



Office of the Inspector General  
SOCIAL SECURITY ADMINISTRATION

*Audit Report*

Statutory Benefit Continuation for  
Disability Beneficiaries

*A-07-21-51105 September 2023*



# Office of the Inspector General

SOCIAL SECURITY ADMINISTRATION

## MEMORANDUM

**Date:** September 25, 2023

**Refer to:** A-07-21-51105

**To:** Kilolo Kijakazi  
Acting Commissioner

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

**Subject:** Statutory Benefit Continuation for Disability Beneficiaries

The attached final report presents the results of the Office of Audit's review. The objective was to determine whether the Social Security Administration accurately administered Statutory Benefit Continuation for beneficiaries who appealed the Agency's medical cessation decisions.

Please provide within 60 days a corrective action plan that addresses each recommendation. If you wish to discuss the final report, please call me or have your staff contact Michelle L. Anderson, Assistant Inspector General for Audit.

Attachment

# Statutory Benefit Continuation for Disability Beneficiaries

## A-07-21-51105



September 2023

Office of Audit Report Summary

### Objective

To determine whether the Social Security Administration (SSA) accurately administered Statutory Benefit Continuation (SBC) for beneficiaries who appealed the Agency's medical cessation decisions.

### Background

When SSA pays benefits under the Disability Insurance (DI) or Supplemental Security Income (SSI) programs, it must ensure beneficiaries continue to meet all eligibility requirements. SSA makes a medical cessation determination when a continuing disability review indicates the beneficiary no longer meets the medical requirements for disability benefits.

If a beneficiary appeals a medical cessation decision, SBC allows certain beneficiaries the option to continue receiving benefits at the reconsideration or administrative law judge hearing level. Additionally, SSA must ensure beneficiaries meet all other eligibility requirements. If SSA upholds the cessation determination, any benefits paid during the appeals process are considered overpayments.

We reviewed samples of 400 DI and SSI beneficiaries who received SBC and 150 beneficiaries who did not receive SBC during their appeals.

### Results

SSA did not accurately administer SBC for 47 percent of the beneficiaries we reviewed, because the Agency did not: (1) provide SBC when it should have; (2) post all overpayments correctly; or (3) stop SBC payments timely, which resulted in avoidable overpayments. Based on our sample results, we estimate SSA:

- did not provide almost \$298 million in SBC to approximately 20,000 beneficiaries and recipients who requested payment continuation;
- incorrectly posted over \$197 million in SBC overpayments to the associated record for approximately 29,000 recipients; and
- could have avoided more than \$68 million in overpayments for more than 5,000 beneficiaries if SBC had been processed in accordance with statute, regulations, and policy.

SSA's insufficient controls over certain aspects of the SBC process led to errors that disadvantaged beneficiaries who did not receive the statutorily guaranteed SBC payments they requested. Conversely, some errors had a negative effect on Agency trust funds because SSA could have avoided some overpayments, and it failed to correctly record others.

### Recommendations

We made five recommendations to improve SSA's administration of SBC, including that SSA create a stand-alone SBC election form, create internal controls to ensure it pays SBC when appropriate, improve communication between components to ensure it applies decisions correctly, and improve its systems to ensure it records medical cessation dates correctly and stops SBC payments at the appropriate time in accordance with applicable statutes, regulations, and policy.

SSA agreed with our recommendations.

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## **ABBREVIATIONS**

ALJ	Administrative Law Judge
CDR	Continuing Disability Review
C.F.R.	Code of Federal Regulations
DDS	Disability Determination Services
DI	Disability Insurance
FO	Field Office
OASDI	Old-Age, Survivors and Disability Insurance
OIG	Office of the Inspector General
POMS	Program Operations Manual System
SBC	Statutory Benefit Continuation
SSA	Social Security Administration
SSI	Supplemental Security Income
U.S.C.	United States Code

## **FORMS**

SSA-789	<i>Request for Reconsideration – Disability Cessation Right to Appear</i>
SSA-795	<i>Statement of Claimant or Other Person</i>

## OBJECTIVE

Our objective was to determine whether the Social Security Administration (SSA) accurately administered Statutory Benefit Continuation (SBC) for beneficiaries who appealed the Agency's medical cessation decisions.

## BACKGROUND

The Old-Age, Survivors and Disability Insurance (OASDI) program provides Disability Insurance (DI) benefits to workers and their families to protect against the economic consequences of prolonged and severe disability.<sup>1</sup> The OASDI program defines disability for adults as the inability to participate in substantial gainful activity by reason of any medically determinable physical or mental impairment that has lasted, or is expected to last, at least 12 months or result in death.<sup>2</sup> SSA administers the Supplemental Security Income (SSI) program under Title XVI of the *Social Security Act*. SSI is a means-tested program that provides a minimum level of income to individuals who are aged, blind, or disabled and meet certain income and resource limits.<sup>3</sup>

When SSA makes payments based on disability under the DI or SSI programs, it must ensure beneficiaries continue to meet all eligibility requirements.<sup>4</sup> SSA conducts continuing disability reviews (CDR) to determine whether beneficiaries remain medically eligible.<sup>5</sup> SSA makes a medical cessation determination when a CDR indicates the beneficiary no longer meets the medical requirements for disability benefits.

