



SOCIAL SECURITY

June 24, 2008

The Honorable Michael McNulty
Chairman, Subcommittee on Social Security
Committee on Ways and Means
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Your February 26, 2008 letter asked that we review issues related to high-interest "payday" lenders who appeared to have obtained direct access to Social Security Administration (SSA) benefit payments.

Thank you for bringing your concerns to my attention. The attached report highlights various facts pertaining to the issues raised in your letter. To ensure SSA is aware of the information provided to your office, we are forwarding a copy of this report to the Agency.

If you have any questions concerning this matter, please call me or have your staff contact Wade Walters, Assistant Inspector General for Congressional and Intra-Governmental Liaison, at (202) 358-6319.

Sincerely,

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

Patrick P. O'Carroll, Jr.
Inspector General

Enclosure

cc:
Michael J. Astrue

CONGRESSIONAL RESPONSE REPORT

Social Security Administration Payments Sent to Payday Loan Companies

A-06-08-28112



June 2008

Mission

By conducting independent and objective audits, evaluations and investigations, we inspire public confidence in the integrity and security of SSA's programs and operations and protect them against fraud, waste and abuse. We provide timely, useful and reliable information and advice to Administration officials, Congress and the public.

Authority

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

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

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

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

Vision

We strive for continual improvement in SSA's programs, operations and management by proactively seeking new ways to prevent and deter fraud, waste and abuse. We commit to integrity and excellence by supporting an environment that provides a valuable public service while encouraging employee development and retention and fostering diversity and innovation.

OBJECTIVE

To determine the extent to which high-interest “payday” lenders obtained direct access to Social Security payments, identify demographic information of the affected individuals, and determine what steps the Social Security Administration (SSA) had taken to prevent the transfer or assignment of these payments to payday lenders.

BACKGROUND

Recent newspaper articles have discussed payday lenders who target Social Security beneficiaries for loans secured by benefit payment checks. Federal law generally prohibits the transfer or assignment of Social Security and Supplemental Security Income (SSI) payments to creditors and protects these benefits from levy, attachment, or garnishment. However, the articles make it appear the payday lenders were able to obtain direct access to SSA funds and subtract debt repayments, plus fees and interest.

Congressman Michael McNulty requested that we quantify the number of beneficiaries and recipients who direct their benefit payments to payday lenders. In addition, he requested we summarize demographic information for the affected individuals and provide geographic locations where this type of activity is most prevalent.

Direct Deposit of Benefit Payments

The *Debt Collection Improvement Act of 1996* requires that most Federal payments be made by electronic funds transfer (EFT). Title II and XVI recipients for whom payment by EFT would impose a hardship may request to be exempted from the EFT requirement. Recipients determine what constitutes a hardship, and SSA does not verify or document the self-determinations.¹

Individuals can work with financial institutions to have their SSA payment electronically deposited into an account established at the financial institution. Automated Enrollment is a process by which a financial institution sends enrollment information through the Automated Clearing House directly to SSA. Once SSA is notified of the EFT request, payments are sent to the requested bank account.

¹ SSA, Program Operations Manual System (POMS), GN 02402.001A, *Direct Deposit Policy*.

Assignment of Benefits

Section 207 of the *Social Security Act* (42 U.S.C § 407) protects a beneficiary's right to receive benefit payments directly and use them as he/she sees fit by prohibiting the assignment of benefits. Assignment is the transfer of the right to, or payment of, benefits to a party other than the beneficiary or his/her representative payee. With limited exception, SSA policy prohibits payment of benefits to anyone other than the beneficiary or representative payee. SSA policy states that "Any arrangement in which the claimant shares control of the funds from his or her benefit with person or entity that has an interest in charging or collecting money from the claimant is an assignment-like situation that violates SSA's policy."² According to SSA, the protections provided by Section 207 of the *Social Security Act* were enacted in 1935. Further, SSA states since that time, electronic banking has increased the complexity of benefit delivery and presented challenges to ensuring beneficiaries retain control of benefit payments.

Generally, an SSA beneficiary or recipient's mailing address should be the address where he/she resides or his/her own post office box (or the address or post office box of his/her representative payee).³ Any other address is questionable and will not be accepted if it

- facilitates the assignment of benefits,
- directs checks to a location where the check payee cannot readily negotiate them, or
- permits the check payee to conceal information that, if known to SSA, would result in nonpayment of benefits, substitution of payee, etc.

Any request for direct deposit that assigns or transfers the right to future payments to someone other than the beneficiary constitutes an assignment of benefits.⁴ When a request for direct deposit is made that raises a question about possible assignment of benefits, SSA should obtain a written Direct Deposit Sign-Up form from the beneficiary, verify there is no assignment, and verify the bank account is properly titled.

Non-Bank Financial Service Providers

Non-bank financial service providers (FSP) include check cashing businesses, currency exchanges, and loan companies. For a fee, these businesses provide customers various financial services including check printing, check cashing, cash advance/payday loans, money orders, bill paying, wire transfers, and/or foreign currency exchange.

² SSA, POMS, GN 02410.001.D.2, *Assignment of Benefits*.

