
**OFFICE OF
THE INSPECTOR GENERAL**

SOCIAL SECURITY ADMINISTRATION

**CONCURRENT BENEFICIARIES RELEASED
FROM INCARCERATION WHOSE
TITLE II BENEFITS HAVE NOT BEEN
REINSTATED**

March 2012 A-01-11-21168

AUDIT REPORT



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.

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- Review and make recommendations regarding existing and proposed legislation and regulations relating to agency programs and operations.**
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SOCIAL SECURITY

MEMORANDUM

Date: March 13, 2012

Refer To:

To: The Commissioner

From: Inspector General

Subject: Concurrent Beneficiaries Released from Incarceration Whose Title II Benefits Have Not Been Reinstated (A-01-11-21168)

OBJECTIVE

The objective of our review was to determine whether concurrent beneficiaries' Title II benefits were reinstated along with Title XVI payments upon the beneficiaries' release from incarceration.¹

BACKGROUND

The *Social Security Act* prohibits the payment of the following.

- Title II benefits to beneficiaries while they are confined to correctional institutions for more than 30 days because they were convicted of a criminal offense.²
- Title II benefits to beneficiaries while they are confined by court order to institutions at public expense for more than 30 days because they were found (a) not guilty by reason of insanity, (b) guilty but insane, (c) incompetent to stand trial, or (d) to have a similar finding based on similar factors such as mental disease or incompetence.³
- Title XVI payments to individuals if they are an inmate of a public institution (for example, correctional institution) throughout a month.⁴

¹ SSA uses the term "concurrent" when a person receives benefits under both the Title II and XVI programs. Title II—Old-Age, Survivors and Disability Insurance—replaces some of the earnings lost due to a worker's retirement, disability, or death. Title XVI—Supplemental Security Income—provides a minimum level of income to financially needy individuals who are aged, blind, or disabled. The *Social Security Act* §§ 201 *et seq.* and 1601 *et seq.*, 42 U.S.C. §§ 401 *et seq.* and 1381 *et seq.*

² *Social Security Act* § 202(x)(1)(A)(i), 42 U.S.C. § 402(x)(1)(A)(i).

³ *Social Security Act* § 202(x)(1)(A)(ii), 42 U.S.C. § 402(x)(1)(A)(ii).

⁴ *Social Security Act* § 1611(e)(1), 42 U.S.C. § 1382(e)(1).

Title II benefits are reinstated effective the month following the beneficiary's release from incarceration.⁵ Title XVI payments are reinstated effective the first month or earliest day in a month the individual meets all eligibility requirements (including release from incarceration).⁶ To process these reinstatements, SSA staff must

- review the inmate's official release documents;
- determine whether the beneficiary meets entitlement and eligibility factors before paying benefits; and
- process the reinstatement through SSA's systems, if reinstatement is appropriate.⁷

While analyzing cases for our audit of *Disability Insurance and Supplemental Security Income Claims Allowed but Not Paid (A-01-10-10177)*, we found several cases where SSA reinstated concurrent beneficiaries' Title XVI payments after their release from incarceration but did not reinstate their Title II benefits. We initiated this review to determine the extent of this issue.

To conduct this review, we identified 1,042 cases in which SSA did not reinstate concurrent beneficiaries' Title II payments after their release from incarceration while their Title XVI record was in current pay status. We randomly selected 100 cases from this population for detailed analysis. (See Appendix A for our scope, methodology, and sample results.)

RESULTS OF REVIEW

SSA did not reinstate some concurrent beneficiaries' Title II benefits along with their Title XVI payments upon their release from incarceration. In addition, the Agency did not properly suspend some Title XVI payments along with Title II benefits upon the beneficiaries' incarceration. Based on our review, we estimate at the 90-percent confidence level that SSA made improper payments of about \$14 million to 823 concurrent beneficiaries.⁸ Over 97percent of this total amount represents payments that should have been made but were not because of the problem we identified. The main cause of these errors was SSA staff not working on both parts of the concurrent cases.

⁵ SSA, POMS, GN 02607.840 A.2. (August 24, 2009).

⁶ SSA, POMS, SI 02310.093 (May 23, 2001).