## Statutory Benefit Continuation

If an individual appeals SSA's medical cessation determination, they can elect SBC, a statutory provision that allows beneficiaries the option to continue receiving benefits and Medicare coverage at the reconsideration or administrative law judge (ALJ) hearing level.<sup>6</sup> Anyone who receives payments from SSA based on a disability or blindness can elect SBC.<sup>7</sup>

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<sup>1</sup> *Social Security Act*, 42 U.S.C. §§ 402 and 423.

<sup>2</sup> *Social Security Act*, 42 U.S.C. §423 (d)(1)(A).

<sup>3</sup> *Social Security Act*, 42 U.S.C. §§1381-1383f.

<sup>4</sup> 20 C.F.R. §§ 404.1594 and 416.994.

<sup>5</sup> 20 C.F.R. §§ 404.1589, 416.989, and 416.989a.

<sup>6</sup> *Social Security Act*, 42 U.S.C. §§ 423(g) and 1383(7)(A).

<sup>7</sup> SSA, *POMS*, DI 12027.007 (April 27, 2015).

When requested, SSA must provide beneficiaries a required election statement that they must sign to elect SBC.<sup>8</sup> DI beneficiaries may also elect or decline SBC payments for any auxiliary beneficiaries receiving payments on their records for whom they are the representative payee.<sup>9</sup> SBC also applies to appeals of medical cessation decisions that the Appeals Council remanded to ALJs for further action.<sup>10</sup> If a beneficiary elected SBC at a prior ALJ level, SSA must reinstate SBC retroactive to the first month of non-payment resulting from the vacated prior ALJ decision.<sup>11</sup> Before beginning retroactive SSI payments, SSA must determine whether the beneficiary still meets income and resource requirements.<sup>12</sup> SSA does not require that the beneficiary re-elect SBC on remand.<sup>13</sup>

If SSA upholds its cessation decision, any benefit payments made during the appeals process are considered overpayments.<sup>14</sup> An overpayment is the amount SSA paid an individual that was more than the amount it should have paid.<sup>15</sup> SBC payments are no longer payable, and the overpaid amount is calculated, as of the earlier of the (1) month preceding the month in which a decision is made after a hearing or (2) month preceding the month in which no such request for a hearing or an administrative review is pending.<sup>16</sup>

## Good-cause Determinations

To elect SBC, the beneficiary or representative payee, must return a form electing continued payments within 15 business days (10 business days plus 5 business days for mailing) of the date of the medical cessation notice.<sup>17</sup> The time limit to file an appeal is 65 days (60 days plus 5 days for mailing).<sup>18</sup> When a beneficiary contacts SSA after the 15-business-day time limit to request SBC or after the 65-day time limit to file an appeal, SSA will develop good cause for extending the time limit to request SBC or file an appeal, as appropriate.<sup>19</sup> SSA considers the following when it determines good cause:

- circumstances impeding the beneficiary's efforts to pursue the request;
- whether SSA's or the Centers for Medicare & Medicaid Services' actions were confusing or misleading;

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<sup>8</sup> SSA, *POMS*, DI 12095.171 (December 13, 2017).

<sup>9</sup> SSA, *POMS*, DI 12027.010 (January 26, 2019).

<sup>10</sup> SSA, *POMS*, DI 12027.060.A.1 (May 20, 2018).

<sup>11</sup> SSA, *POMS*, DI 12027.060.A.2 (May 20, 2018).

<sup>12</sup> SSA, *POMS*, DI 12027.065.C.2 (April 25, 2022).

<sup>13</sup> SSA, *POMS*, DI 12027.060.A.2 (May 20, 2018).

<sup>14</sup> SSA, *POMS*, DI 12027.010 (January 26, 2019), and DI 12027.050 (March 13, 2015).

<sup>15</sup> SSA, *POMS*, GN 02201.001 (December 22, 2021).

<sup>16</sup> *Social Security Act*, 42 U.S.C. § 423(g)(1).

<sup>17</sup> SSA, *POMS*, DI 12027.008 (April 26, 2023).

<sup>18</sup> If the period for requesting the next appellate step ends on a Saturday, Sunday, legal holiday, or any other day (all or part of which is a non-workday for Federal employees by statute or Executive Order), SSA extends the period to include the next full workday.

<sup>19</sup> SSA, *POMS*, GN 03101.020 (January 30, 2014).

- whether the beneficiary or representative payee understood the requirements of the *Social Security Act* and any resulting amendments, other legislation, or court decisions; and
- the beneficiaries' physical, mental, educational, or linguistic limitations.<sup>20</sup>

SSA should obtain a written statement that explains the beneficiary's reason for late filing.<sup>21</sup> The Agency component with jurisdiction of the appeal request makes the good-cause determination.