³ SSA, POMS, GN 02605.005.A, *Questionable Addresses-COA*.

⁴ SSA, POMS, GN 02402.045.B, *Direct Deposit and Assignment of Benefits*.

Most non-bank FSPs that offer customers one service offer multiple services.⁵ Through business relationships with traditional financial institutions, non-bank FSPs can offer direct deposit services to SSA beneficiaries. With beneficiary approval, non-bank FSPs can establish accounts at traditional financial institutions and use those accounts to receive SSA benefit payments. Unlike traditional bank accounts, the beneficiary does not have direct access to deposited funds. Instead, the financial institution makes the funds, less a transaction fee, available to the non-bank FSP for disbursement. The non-bank FSP then deducts additional fees for its services and makes the remaining balance available to the SSA beneficiary.

Ongoing Audit Work

As part of our audit of *Beneficiary and Recipient Use of "In Care of" Addresses*, we obtained data files containing information on individuals in current payment status as of September 2006. Through analysis of these data, we identified several individuals who had SSA either mail their checks to or electronically deposit benefit payments into accounts controlled by two Los Angeles, California, check cashing/payday loan businesses. Most of these individuals were SSI recipients. SSA staff said they recommended individuals who were homeless or had no other secure means of receiving their payments have their payments sent to local check cashing businesses.

⁵ *Non-Bank Financial Institutions: A Study of Five Sectors*, Coopers & Lybrand, February 28, 1997.

Results of Review

Through the use of payment address changes or direct deposit, non-bank FSPs, including payday lenders, gained direct access to thousands of individuals' SSI payments.⁶ We performed a limited review of SSI payments electronically deposited into accounts at five banks known to have financial relationships with non-bank FSPs.⁷ Our review determined that, as of March 2008, SSA deposited the SSI payments of at least 63,065 individuals into accounts established and controlled by non-bank FSPs at these 5 banks. Monthly SSA payments deposited into these accounts total more than \$34 million.

In a few hundred cases, SSA payment records reflected the non-bank FSP's name and address—indicating SSA was aware payments were going to the non-bank FSPs. However, in most cases, SSA payment records did not directly indicate non-bank FSP involvement in the payment transaction. In these instances, it appeared beneficiaries or their representative payees entered into agreements with non-bank FSPs who, in turn, opened bank accounts on their behalf at traditional financial institutions with Department of the Treasury (Treasury) assigned routing numbers. Either the SSI recipients submitted electronic deposit requests to SSA providing the bank routing and account numbers used by the non-bank FSP or the financial institution sent direct deposit auto-enrollment information directly to Treasury. In either case, once the direct deposit requests were processed, SSA began sending the individuals' payments to accounts controlled by the non-bank FSPs. Once received, the financial institutions made the funds available to the non-bank FSPs for disbursement to the recipients. Before disbursement, the non-bank FSPs subtract amounts due from the recipient.

Consumers who use non-bank FSPs typically pay higher costs in the form of transaction fees for financial services than individuals with traditional banking relationships. The cost of loans acquired through non-bank FSPs can be high relative to the amounts borrowed. Treasury research indicates Social Security recipients pay an average of between \$9 and \$16 in fees just to cash their Government check at a non-bank FSP,⁸ indicating the non-bank FSPs and their financial institution partners charge the 63,065 recipients between \$567,585 and \$1,009,040 in monthly check cashing fees.

⁶ We did not identify the specific non-bank FSPs linked to these direct deposit accounts and did not confirm whether payday loans were among the financial services offered by the non-bank FSPs.

⁷ We identified these five banks either because (1) their bank routing number appeared on payment records of SSI recipients whose address reflected the business name of a non-bank FSP or (2) SSA identified the bank to us as the result of complaints received from SSI recipients. In no way do we imply that these are the only banks used by non-bank FSPs to receive SSA benefit payments.

⁸ Treasury Office of Public Affairs Press Release JS-503, Testimony from the Assistant Secretary for Financial Institutions, Treasury, before the Subcommittee on Financial Institutions and Consumer Credit of the Committee on Financial Services, U.S. House of Representatives, June 26, 2003.

These amounts are in addition to fees charged for other services (payday loan fees, wire transfers, money orders, etc.).⁹

Analysis of demographic information on the 63,065 recipients whose SSI payments were sent to non-bank FSPs revealed the affected individuals were predominantly minority and disabled—most suffering from various mental conditions. We provide detailed demographic information on these recipients on Pages 8 through 10.

Though, in most cases, it appeared SSA did not know SSI payments were being sent directly to non-bank FSPs, we are not aware of any action SSA has taken to prevent the transfer of payments to payday lenders or any other non-bank FSP. SSA policies outline the steps to send payments directly to non-bank FSPs. Further, we found instances where SSA management and staff encouraged homeless recipients to sign up for direct deposit accounts through payday lenders to prevent recipients from picking up their checks inside SSA field offices.

On April 21, 2008, SSA published a notice in the Federal Register requesting public input regarding an anticipated change to an Agency payment procedure that permits benefit payments to be deposited into third-party “master” accounts when the third party maintains separate “sub” accounts for individual beneficiaries.¹⁰ SSA anticipates a change to the current procedure in light of concerns about how high-interest lenders are using the master/sub account procedure. SSA requested public comments be submitted by June 20, 2008.

