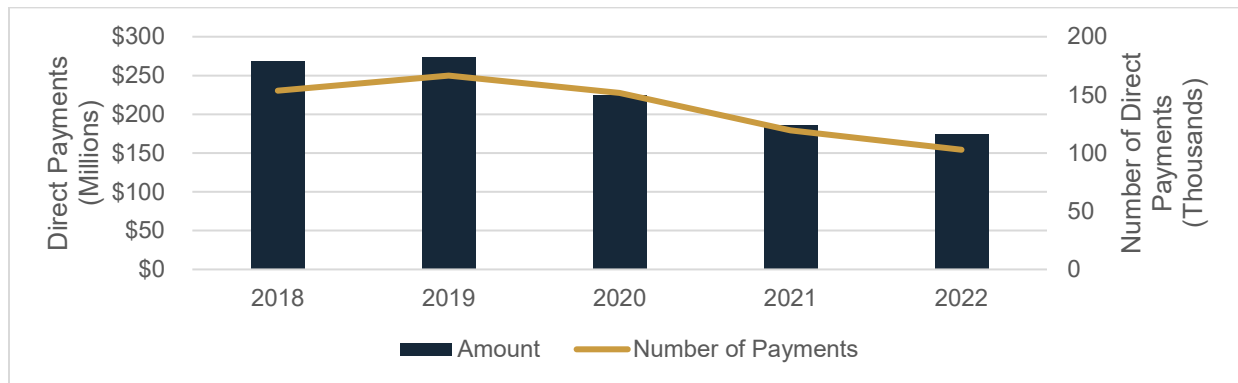


## Claimant Representative Fees Paid from Claimants' Past-due Supplemental Security Income

SSA made approximately \$1.1 billion in direct payments to claimant representatives from claimants' past-due SSI during CYs 2018 through 2022. The total amounts paid ranged from approximately \$175 to \$274 million per CY, while the number of payments ranged from approximately 103,000 to 167,000 per CY (see Figure 2).

<sup>10</sup> OASDI Direct Payments to Claimant Representatives for CYs 2018 through 2022 obtained from SSA's "Statistics on Title II Direct Payments to Claimant Representatives", <https://www.ssa.gov/representation/statistics.htm#2022>. The volume represents the number of direct payments, not the number of claimant representatives paid. We did not audit these numbers and therefore do not express an opinion about their accuracy.

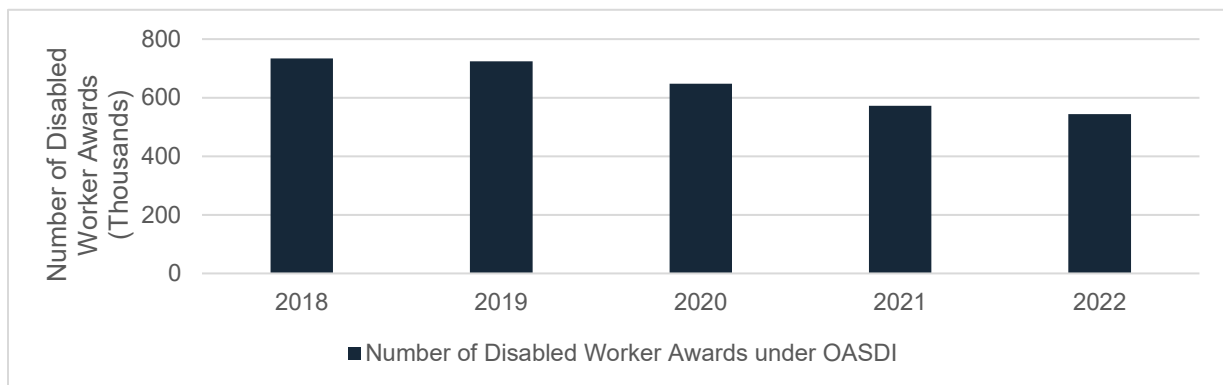
**Figure 2: Direct Payments to SSI Claimant Representatives—CYs 2018 Through 2022<sup>11</sup>**



## Disability Insurance and Supplemental Security Income Awards

The overall decline in claimant representative fees is consistent with the overall decline in the number of awards during the same period. SSA awarded approximately 3.2 million disabled worker awards under the OASDI program during CYs 2018 through 2022. The number of awards declined each year, from approximately 734,000 in CY 2018 to approximately 543,000 in CY 2022, see Figure 3.

**Figure 3: Disabled Worker Awards Under OASDI—CYs 2018 Through 2022<sup>12</sup>**

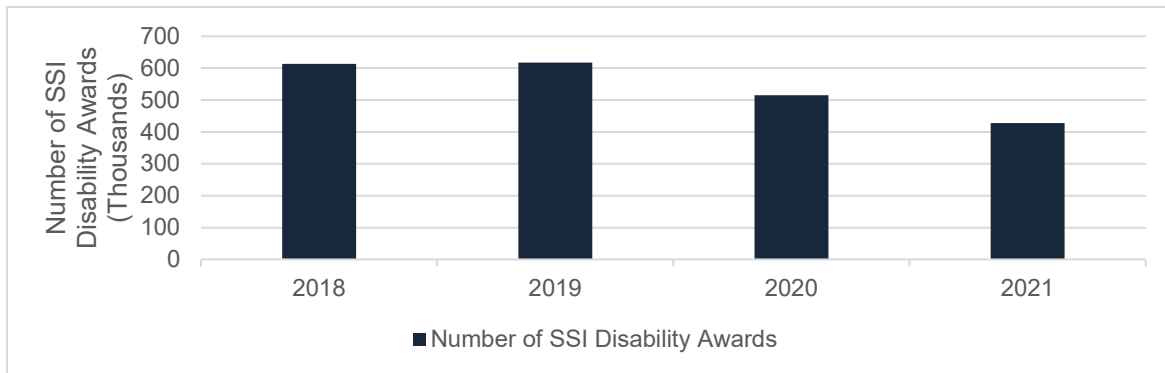


<sup>11</sup> We obtained data on SSI direct payments to claimant representatives made from January 1, 2018 through December 31, 2022 from SSA’s Enterprise Data Warehouse as of March 1, 2023. The volume represents the number of direct payments, not the number of claimant representatives paid.