## **Agency Systems**

When an appeal decision is made, the beneficiary will receive a notice from disability determination services (DDS) regarding a reconsideration or the hearing office about an ALJ decision. Once an unfavorable determination is input into the system, it will automatically terminate SBC payments for SSI recipients. The system will only automatically terminate SBC payments for DI beneficiaries if the following criteria are satisfied:

1. the hearing office inputs the decisions within 30 days of the ALJ's decision;
2. the decision is unfavorable;
3. the hearing type indicates SBC is involved; and
4. the case is coded as a medical cessation.

All other cases, including all auxiliary beneficiaries, require that an employee input to terminate SBC payments.<sup>22</sup>

For SSA's systems to correctly calculate an SSI overpayment, employees must correctly key the date of the medical cessation into the SSI system. For DI beneficiaries, SSA's systems automatically calculate overpayments.

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<sup>20</sup> SSA, *POMS*, GN 03101.020 (January 30, 2014).

<sup>21</sup> SSA, *POMS*, GN 03101.020 (January 30, 2014).

<sup>22</sup> SSA, *POMS*, DI 12027.020 (May 21, 2021).



## Scope and Methodology

For this audit, we requested Social Security number-level detail for all DI beneficiaries and SSI recipients for whom SSA decided medical cessation appeals between March 1, 2018 and February 28, 2022.<sup>23</sup> We identified 103,541 unique DI and concurrent beneficiaries and 265,071 unique SSI recipients who appealed SSA's medical cessation determinations. From these, we identified 28,885 DI beneficiaries and 130,821 SSI recipients who received SBC payments and had their medical cessation decision upheld. We randomly selected 200 beneficiaries and 200 recipients from each of these populations. In addition, we reviewed 150 beneficiaries and recipients who did not receive payments during their appeals.<sup>24</sup>

## RESULTS OF REVIEW

SSA did not accurately administer SBC for some beneficiaries during medical cessation appeals because it did not: (1) provide SBC when it should have; (2) post all overpayments correctly; or (3) stop SBC payments timely, which resulted in avoidable overpayments. SSA:

- did not provide almost \$298 million in statutorily guaranteed SBC payments to approximately 20,000 beneficiaries who requested them;
- did not properly record over \$197 million (10 percent) of approximately \$1.9 billion total overpayments to SSI recipients—it will not be able to recover this amount if it does not take corrective action;<sup>25</sup> and
- could have avoided more than \$68 million (9 percent) of approximately \$756 million total overpayments to DI beneficiaries, if it stopped SBC payments timely.<sup>26</sup>

SSA made 316 errors associated with SBC procedures for 260 (47 percent) of the 550 sampled beneficiaries.<sup>27</sup> SSA made multiple errors for some beneficiaries. The Agency made these errors because it did not have adequate controls over various aspects of the SBC process.

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<sup>23</sup> During the initial planning of this Audit, we tested whether the COVID-19 pandemic affected SSA's application of SBC. We found the COVID-19 pandemic did not impact the consistency of SBC case processing.

<sup>24</sup> For this sampling frame we identified 36,419 DI beneficiaries and SSI recipients that did not receive any payments during their appeal period.

<sup>25</sup> We obtained these estimates through population analysis of individuals with medical cessation appeal decisions made between March 2018 and February 2022. The estimate represents the total amount of payments made during the appeal period for SSI recipients who had a final medical cessation determination.

<sup>26</sup> We obtained these estimates through population analysis of individuals with medical cessation appeal decisions made between March 2018 and February 2022. The estimate represents the total amount of payments made during the appeal period for DI beneficiaries who had a final medical cessation determination.

<sup>27</sup> SSA processed SBC in accordance with policy for the remaining 290 beneficiaries.

**Table 1: SBC Errors**

<b>Error Type</b>	<b>Number of Errors</b>
SBC Not Provided When It Should Have Been	59
Overpayment Not Properly Posted	51
SBC Payments Not Stopped Timely	45
Documentation Errors	161
<b>TOTAL</b>	<b>316</b>

## **The Agency Did Not Provide Statutory Benefit Continuation to Some Beneficiaries**

As of July 2023, SSA did not pay over \$1 million in statutorily guaranteed payments to 59 (11 percent) of the 550 sampled beneficiaries (see Appendix B, Table B–7). These errors occurred because SSA did not have sufficient procedures for beneficiaries to elect SBC or always grant SBC to beneficiaries whose appeals the Appeals Council remanded or whom the Agency found to have good cause for filing late.

### ***Insufficient Election Procedure***

The notice informing a beneficiary of a medical cessation will provide information about contacting an SSA field office (FO) to request an appeal and the option of SBC. SSA sends beneficiaries a Form SSA-795, *Statement of Claimant or Other Person*, with the appropriate election statement. If a beneficiary returns the Form electing an SBC, an SSA employee processes the action to begin issuing SBC payments on a beneficiary's record.

In some instances, beneficiaries submitted all the appropriate paperwork to receive SBC, but SSA did not issue the requested payments. For example, a disability beneficiary received a medical cessation notice dated August 13, 2018. SSA received all completed forms for the appeal and the SBC election statement requesting payment continuation for the beneficiary and his child on August 23, 2018. The beneficiary completed all the appropriate paperwork; however, because of an employee's processing error, SSA did not provide him and his child over \$17,000 during the appeal period.