On June 9, 2008, we provided the Agency with the opportunity to review a preliminary draft of this report. On June 13, 2008, the Agency provided written comments, which we incorporated into the report, as deemed appropriate. The full text of the Agency’s comments are provided in Appendix C.

Non-Bank FSPs Gained Access to SSI Payments

Through the use of payment address changes or direct deposit, non-bank FSPs, including payday lenders, gained access to thousands of individuals’ SSI payments.

Business Names Recorded on SSA Payment Records

SSI recipients or their representative payees can request that SSA mail or deposit their benefit payment “in care of” a third party. Third parties can include friends, relatives, or nursing homes. We found that, on occasion, recipients request that SSA send their payment to check cashing or currency exchange businesses. We reviewed payment

⁹ We identified the 63,065 recipients through review of SSA payment records. We did not contact any of the SSI recipients and did not ascertain the extent of financial services acquired through the non-bank FSPs.

¹⁰ Federal Register Vol. 73, No. 77, Monday, April 21, 2008, page 21403.

addresses that appeared on the payment records of over 7 million SSI recipients in current payment status as of September 2006. Our analysis identified 463 SSI recipients whose payment address contained the name of a check cashing or currency exchange business. In these cases, it appeared SSA received a request from the recipient or representative payee instructing it to use the non-bank FSP's address as its mailing/payment address. Our review indicated almost 90 percent of the 463 SSI recipients lived in either Illinois or California.

Business Names Did Not Appear on SSA Payment Records

Based on analysis of September 2006 SSI payment data and discussion with SSA personnel, we identified five bank routing numbers known to be used by non-bank FSPs to establish accounts to receive SSA direct deposit payments. Through further review of March 2008 SSI payment data and discussions with bank personnel, we identified 63,065 SSI recipients who had received payments in accounts established at the 5 banks by non-bank FSPs.

Bank Location	Number of SSI Recipients	Recipient Primary Locations
Louisville, KY	25,798	South/East
Chicago, IL	20,135	Upper Midwest
Stockton, CA	9,442	South
Chattanooga, TN	5,764	South
Santa Fe Springs, CA	1,926	California

Discussion with bank personnel indicated the banks establish individual accounts for customers of various check cashing, currency exchange, and/or loan companies. These accounts are used to receive electronic deposits on behalf of the customers (in this case, SSI recipients). Review of SSA payment records indicated approximately 80 percent of the electronic deposits was established via automated enrollment. Under the automated enrollment process, banks open an account for the recipient and notify SSA that the recipient wants direct deposit to the account. Upon receipt of the notification, the direct deposit information is added to the recipient's payment record, and subsequent payments are deposited into the requested bank account. However, unlike a traditional checking or savings account, recipients do not have direct access to funds deposited into these accounts. Once the banks receive the deposits from Treasury, the funds, less a \$2 or \$3 transaction fee per individual, are consolidated into clearing accounts available for disbursement only by the non-bank FSPs. Once deposited, the funds are under the effective control of the non-bank FSP. Before disbursing funds to the recipients, the non-bank FSPs deduct additional check printing fees, check cashing fees, loan principal/interest/fees, and fees for any additional services provided to the recipient.

Direct Deposit Canceled by Recipient and Re-established by Non-Bank FSP

SSA beneficiaries can cancel direct deposit authorization at any time. However, SSA personnel provided information on isolated instances where payday lenders used the automated enrollment process to re-establish direct deposit against the expressed desire of SSI recipients. In each of these cases, it appeared recipients had outstanding balances with the loan company. At some point, the recipients requested SSA either change or cancel the direct deposit of SSI payments into bank accounts controlled by the loan company. Once the loan company became aware that the SSA payments were no longer deposited into bank accounts under their control, it appears they requested their financial institution re-establish the direct deposits via automated enrollment.

According to SSA personnel, in response to complaints regarding establishment of unauthorized direct deposit via automated enrollment, SSA contacts the loan company and requests it stop enrolling recipients in direct deposit without current authorization. If the loan company is not responsive, the Office of General Counsel can send the loan company a cease and desist letter. If the practice continues, SSA can contact the loan company's financial institution and inform it that enrolling customers in direct deposit against their will is against the law. As a last resort, SSA can block the financial institution's routing number, thereby terminating all SSA direct deposits to the particular financial institution. However, SSA staff provided no instance where this action had been initiated. SSA explained that the current policy was implemented in the late 1990s. Since that time, Headquarters personnel were asked to assist on only a small number of complaints involving unauthorized direct deposit reenrollment. In each case, the complaints were resolved through contact with the non-bank FSP.

Demographic Information on 63,065 Recipients Whose Payments Were Sent to Non-Bank FSPs

Through analysis of SSA records,¹¹ we identified demographic information on the 63,065 recipients whose SSI payments were electronically deposited into bank accounts controlled by non-bank FSPs. Our analysis indicated the recipients who received their SSI payments through non-bank FSPs were composed primarily of individuals self-identified as minorities.¹² Nearly all the individuals were diagnosed with some form of disability—more than half suffered from mental disabilities. Detailed demographic information is provided below.