⁷ Title XVI recipients generally have 12 consecutive months after the effective date of a suspension to have benefits reinstated without filing an application. SSA, POMS, SI 02301.205 (July 22, 2008).

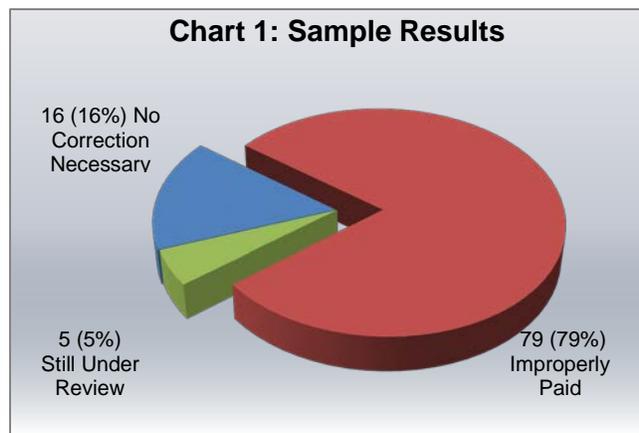
⁸ The number of improperly paid beneficiaries lies within the lower limit of 746 beneficiaries and the upper limit of 887 beneficiaries. The amount of improper payments lies within the lower limit of \$11,617,285 and the upper limit of \$17,188,341. See Table A-3 in Appendix A for an estimate of the underpayment and overpayment dollars.

Specifically, of the 100 cases in our sample,

- 79 contained improper payments of \$1.38 million because benefits were not properly reinstated or suspended because of incarceration;
- 16 did not need correction based on our referral;⁹ and
- 5 were still under review as of January 2012.

IMPROPER PAYMENTS

Of the 100 cases in our sample, 79 contained improper payments of \$1.38 million because SSA did not properly reinstate or suspend benefits because of incarceration. This includes \$1.35 million underpaid Title II benefits and \$36,328 overpaid Title XVI payments. Table 1 has a breakout of these cases.



Case Type	Number of Cases	Title II Underpayment Amount	Title XVI Overpayment Amount	Total Amount Incorrectly Paid
Title II Reinstatement Cases	70	\$1,315,731	\$0	\$1,315,731
Title XVI Suspension Cases	5	\$0	\$28,368	\$28,368
Both Title II Reinstatement and Title XVI Suspension Cases	4	\$30,169	\$7,960	\$38,129
Total	79	\$1,345,900	\$36,328	\$1,382,228

Title II Benefits Reinstated

In 74 of the 79 cases with improper payments, SSA reinstated Title II benefits after our referral because beneficiaries were no longer incarcerated.¹⁰ As of January 2012, the Agency had calculated past-due benefits totaling \$1,345,900. The average past-due benefit was \$18,188, and these past-due benefits ranged from a low of \$153 to a high of \$75,793. These past-due benefits occurred over an average of 42 months, ranging from 4 to 150 months.

⁹ Of these 16 cases, SSA had corrected 6 before our referral, and 10 did not require correction.

¹⁰ Four beneficiaries also had Title XVI payments suspended.

Of the \$1,345,900 in past-due benefits,

- \$476,966 was paid to the beneficiaries,
- \$533,669 was used to collect overpayments from other benefits the beneficiaries were receiving,¹¹ and
- \$335,265 was calculated but was pending further action by SSA staff.

Table 2 shows the range of past-due benefits SSA had calculated for the 74 beneficiaries as of January 2012.

Table 2: Summary of Past-due Benefits		
Past-due Benefits Range	Number of Claimants	Percent
\$0 to \$10,000	38	51%
\$10,001 to \$25,000	16	22%
\$25,001 to \$50,000	14	19%
\$50,001 to \$100,000	6	8%
TOTAL	74	100%

For example, a man from Michigan was receiving both Title II and XVI benefits. In December 1997, SSA suspended both benefits because he was incarcerated. He was released from prison in November 2000 and his Title XVI payments resumed as of January 2001, but his Title II benefits remained suspended as of June 2011, when we referred this case to SSA. After our referral, SSA reinstated his Title II benefits as of January 2001. The beneficiary was due \$45,727 in past-due benefits over 129 months, with \$1,701 paid to the beneficiary, \$43,400 used to repay Title XVI payments issued during this period, and \$626 used to repay an overpayment on the record. With his combined benefits, he receives \$20 more per month than he was receiving before SSA corrected the record.