Though SSA's policy regarding SBC election documentation is clear, SSA does not have a stand-alone election form, and requires a paper election form to request continued payments.<sup>28</sup> SSA allows beneficiaries to complete other requests online, including applications for benefits and new Social Security number cards. Requiring that beneficiaries submit paper election forms, when many other processes can be filed online or requested and attested to orally, is outdated and does not provide sufficient control. SSA could provide better customer service if it offered other ways to elect SBC that would allow for automatic or immediate action to issue SBC payments.

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<sup>28</sup> SSA, *POMS*, DI 12027.008 (April 26, 2023).

## ***Appeals Remanded by the Appeals Council***

When a beneficiary who elected SBC at the ALJ level has an appeal that the Appeals Council remanded back to the ALJ, an SSA employee must take manual action to resume SBC payments.<sup>29</sup> Even though policy on when SSA should provide SBC is clear, the Agency did not always restart the payments. For example, for one beneficiary, SSA correctly provided SBC payments during the ALJ appeal period. The ALJ upheld the initial medical cessation decision on December 6, 2017, and SSA correctly stopped payments in January 2018. The beneficiary appealed the decision to the Appeals Council which remanded the case to the ALJ for further review on January 18, 2019. SSA did not restart payments, even though the beneficiary had previously received SBC. As a result of this processing error, SSA did not provide over \$16,000 during the appeal period.

The Appeals Council takes certain actions when it remands a case to the hearing office for additional review. The hearing office must then communicate with the FO to ensure an employee restarts SBC payments, if appropriate. Beyond the actions taken by the Appeals Council and the hearing office, there are no other indicators or flags to alert the employee that SBC was previously provided. Additional internal controls, such as an indicator when a beneficiary received SBC during the initial ALJ appeal phase, may prevent such errors.

## ***Good Cause for Late Filing Found***

Beneficiaries' good-cause statements for filing appeals and requesting SBC late may allege they did not file the requests during the 15 days because they did not receive notice, were incapacitated, or received notice late, and these allegations occur after the 65-day period to request an appeal. As a result, these beneficiaries would not have been able to file the SBC request or the appeal within the given timeframes.

The standard of review for good-cause determinations is the same for appeals and SBC requests filed late.<sup>30</sup> However, in some cases, SSA granted good cause for late appeals, but did not grant good cause for late SBC requests for the same beneficiary, even when the reason for the late appeal and SBC request were the same. This issue was especially prevalent when an ALJ made the good-cause determinations. According to SSA, the hearing office should notify the FO about the ALJ's good-cause determination for SBC and appeal via memorandum or email.<sup>31</sup> SSA does not require that the FO put the correspondence into the electronic file. Because of complexities related to multiple methods of communication, SSA did not always provide SBC in these instances.

For example, SSA found a recipient's disability ceased and upheld that decision on reconsideration on July 19, 2019. The recipient submitted an appeal to the ALJ and requested SBC on October 2, 2019, 75 days after the reconsideration decision. The recipient alleged late filing because they had just received the cessation notice. An ALJ found good cause for late filing and accepted the recipient's allegation that a timely notice was not received. However, there is no evidence the hearing office told the FO to continue payments during the appeal.

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<sup>29</sup> SSA, POMS, DI 12027.060 (May 20, 2018).

<sup>30</sup> SSA, POMS, DI 12027.008 (April 26, 2023) and GN 03101.020 (January 30, 2014).

<sup>31</sup> SSA, POMS, DI 12027.008 (April 26, 2023).

As a result, SSA did not provide approximately \$11,000 in statutorily guaranteed SBC payments.

SSA does not require correspondence between the hearing office and FO in the electronic file. The lack of documented communication is a control weakness that SSA must address.

## **Overpayments Not Properly Posted**

From the sample of 200 DI beneficiaries with SBC payments, SSA did not properly record \$41,838 in overpayments for 7. These overpayments occurred when auxiliary beneficiaries received SBC payments and SSA terminated their records before the final appeal decisions or SSA employees did not identify the proper months of nonpayment. However, since most of the overpayments for other OASDI beneficiaries are automated, we did not find this issue to be pervasive.

From the sample of 200 SSI recipients with SBC payments, as of July 2023, we found SSA did not properly record approximately \$302,000 in overpayments for 44 beneficiaries (see Appendix B, Table B-5). SSA's systems calculate the SSI overpayment based on the cessation date SSA employees enter. If an SSA employee enters an incorrect date, the overpayment and corresponding months are incorrect. As a result, SSA only posts a portion of the overpayment to the record. For example, one recipient received SBC payments from June 2017 to August 2018. SSA upheld the initial disability cessation decision on reconsideration and stopped SBC payments in August 2018. The SSA employee entered the medical cessation date incorrectly and only included the August 2018 overpayment on the record. The record did not include the overpayment for June 2017 through July 2018. As a result, SSA will not be able to recover approximately \$13,000 unless it takes corrective action to add the remainder of the overpayment to the record.