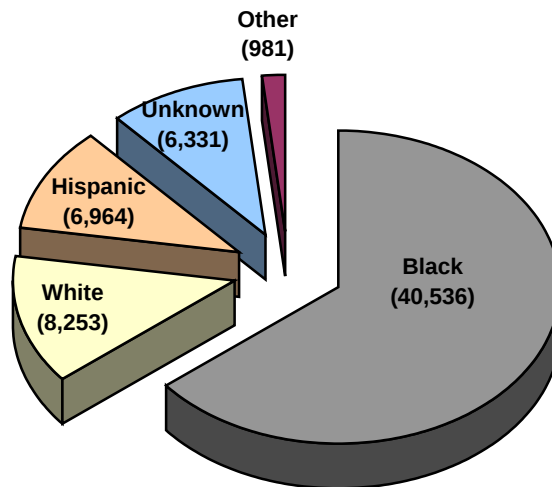
¹¹ We obtained race, sex, and date of birth information from SSA's Numident file—a database that contains personal information related to each SSN issued by SSA. We obtained disability diagnosis information and state of residence from SSA's Supplemental Security Record (SSR) file—a database that contains information used to administer the SSI program.

¹² SSA accepts race and sex information provided by SSN card applicants and records the information on the Numident file. We compiled the race and sex information that appeared in SSA records for these 63,065 recipients, but did not perform any tests to verify its accuracy.

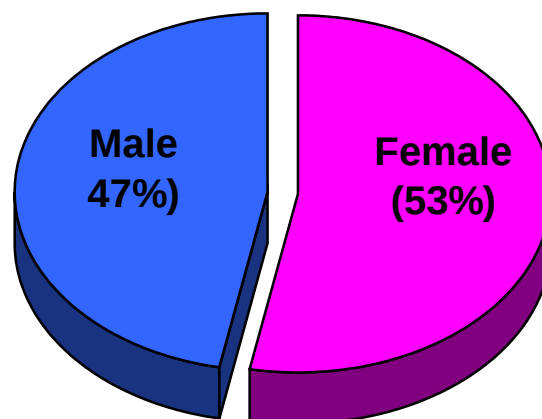
Composition by Race/Sex

Approximately 76 percent of the 63,065 SSI recipients were minorities—primarily black or Hispanic. About 53 percent of the recipients were female.

Race Per SSA's Numerical Identification System



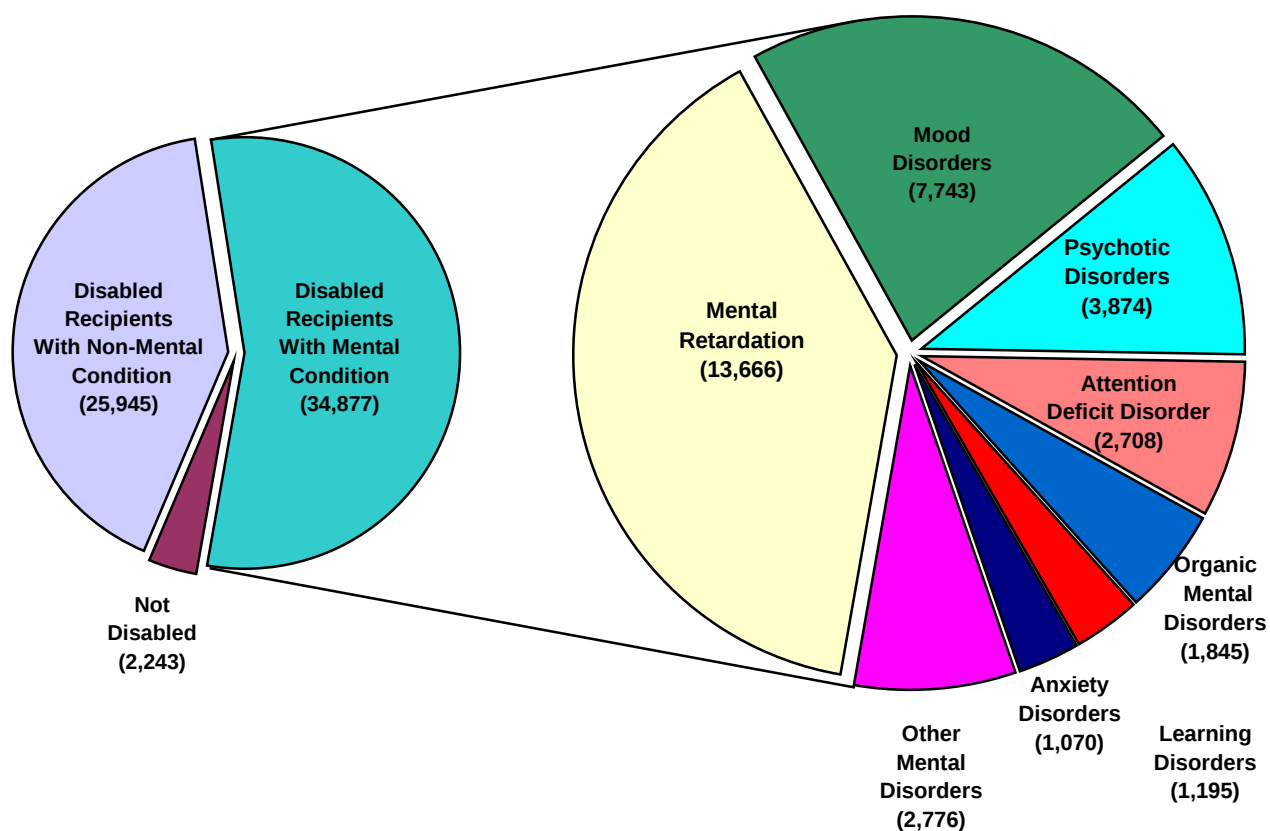
Sex Per SSA's Numerical Identification System