<sup>12</sup> We obtained the number of disabled worker awards from statistical tables published by SSA’s Office of the Chief Actuary. The table shows the number of awards for people who are applying on their own earnings record. The table does not include awards for disabled widow(er)s or disabled children. We did not audit these numbers and therefore do not express an opinion about their accuracy.

SSA awarded approximately 2.2 million SSI disability awards during CYs 2018 through 2021. The number of awards increased slightly from approximately 613,000 in CY 2018 to approximately 618,000 in CY 2019, then declined to approximately 428,000 in CY 2021, see Figure 4.

**Figure 4: SSI Disability Awards—CYs 2018 Through 2021<sup>13</sup>**



## User Fee Revenue

When providing direct payment of authorized fees, SSA charges a user fee to the claimant representative and deducts the user fee from the claimant representative’s direct payments. SSA caps the user fee at the lower of a specified flat rate dollar amount or 6.3 percent of the fee payment (see Table 1).

**Table 1: Maximum User Fee Amounts for December 1, 2018 Through 2022**

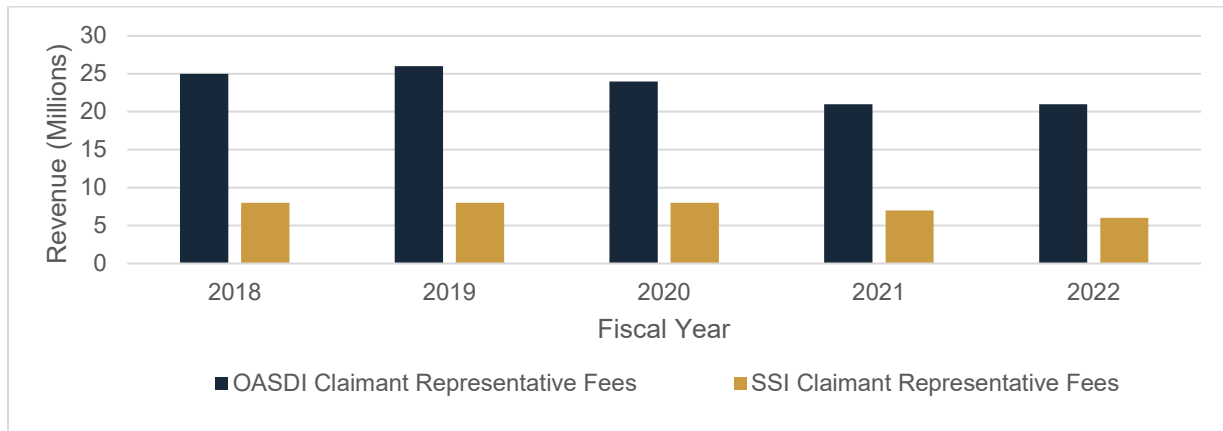
Date	Maximum Fee
December 1, 2018	\$95
December 1, 2019	\$97
December 1, 2020	\$98
December 1, 2021	\$104
December 1, 2022	\$113

Note: The user fee is based on the payment date.

<sup>13</sup> We obtained the number of SSI disability awards from SSA’s Annual Statistical Supplement for 2022, which contained counts through CY 2021. We did not audit these numbers and therefore do not express an opinion about their accuracy.

SSA collected approximately \$154 million in fees for handling OASDI and SSI claimant representative fees during Fiscal Years 2018 through 2022.<sup>14</sup> The total amounts collected ranged from approximately \$27 to \$34 million in fees per fiscal year, see Figure 5.<sup>15</sup> SSA withheld these fees from the direct payments issued to claimant representatives (funded from claimants' past-due OASDI and SSI amounts)<sup>16</sup> as reimbursement for the costs it incurred to process the direct payments.<sup>17</sup> SSA officials stated the user fees collected are insufficient to cover the Agency's costs of providing direct payments to claimant representatives.

**Figure 5: Claimant Representative Fee Revenue for Fiscal Years 2018 Through 2022**



## Summary

SSA made approximately \$6.5 billion in direct payments to claimant representatives for fees the claimant representatives generated while working with claimants in matters before the Agency during CYs 2018 through 2022. SSA withheld these amounts from claimants' past-due benefits. SSA withheld approximately \$154 million in user fees from claimant representatives' direct payments as reimbursement for costs incurred to process the payments during Fiscal Years 2018 through 2022.

SSA reports statistics on OASDI direct payments to claimant representatives on its public website for each year. However, the Agency does not make similar statistics available for SSI direct payments to claimant representatives.

<sup>14</sup> SSA reported the fee amounts by fiscal year.

<sup>15</sup> We obtained exchange revenue amounts related to claimant representative fees from SSA's Annual Financial Reports for Fiscal Years 2019-2022. We did not audit these numbers and therefore do not express an opinion about their accuracy.

<sup>16</sup> Claimant representatives are not permitted to pass these costs on to the claimants per 20 C.F.R. §§ 404.1730(d)(3), 416.1530(d)(3).

<sup>17</sup> We did not review the methodology SSA used to establish the user fee amounts.

## **ABBREVIATIONS**

CY	Calendar Year
OASDI	Old-Age, Survivors and Disability Insurance
SSA	Social Security Administration
SSI	Supplemental Security Income





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