SSA's controls do not ensure employees post the correct amount of an SBC overpayment to the record. SSA employees entered incorrect information for 44 of the 200 (22 percent) SSI samples we reviewed, resulting in incorrectly posted overpayments. For these overpayments, SSA uses diaries as controls that ensure all amounts are accounted for and a notice was sent to the beneficiary. However, SSA's system lacks internal controls over employees' initial inputs. SSA stated it cannot speculate as to why employees improperly keyed the relevant information.

This error does not occur for DI beneficiaries who receive SBC because the overpayment recovery system automates the date input. For example, when the DDS or hearing office inputs the decisional information, the DI beneficiary's record interfaces with SSA's overpayment recovery system automatically. As a result, no further action by FO employees is required to post the resulting overpayment.

## **The Agency Did Not Stop Payments Timely**

During our review of the 200 sampled DI beneficiaries who received SBC during the appeal, we found SSA could have avoided approximately \$474,00 in overpayments to 36 beneficiaries as of July 2023 (see Appendix B, Table B-3). This occurred because SSA continued payments after the medical cessations were upheld or after the beneficiaries did not request that payments continue for either themselves or their auxiliary beneficiaries.

In March 2019, SSA made system enhancements that automated some manual terminations for DI beneficiaries. Before March 2019, all payment terminations required employee input into SSA's system. Of the 200 sampled DI beneficiaries, 59 had appeal decision dates before March 2019—14 (24 percent) were errors. The remaining 141 sampled DI beneficiaries had final medical cessation appeal dates after March 2019—22 (16 percent) were errors. Based on our observations, SSA's system enhancements may have reduced the error rate for DI beneficiaries and helped prevent some avoidable overpayments due to improved automation. However, opportunities exist for SSA to implement additional controls over the SBC process.

Since the system automatically terminates payment for SSI recipients, we found the issue to be less prevalent for SSI recipients. For the 200 sampled SSI recipients who received SBC during their appeals, SSA paid \$32,250 in avoidable overpayments to 9 because SSA continued payments after the recipients requested that payments cease or SSA did not terminate payments timely.

### ***The Agency Did Not Stop Payments After It Upheld Medical Cessations***

Since some DI payments are automatically stopped, SSA employees may not be aware of the need to manually stop some SBC payments when automation is not possible. SSA's reliance on employees to stop SBC payments after cessations are upheld can result in delays or errors that lead to avoidable overpayments. For example, on December 20, 2019, SSA mailed an ALJ decision upholding the Agency's decision that a beneficiary's disability ceased. SSA did not properly process the claim; therefore, SSA's systems could not stop the payments automatically. As of July 2023, SSA had not taken the action required to stop the payments and continued overpaying the beneficiary, which resulted in approximately \$41,000 in avoidable overpayments.

Had SSA had the systems controls in place to stop payments timely, it could have avoided these overpayments. The actions required to recover these overpayments create additional work and an administrative burden that SSA could have avoided had it processed cases correctly or in a timely manner. In addition, unavoidable overpayments create an undue burden on beneficiaries and put additional strain on the trust funds when the Agency cannot recover these overpayments.

### ***The Agency Did Not Stop Payments After Beneficiaries Requested They Stop***

In some instances, SSA continued issuing payments to beneficiaries after they requested payments stop. For example, on March 21, 2017, SSA mailed a medical cessation notice to a beneficiary. During the reconsideration phase, the beneficiary elected SBC and requested payments to continue. After the reconsideration upheld the medical cessation, the beneficiary submitted an appeal to an ALJ and requested the continuation of Medicare only. SSA did not stop the DI payments, which created an overpayment of more than \$14,000 that could have been avoided.

When a primary beneficiary requests that only their payments continue, that request can result in an avoidable overpayment. For example, a beneficiary received a disability cessation decision on August 12, 2016. He submitted his request for SBC timely, indicating he wanted his benefits to continue and his two children's benefits to cease. SSA incorrectly continued payments to the beneficiary's two children, which resulted in approximately \$12,000 in avoidable overpayments.

SSA has automated some of its payment termination actions; however, terminating payments for auxiliary beneficiaries requires employee input. Outside of policy and initial job training, SSA lacks controls to notify employees of the existence of auxiliary beneficiaries on a record.

## Documentation Errors

SSA uses the Form SSA-795 to process SBC elections, along with many other workloads. In some instances, the electronic files did not contain evidence SSA provided this Form to beneficiaries and, when SSA did provide it, the Form did not always contain election language prescribed in policy.<sup>32</sup> SSA's internal controls do not ensure employees (1) provide beneficiaries with the correct language on the Form or (2) collect the evidence required by policy. SSA stated Forms SSA-795 pre-filled with the language to elect SBC are easily accessible to employees. However, SSA uses the same Form SSA-795, with different language, to obtain information to determine whether a beneficiary has good cause for late filing, which could result in confusion when beneficiaries receive multiple copies of the same Form.