Physical and/or Mental Capacity

Approximately 96 percent of the SSI recipients had been diagnosed with a disability. More than half the recipients suffered from some form of mental condition. We were advised by SSA that approximately 82 percent of the overall SSI population is entitled based on disability.

Disabilities Diagnosed for 63,065 Recipients Whose SSI Payments are Electronically Deposited into Accounts Controlled by Non-Bank FSPs



State of Residence

The SSI recipients lived in 43 States or the District of Columbia.

State	Number of Individuals	Percent
Illinois	21,371	33.9
Pennsylvania	6,393	10.1
New York	5,638	8.9
Georgia	5,114	8.1
California	3,630	5.8
Louisiana	3,130	5.0
Texas	2,114	3.4
Alabama	2,102	3.3
Wisconsin	1,654	2.6
Maryland	1,418	2.3
Indiana	1,348	2.1
South Carolina	1,124	1.8
Mississippi	1,077	1.7
Florida	984	1.6
Kentucky	930	1.5
Massachusetts	912	1.5
Tennessee	847	1.3
New Jersey	710	1.1
25 Others & District of Columbia	2,569	4.0
Total	63,065	100.0

Age

The average age of these recipients was 39, and the median age was 42. The oldest recipient was 105 years old, while the youngest was a 4-month old child.

Age	Number of Recipients
Under 18	14,392
18-29	8,201
30-49	18,593
50-64	15,367
65 or Older	6,512
Total	63,065

Representative Payment

Some individuals cannot manage or direct the management of their finances because of their youth or mental/physical impairment. For such people, Congress provided for payment to be made through a representative payee who receives and manages benefit payments of the beneficiary.¹³ Representative payees are expected to act in the claimant's best interest and ensure benefit payments are used first to meet the claimant's current needs. However, we found that 26,471 (42 percent) of the recipients who had their SSI payments sent to non-bank FSPs had representative payees. We were advised by SSA that this percentage is reflective of the SSI population at large. Representative payees who direct or allow recipients' SSI payments to be directed to a check cashing business or payday lender raise doubts as to whether they are acting in the beneficiaries' best interest. SSA noted that representative payees are often family members who, like the beneficiaries, may not have access to traditional banking institutions.

Steps Taken to Prevent Transfer of Payments to Payday Lenders

Though we found in most cases, SSA was not aware it direct deposited SSI payments into accounts controlled by non-bank FSPs, we identified no action taken by SSA to prevent the transfer of payments to payday lenders or any other non-bank FSP.¹⁴ On the contrary, though SSA policies appear to prohibit these types of arrangements, SSA policies outline steps to follow to send payments directly to non-bank FSPs. Further, we found instances where SSA management and staff actually encouraged homeless transient recipients to send their payments to payday lenders to reduce the number of recipients who pick up their checks inside SSA field offices.

Both Federal law and SSA policy prohibit the assignment or transfer of the right to, or payment of, benefits to a party other than the beneficiary or his/her representative payee. SSA policy contains several references that appear to prohibit payment of SSA benefits to payday lenders or any other non-bank FSP. For example, with limited exception, SSA policies prohibit payment of benefits to anyone other than the beneficiary or representative payee. SSA policy states that "Any arrangement in which the claimant shares control of the funds from his or her benefit with person or entity that has an interest in charging or collecting money from the claimant is an assignment-like situation that violates SSA's policy."¹⁵ With the exception of Internal Revenue Service

¹³ The *Social Security Act* §§ 205(j)(1)(A) and 1631(a)(2)(A)(ii), 42 U.S.C. §§ 405(j)(1)(A) and 1383(a)(2)(A)(ii).

¹⁴ As previously stated, SSA is considering changes to current policies and procedures which allow high interest lenders to obtain access to SSA benefit payments and published a notice in the Federal Register on April 21, 2008, requesting public input regarding anticipated changes.