SSA made documentation errors for 161 (40 percent) of the 400 beneficiaries with SBC payments we sampled.<sup>33</sup> Although the evidence for these cases did not meet SSA's policy standards, SSA's Office of General Counsel indicated the SBC payments issued to these beneficiaries met statutory and regulatory requirements. As a result, we did not find a negative effect on SSA funds and view these conditions as documentation errors. However, we believe these documentation errors demonstrate how the current SBC election process is inefficient and potentially inequitable. During our review, we identified instances in which SSA did not provide SBC to beneficiaries with similar circumstances as others who did receive SBC, creating a potential customer service issue.

For example, one beneficiary submitted a request for benefit continuation on the Form SSA-789, *Request for Reconsideration – Disability Cessation Right to Appear*, meeting the statutory and regulatory requirements as outlined by SSA's Office of General Counsel, and SSA granted SBC. A different beneficiary made the same request on a Form SSA-789 within the 15-day period; however, SSA did not continue payments. As a result, SSA did not pay over \$38,000 in statutorily guaranteed payments. This created potential inequity and unfairly advantaged one beneficiary over another.

SSA does not have sufficient controls over the election process to ensure employees provide policy-compliant election forms. The process of collecting multiple documents can be burdensome for an employee, and the generic Form SSA-795, can be mistaken as another statement when it is uploaded to the electronic folder. SSA is in the initial stage of drafting a stand-alone SBC Election form and has a target release date by the end of Fiscal Year 2024. The stand-alone election form could decrease the number of documentation errors.

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<sup>32</sup> SSA, POMS, DI 12095.171 (December 13, 2017).

<sup>33</sup> Any case where SSA did not get election language as outlined in policy is a documentation error.

## CONCLUSIONS

SSA's insufficient controls over certain aspects of the SBC process led to errors that disadvantaged beneficiaries who did not receive statutorily guaranteed SBC payments they requested. Conversely, some errors had a negative effect on Agency trust funds because SSA could have avoided some overpayments and it failed to correctly record others, preventing the Agency from attempting to recover the overpaid benefits. SSA management must ensure employees have the appropriate tools to communicate effectively across Agency components and ensure it initiates and terminates SBC payments timely and records SBC-related overpayments correctly.

## RECOMMENDATIONS

We recommend SSA:

1. Create a stand-alone SBC election form, and if feasible, provide more options for beneficiaries to elect SBC, such as electronic election or verbal attestation.
2. Create additional controls to ensure the Agency issues SBC payments when due, especially for beneficiaries whose appeals the Appeals Council has remanded back to the ALJs.
3. Improve communication between the hearing office and FO to ensure good-cause determinations are applied accurately, especially when a beneficiary's good-cause statement for filing a late appeal and an SBC request are the same.
4. Improve systems to ensure medical cessation dates are recorded correctly on SSI records.
5. Improve systems to ensure SBC payments to DI beneficiaries and auxiliary beneficiaries are stopped in accordance with applicable statutes, regulations, and policy.

## AGENCY COMMENTS

SSA agreed with our recommendations. See Appendix C.



Michelle L. Anderson  
Assistant Inspector General for Audit

# ***APPENDICES***



## Appendix A – SCOPE AND METHODOLOGY

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For this audit, we requested Social Security number-level detail for all Disability Insurance (DI) beneficiaries and Supplemental Security Income (SSI) recipients for whom the Social Security Administration (SSA) decided a medical cessation appeal between March 1, 2018 and February 28, 2022. SSA provided data extracts that contained 301,160 reconsideration decisions and 125,673 ALJ decisions.

To accomplish our objective, we:

- Reviewed applicable Federal laws, regulations, and sections of SSA's *Program Operations Manual System* as well as prior audit recommendations related to recovering, detecting, and preventing SSI overpayments.
- Identified 103,541 unique DI and concurrent beneficiaries and 265,071 unique SSI recipients.
- Identified 28,896 DI and concurrent beneficiaries and 130,834 SSI recipients who received payments during the appeal and had the medical cessation upheld.
- Identified 36,439 DI beneficiaries and SSI recipients who did not receive payments during the appeal.
- Created three sampling frames based on title, appeal outcome, and payment status during the appeal period.
- Reviewed random samples of 200 DI and concurrent beneficiaries and 200 SSI recipients whose payments continued during the appeals process and whose medical cessations SSA upheld to determine:
  - whether SSA properly allowed or excluded beneficiaries from receiving Statutory Benefit Continuation (SBC) payments;
  - whether SSA properly documented SBC election;
  - whether SSA terminated SBC payments timely;
  - the amount SSA paid beneficiaries who elected SBC; and
  - whether SSA posted all overpayments resulting from SBC payments to the associated records.
- Reviewed a random sample of 150 beneficiaries and recipients whose payments did not continue during the appeals process to determine whether SSA:
  - documented the beneficiaries' decision to decline SBC, as required, or
  - properly excluded beneficiaries from receiving SBC payments.
- Reviewed information from the Disability Control File, Evidence Portal, Case Processing and Management System, eView, Electronic Disability Collect System, Disability Determination Services Query, Master Beneficiary Record, and Supplemental Security Record to conduct our analysis.
- Met with SSA subject-matter experts to gather information about the medical CDR and appeals processes, related policies, and SSA's controls over SBC payments.

We conducted our review between June 2022 and July 2023. We assessed the reliability of data extract provided by: (1) performing electronic testing; (2) reviewing existing information about the data and the system that produced them; and (3) interviewing agency officials knowledgeable about the data. We determined the data were sufficiently reliable for the purposes of this report.

The principal entities audited were the Offices of Operations and Hearing Operations. We assessed the significance of internal controls necessary to satisfy the audit objective. This included an assessment of the five internal control components, including control environment, risk assessment, control activities, information and communication, and monitoring. In addition, we reviewed the principles of internal controls associated with the audit objective. We identified the following components and principles as significant to the audit objective:

- Component 3 – Control Activities
  - Principle 10: Design control activities
  - Principle 11 Design activities for the information system
  - Principle 12: Implement control activities
- Component 4 – Information and Communication
  - Principle 14: Communicate internally
  - Principle 15: Communicate externally

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 findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## Appendix B – SAMPLING METHODOLOGY AND RESULTS

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### Sampling Methodology

We established three sampling frames as detailed in Appendix A. To conduct this review, we used a simple random sample statistical approach. This is a standard statistical approach used for creating a sample from a sampling frame completely at random. For Sampling Frames 1 and 2, we selected random samples of 200 beneficiaries for review. For Sampling Frame 3, we selected 150 beneficiaries to review. Each sample item had an equal chance of being selected throughout the sampling process, and the selection of one item had no impact on the selection of other items. Therefore, we were guaranteed to choose a sample that represented the sampling frame, absent human biases, and ensured statistically valid conclusions of, and projections to, the entire sampling frame under review. Our sampling approach for this review ensures our reported projections are statistically sound and defensible.

**Table B–1: Sampling Frame and Sample Size**

Sampling Frame	Sampling Frame Size	Sample Size
Disability Insurance (DI)/concurrent beneficiaries who received payments during appeal <sup>1</sup>	28,885	200
Supplemental Security Income (SSI) recipients who received payments during appeal <sup>2</sup>	130,821	200
DI and SSI beneficiaries without payments during appeal <sup>3</sup>	36,419	150
<b>TOTAL</b>	<b>196,125</b>	<b>550</b>

### Sample Results and Projections

To determine whether the Social Security Administration (SSA) made accurate and supportable Statutory Benefit Continuation (SBC) payments, we identified errors and questioned costs for beneficiaries in each sampling frame. The questioned costs include SSA's errors in processing all facets of SBC payments. We also identified documentation errors SSA made when they provided SBC, most notably, not providing beneficiaries the correct election language as required by policy.

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<sup>1</sup> We found 11 DI beneficiaries who did not meet our sampling frame criteria because they either received payments that were not SBC or had a favorable final appeal decision after our audit period. We could not identify these beneficiaries during sampling frame creation because of data constraints. We randomly selected replacements for these cases.

<sup>2</sup> We found 13 SSI recipients who did not meet our sampling frame criteria because they either received payments that were not SBC or had a favorable final appeal decision after our audit period. We could not identify these beneficiaries during sampling frame creation because of data constraints. We randomly selected replacements for these cases.

<sup>3</sup> We found 20 DI and SSI beneficiaries who did not meet our sampling frame criteria because either SSA input the decision data incorrectly or because of the way payment information is displayed on the record. We could not identify these beneficiaries during sampling frame creation because of data constraints. We randomly selected replacements for these cases.

For the sampling frames, we grouped the errors into four categories for projection purposes, including beneficiaries where SSA did not:

1. provide SBC when appropriate;
2. post the correct SBC overpayment to the record;
3. stop SBC payments timely; and
4. provide beneficiaries with proper election language as outlined in policy.

### *Disability Insurance Beneficiaries with Payments Sampling Frame*

Of the 200 sampled DI/Concurrent beneficiaries who received payments during the appeal of a medical cessation and were ultimately found to no longer be disabled, we found SSA:

- did not provide SBC for 21 beneficiaries totaling \$417,690 in missed statutorily guaranteed payments;
- incorrectly posted \$41,838 in SBC overpayments to 7 beneficiaries' records;
- could have avoided \$473,924 in overpayments to 36 beneficiaries if SBC had been stopped timely; and
- did not provide policy appropriate SBC election language to 102 beneficiaries.

We project SSA did not provide SBC totaling \$60,324,818 for 3,033 beneficiaries and could have avoided \$68,446,451 in overpayments to 5,199 beneficiaries had SBC been stopped timely. We could not project the incorrect overpayments posted to the record error category in this sampling frame, as those results were not statistically significant. We used the actual values of the errors found for reporting purposes. Furthermore, we did not project the documentation errors.