¹⁵ SSA, POMS GN 02410.001.D.2.

levy, child support (and/or alimony) garnishment, or state reimbursement, SSA policy states “. . . do not pay benefits to anyone other than the beneficiary (or his/her representative payee).”¹⁶

SSA policies also state the Agency should “. . . avoid payment situations that give physical control over a benefit payment to someone other than the beneficiary; e.g. sending a benefit payment, either by check or electronically, to a loan company where the beneficiary has a loan. . . .”¹⁷ SSA policy further states “Direct deposit payments cannot go directly to any of the following types of institutions:

- credit card companies,
- finance companies,
- insurance companies, or
- other non-traditional financial service companies.”¹⁸

While seeming to prohibit the sending of SSA payments to non-bank FSPs, SSA policy also states, “Since direct deposit is now the presumed method of payment and will be required for all Government payments in the final phase of the new direct deposit requirements, many non-bank financial service providers, such as **loan companies and check cashing facilities**, now offer direct deposit for their customers. The direct deposit may be arranged in one of the following ways. . . .”¹⁹ The policy goes on to describe how to set up these direct deposits by stating, “This type of arrangement is acceptable and does not constitute assignment of benefits if all the following requirements are met:

- The benefits must be deposited in an account owned by the beneficiary at a Financial Institution . . .
- Enrollment must be voluntary on the part of the beneficiary.
- The beneficiary must be able to terminate the direct deposit arrangement upon request.
- Funds paid to a representative payee through a non-bank Financial Service Provider must be used for the beneficiary’s current needs.”²⁰

During a recent audit, we identified two California field offices that openly encouraged homeless SSI recipients to receive payments through local payday lenders. By their own admission, to reduce the number of SSI recipients who pick up checks in field

¹⁶ SSA, POMS GN 02410.001.D.1.

¹⁷ SSA, POMS GN 02410.001.D.2.

¹⁸ SSA, POMS GN 02402.030A.2, *Acceptable Types of Financial Institutions and Accounts*.

¹⁹ SSA, POMS GN 02402.030B.4.

²⁰ SSA, POMS GN 02402.030B.4.b.

offices, Region management encouraged this practice. Field office management actually visited local non-bank FSPs and compiled a short list of preferred vendors who wanted SSA customers. We brought this issue to the attention of the San Francisco Regional Commissioner. Upon investigation, an Assistant Regional Commissioner stated the field offices properly followed SSA policy for transients without accounts at traditional financial institutions and concluded there was no problem with the activities of these two offices.

Conclusions

Non-bank FSPs, including payday lenders, obtain direct access to at least \$34 million in monthly SSI payments to more than 63,000 recipients because, at the recipient's request, SSA provides them access to benefit payments. Most of the affected individuals were from minority populations, and nearly all the individuals are disabled. Most of these disabled SSI recipients suffer from some form of mental disability. We found that SSA policies, though somewhat contradictory, sanction this practice. Further, we found that SSA field offices encourage homeless recipients without traditional banking relationships to send their payments to non-bank FSPs. Such practices subject a vulnerable population of individuals to high transaction fees and, potentially, to predatory payday loans. SSA is currently considering a change to its payment procedures that permit benefit payments to third-party accounts.

Appendices

APPENDIX A – Acronyms

APPENDIX B – Scope and Methodology

APPENDIX C – Agency Comments

Acronyms

EFT	Electronic Funds Transfer
FSP	Financial Service Provider
POMS	Program Operations Manual System
SSA	Social Security Administration
SSI	Supplemental Security Income
SSN	Social Security Number
SSR	Supplemental Security Record
Treasury	Department of the Treasury

Scope and Methodology

To accomplish our objectives, we:

- Reviewed applicable laws, regulations and the Social Security Administration's (SSA) policies and procedures governing use of non-bank Financial Service Providers (FSP).
- Interviewed SSA, bank, and non-bank FSP staff.
- Reviewed prior Office of the Inspector General and Government Accountability Office reports and found none related directly to our objectives.
- Analyzed Supplemental Security Income (SSI) payment data as of September 2006 and identified 463 SSI recipients whose payment address contained the name of a non-bank FSP. Based on review of these data and discussion with SSA personnel in the Atlanta Region, we identified five bank routing numbers used by non-bank FSPs to receive SSI payments. In March 2008, we identified 63,065 SSI recipients who received electronic deposits to accounts linked to the 5 routing numbers. We contacted representatives from four of the five banks and confirmed the accounts were not individual checking or savings accounts—the accounts were opened as a result of business arrangements between the bank and non-bank FSPs.
- Information available in SSA systems did not allow us to identify the specific non-bank FSPs that controlled the direct deposit accounts. Limits on available information also prevented us from determining specific services provided or amounts charged by the non-bank FSPs. Consequently, we did not confirm whether payday loans were among the financial services offered by *all* of the non-bank FSPs. However, we did confirm that loans were among the financial services *some* of the non-bank FSPs offered to SSI recipient customers.
- Using SSA's Supplemental Security and Numerical Identification records, we identified pertinent demographic information (date of birth, sex, race, current address, disability diagnosis code, representative payee information, and direct deposit information) related to each of the 63,065 SSI recipients.

We conducted fieldwork during March and April 2008. The entity audited was Office of the Deputy Commissioner for Operations. We did not test the general or application controls of SSA systems that generated electronic data used for this audit. Instead, we traced extracted data to source documents and performed other validation tests, and found the data to be sufficiently reliable to meet our audit objectives. We conducted this audit in accordance with generally accepted government auditing standards.

Agency Comments

SSA Comments on OIG Draft Report, “SSA Payments Sent to Payday Loan Companies”

We share the concerns regarding the extent to which high-interest and potentially predatory lenders are obtaining inappropriate access to Social Security payments. We appreciate the work of the OIG to shed additional light on this issue. You will see from our comments below that we fully understand the issues raised and we are eager to strengthen our policy. We offer the following perspective and comments on the overall issue, and on some specific points in the report.

- **SSA Policy**

The protections provided by Section 207 of the *Social Security Act* were enacted in 1935. The statute protects a social security payment from attachment, garnishment or other legal process with few exceptions. Since that time, electronic banking has increased the complexity of benefit delivery. We now find ourselves balancing the need to pay beneficiaries in a safe, electronic and timely manner, with the need to ensure that beneficiaries have control over their funds. This latter issue of ensuring control presents a challenge to the SSA, since we do not and cannot regulate the banking industry.

Our current policy attempts to ensure that beneficiaries receive their money in safe, electronic and timely fashion, and that they retain control of those funds. We do this in two complimentary ways:

- 1) Our policy states that *“Any arrangement in which the claimant shares control of the funds from his or her benefit with person or entity that has an interest in charging or collecting money from the claimant is an assignment-like situation that violates SSA’s policy”*. Our rationale for this policy is that while a beneficiary may choose to spend their money in any way they see fit, including payment to a creditor, the statute provides that the beneficiary must be in control of those choices, not the creditor.
- 2) Under our policy, we also allow an arrangement commonly referred to as the master-sub account. This permits individuals who may not qualify for traditional bank accounts, or who choose an alternate setup, to receive their benefits in a manner that allows them to retain control of their funds. These accounts are established and maintained in traditional financial institutions. We do not allow funds to go directly to credit card companies, finance companies, insurance companies or other non-traditional financial services companies. In the case of a non-bank financial service provider (FSP) or check cashing facility, we allow the master-sub account arrangement to be used to serve those individuals who wanted electronic deposit, but do not have a bank account. Our policy requires that the deposit into one of these accounts must meet certain criteria, as listed on page 11 of the OIG report, and as shown below:
 - a. Benefits must be deposited in an account owned by beneficiary;
 - b. Enrollment must be voluntary;
 - c. The arrangement must be revocable and the beneficiary can terminate the direct deposit at any time; and,

- d. Funds paid to a representative payee through a non-bank FSP must be used for the beneficiary's current needs.

The reason that our policy has been called into question is because some institutions have allegedly violated this policy. For example, on February 28, 2008, The Wall Street Journal cited a case where the creditor repeatedly enrolled the beneficiary in a master-sub account arrangement against the will of the beneficiary. That action is in clear violation of Treasury regulations and SSA policy. In fact, SSA took action and resolved the issue cited in the WSJ article prior to its publication.

Since our current policy was implemented in the late-1990s, SSA headquarters personnel were asked to assist in resolving only a few complaints involving abuse of the master-sub account arrangement, i.e., unauthorized direct deposit reenrollments. We immediately took action to remedy those problems by contacting the non-bank FSP and informing them that they were in violation of Treasury regulations. All other complaints were resolved by local SSA field office or regional office personnel through contact with the non-bank FSP.

Page 7 of the report states, *"As a last resort, SSA can block the financial institution's routing number, thereby terminating all SSA direct deposits to the particular financial institution. However, SSA staff provided no instance where this had been implemented."* However, the report fails to explain the reason for this; we never used this procedure because we resolved all complaints and the institutions ceased this practice upon notification. As a result of our actions, the individual regained access and control of his funds without the need to block use of the routing number.

On page 10, the report states that representative payees who direct payments to check cashing companies "raise doubts as to whether they are acting in the beneficiaries' best interest." This does not seem to recognize that most of these representative payees are family members who are just as poor as the spouse/child SSI recipient and may not have access to banking institutions; they may have access only to these non-bank FSPs.

- **Field Office Practices**

The report states that some field offices *"openly encouraged homeless SSI recipients to receive payments through local payday lenders."* In these circumstances, it is noteworthy that field offices are referring individuals for the purpose of check or electronic payment delivery and not to get loans. There is no evidence that such suggestions from our field offices have led to any predatory or abusive arrangements.

Our field offices regularly work with beneficiaries who may not have access to traditional bank accounts. Some of these individuals may be homeless, and we are therefore unable to send them a paper check. While SSA employees do have the option of mailing the check to the local SSA office, where the beneficiary then picks up the check, this arrangement presents numerous problems. First, when the beneficiary picks up a paper check from a field office, they must still go cash that check. If they do not have a bank account, they may ask the field office what options exist. We believe the field offices are attempting to give helpful service by providing information about available payment delivery options, including non-bank FSPs.

As we will describe below, we are eager to make any changes or implement any safeguards that would improve our current policy or practice. It is important to note however, that SSA does not have the authority to regulate the banking industry nor determine or track lending practices.