**Table B–2: DI Beneficiaries Sampling Frame Projections – SBC Not Provided**

Description	Number of Beneficiaries with Errors	Questioned Costs
Sample Results	21	\$417,690
Projected Quantity/Point Estimate	3,033	\$60,324,818
Projection Lower Limit	2,067	\$34,818,572
Projection Upper Limit	4,261	\$85,831,063

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

**Table B–3: DI Beneficiaries Sampling Frame Projections – Avoidable Overpayments**

Description	Number of Beneficiaries with Errors	Questioned Costs
Sample Results	36	\$473,924
Projected Quantity/Point Estimate	5,199	\$68,446,451
Projection Lower Limit	3,950	\$41,748,257
Projection Upper Limit	6,657	\$95,144,644

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

*Supplemental Security Income Recipients with Statutory Benefit Continuation Payments and a Medical Cessation Decision Sampling Frame*

Of the 200 sampled SSI recipients who elected SBC during the appeal of a medical continuing disability review and were ultimately found to no longer be disabled, we found SSA:

- did not provide for 18 recipients SBC totaling \$282,524 in missed statutorily guaranteed payments;
- incorrectly posted \$301,861 in SBC overpayments to 44 recipients records;
- could have avoided \$32,250 in overpayments to 9 recipients had SBC been processed according to the law, regulation, and policy;
- did not provide policy appropriate SBC election language to 59 recipients resulting in documentation errors.

We project SSA did not provide SBC totaling \$184,800,126 for 11,774 recipients and incorrectly posted \$197,448,587 in SBC overpayments to 28,781 recipients records. We were unable to project the avoidable overpayments error category in this sampling frame, as those results were not statistically significant. We used the actual values of the errors found for reporting purposes. Furthermore, we did not project the documentation errors.

**Table B-4: SSI Recipients Sampling Frame Projections – SBC Not Provided**

Description	Number of Recipients with Errors	Questioned Costs
Sample Results	18	\$282,524
Projected Quantity/Point Estimate	11,774	\$184,800,126
Projection Lower Limit	7,719	\$102,903,578
Projection Upper Limit	17,073	\$266,696,673

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

**Table B-5: SSI Recipients Sampling Frame Projections – Incorrect SBC Overpayments**

Description	Number of Recipients with Errors	Questioned Costs
Sample Results	44	\$301,861
Projected Quantity/Point Estimate	28,781	\$197,448,587
Projection Lower Limit	22,595	\$134,548,707
Projection Upper Limit	35,794	\$260,348,466

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

### *Beneficiaries Whose Payments Did Not Continue During Appeal Sampling Frame*

Of the 150 sampled beneficiaries who did not receive payments during the appeal of a medical cessation, we found SSA did not provide SBC totaling \$216,031 for 20. We project SSA did not provide SBC for 4,856 beneficiaries totaling \$52,564,944 in missed statutorily guaranteed payments.

**Table B–6: Beneficiaries with No Payments Sampling Frame Projections**

Description	Number of Beneficiaries with Errors	Questioned Costs
Sample Results <sup>4</sup>	20	\$216,031
Projected Quantity/Point Estimate	4,856	\$52,450,928
Projection Lower Limit	3,286	\$25,986,078
Projection Upper Limit	6,836	\$78,915,778
Total Projected Questioned Costs (Projected Quantity plus Outlier Actual Amount of \$114,016)		\$52,564,944

### *Combined Projections and Totals for Statutory Benefit Continuation Not Provided*

We found SSA did not pay over \$1 million in statutorily guaranteed payments to 59 (11 percent) of the 550 sampled beneficiaries as of July 2023. We project SSA did not provide almost \$298 million in SBC to approximately 20,000 beneficiaries who requested payment continuation.

**Table B–7: SBC Not Provided Error Summary**

Sampling Frame	Sample Results	Actual Questioned Costs	Projected Quantity	Projected Questioned Costs
DI/Concurrent Beneficiaries Sampling Frame Projections (see Table B–2)	21	\$417,690	3,033	\$60,324,818
SSI Recipients Sampling Frame (see Table B–4)	18	\$282,524	11,774	\$184,800,126
Beneficiaries with No Payments Sampling Frame (see Table B–6)	20	\$330,047 <sup>5</sup>	4,856	\$52,564,944
<b>TOTAL</b>	<b>59</b>	<b>\$1,030,261</b>		<b>\$297,689,888</b>

<sup>4</sup> We determined an error amount totaling \$114,016 to be an outlier in the data set and excluded it from our questioned cost projections and will use the actual value of the error amount. We did include the error in our projected quantity of errors.

<sup>5</sup> Actual amounts from the sample include the \$114,016 outlier that was not included in the projections.

## Appendix C – AGENCY COMMENTS

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## SOCIAL SECURITY

### MEMORANDUM

Date: September 21, 2023

Refer To: TQA-1

To: Gail S. Ennis  
Inspector General

From: Scott Frey   
Chief of Staff

Subject: Office of the Inspector General Draft Report, “Digital Identity in *my* Social Security” (A-14-18-50486) — INFORMATION

Thank you for the opportunity to review the draft report. We agree with the recommendations.

Please let me know if I can be of further assistance. You may direct staff inquiries to Trae Sommer at (410) 965-9102.




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