- **Insufficient Data to Draw Conclusions**

The report cites 63,065 individuals with SSI deposits into accounts established and controlled by non-bank FSPs. However, there is no indication of how many of those banking arrangements might be preferred by the beneficiary and compliant with our current policy as noted above (a, b, c, and d). The OIG also provides no data to show how many, if any of those are predatory arrangements that disadvantage the beneficiary. Therefore, it is difficult to draw conclusions from this report, positive or negative, about the master-sub account arrangement and the use of non-bank FSP accounts.

In addition, the demographic data show that recipients studied are predominantly minority and disabled. While we have not yet begun to collect race and ethnicity data on beneficiaries, we plan to do so beginning in 2009. It should be noted that the data in the OIG report are reflective of the SSI population at large, to the best of our knowledge. For example, 82 percent of the overall SSI population is entitled based on disability and 43 percent of disabled recipients have a representative payee. In other words, the population using non-bank FSPs would seem to be a reflection of the overall composition of SSI recipients.

It is therefore not clear whether this data indicates any targeted or predatory lending practices, or rather indicates that a portion of the SSI beneficiaries use non-bank FSPs instead of traditional banks.

- **SSA is Eager to Strengthen our Policy**

On April 21, 2008, only two months after the first known news article was published on this subject, SSA published a Federal Register Notice seeking public comment on our policy. In the Notice, we asked the questions which appear at the end of this document. Comments are due by June 20, 2008. While we know of very few cases where our policy has been problematic, we must do everything we can to safeguard the rights of our beneficiaries.

We anticipate making a change to SSA policy regarding master-sub account arrangements. Before we change our policy, we want to ensure that we understand the implications for our beneficiaries and the business community who are using the arrangement today. We also want to ensure that we have explored all alternative options and the implications of those, such as the pre-authorization arrangement. This arrangement allows an account holder to authorize an automatic withdrawal from their account on a one-time or recurring basis. The pre-authorized arrangement is a widespread practice that might be more appropriate and fair. Another alternative that has just become available is the Treasury Direct Express debit card. This program makes banking services available at minimum cost to individuals who may not otherwise have access to traditional bank accounts.

In summary, SSA cannot regulate the banking industry, set or control fees or banking practices. However, we take full responsibility for ensuring that our policies are consistent with the statute and the intent of Congress. We also know that our policies must evolve in light of new technologies and the vulnerabilities they sometimes create. To this end, we have sought public

comment on our proposal to change policy to better protect the rights of beneficiaries. Once we consider all comments, we will take prompt action to change our policy accordingly and to provide training for our employees.

Questions in SSA's Federal Register Notice, Issued April 21, 2008

- ✓ To what extent will the elimination of the procedure allowing benefits to be deposited into master/sub accounts create significant costs and burdens on beneficiaries or organizations that currently utilize this account arrangement?
- ✓ Are there alternative payment procedures that we could offer to ensure that beneficiaries receive their benefits and have control over them?
- ✓ The Act allows us to select representative payees to receive benefits on behalf of beneficiaries when we determine the interest of the beneficiary will be served. Generally, a payee is appointed if we determine that the beneficiary is not able to manage or direct management of benefit payments. Would nursing homes and religious orders that handle monies for both incapable beneficiaries, who need a representative payee, and capable beneficiaries be able to receive and manage benefit payments without the use of master/sub accounts?
- ✓ Without master/sub account arrangements, would creditors instead require beneficiaries to preauthorize the transfer of their benefits to the creditor when they are deposited into the beneficiary's account?
- ✓ Do beneficiaries have sufficient control over their benefits when they have elected to automatically transfer their benefits into the accounts of creditors after the benefits are deposited into the beneficiary's own account?
- ✓ How can we address the situation where the lender will not allow the beneficiary to terminate a direct deposit arrangement or a preauthorized transfer of benefits?

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Overview of the Office of the Inspector General

The Office of the Inspector General (OIG) is comprised of an Office of Audit (OA), Office of Investigations (OI), Office of the Chief Counsel to the Inspector General (OCCIG), Office of External Relations (OER), and Office of Technology and Resource Management (OTRM). To ensure compliance with policies and procedures, internal controls, and professional standards, the OIG also has a comprehensive Professional Responsibility and Quality Assurance program.

Office of Audit

OA conducts financial and performance audits of the Social Security Administration's (SSA) programs and operations and makes recommendations to ensure program objectives are achieved effectively and efficiently. Financial audits assess whether SSA's financial statements fairly present SSA's financial position, results of operations, and cash flow. Performance audits review the economy, efficiency, and effectiveness of SSA's programs and operations. OA also conducts short-term management reviews and program evaluations on issues of concern to SSA, Congress, and the general public.

Office of Investigations

OI conducts investigations related to fraud, waste, abuse, and mismanagement in SSA programs and operations. This includes wrongdoing by applicants, beneficiaries, contractors, third parties, or SSA employees performing their official duties. This office serves as liaison to the Department of Justice on all matters relating to the investigation of SSA programs and personnel. OI also conducts joint investigations with other Federal, State, and local law enforcement agencies.

Office of the Counsel to the Inspector General

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

Office of External Relations

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

Office of Technology and Resource Management

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