In another example, SSA approved a woman from Tennessee for Title II and XVI benefits in September 2009. After receiving an alert that the beneficiary was incarcerated in January 2009, the Agency suspended the Title II benefits retroactively back to the first month paid but did not suspend her Title XVI payments. We referred this case to SSA in June 2011, and the Agency determined the beneficiary was released from prison in March 2009. As a result, SSA staff reinstated her Title II benefits that were previously suspended. The beneficiary was due \$19,953 in past-due benefits over 27 months, with \$12,824 paid to the beneficiary and \$7,129 used to repay an overpayment on the record. Before our referral, the beneficiary was receiving \$449 per month in Title XVI payments. As of October 2011, the beneficiary was receiving \$739 per month in Title II benefits.

¹¹ SSA garnished over \$12,000 of this amount.

***Title XVI Payments
Suspended***

In 9 of the 74 cases with improper payments, SSA suspended Title XVI payments because of incarceration. As of October 2011, the Agency had posted overpayments of \$36,327 for nine recipients.¹² The average overpayment was \$4,036, and these overpayments ranged from a low of \$674 to a high of \$17,327. These overpayments occurred over an average of 15 months, ranging from 1 to 55 months.

For example, SSA suspended a man's Title II benefits in April 2008 because of incarceration but did not suspend his Title XVI payments. The beneficiary was released from prison a few weeks before we referred the case to SSA in June 2011. In August 2011, SSA suspended his Title XVI payments and recorded an overpayment of \$17,327 for a period of 39 months.

In another example, SSA suspended a man's Title II benefits in August 2010 because of incarceration while his Title XVI payments continued. We referred this case to SSA in June 2011. As a result, the Agency suspended his Title XVI payments and posted an overpayment of \$4,493 for Title XVI payments received while incarcerated.

CONCLUSION AND RECOMMENDATIONS

SSA improperly paid some concurrent beneficiaries because of incarceration. We estimate SSA improperly paid about 823 concurrent beneficiaries approximately \$14 million because both benefits were not properly reinstated or suspended because of incarceration. Over 97 percent of this total amount represents payments that should have been made but were not because of the problem we identified.

We recommend that SSA:

1. Review the remaining cases in our population in which it appears the Title II benefits were not reinstated after the beneficiaries' release from incarceration and/or Title XVI payments were not suspended and take appropriate corrective action.¹³
2. Remind staff to consider both Title II and XVI benefits when suspending and reinstating benefits because of incarceration.

AGENCY COMMENTS

SSA agreed with the recommendations. See Appendix B.



Patrick P. O'Carroll, Jr.

¹² Four of these recipients also had Title II benefits reinstated.

¹³ On January 10, 2012, we provided SSA with a file of 621 cases.

Appendices

APPENDIX A – Scope, Methodology, and Sample Results

APPENDIX B – Agency Comments

APPENDIX C – OIG Contacts and Staff Acknowledgments

Scope, Methodology, and Sample Results

To achieve our objective, we:

- Reviewed applicable sections of the *Social Security Act* and the Social Security Administration's (SSA) regulations, rules, policies, and procedures.
- Reviewed prior Office of the Inspector General reports.
- Obtained a file of 1,042 concurrent claimants whose Title II record was suspended for incarceration while their Title XVI record was in current pay status.¹
- Selected a random sample of 100 cases for detailed review. For each case, we:
 - ✓ Reviewed SSA's systems, including the Master Beneficiary and Supplemental Security Income Records, to determine whether Title II benefits should be reinstated or Title XVI payments should be suspended.
 - ✓ Referred cases to the Agency for corrective action where it appeared that SSA did not properly reinstate or suspend benefits.
 - ✓ Calculated the amount of benefits under- or overpaid to beneficiaries because SSA did not properly reinstate/suspend benefits because of incarceration.
- Projected the number of concurrent beneficiaries who were improperly paid because benefits were not properly reinstated or suspended because of incarceration, along with the amount of benefits improperly paid.

We conducted our audit between May 2011 and February 2012 in Boston, Massachusetts. The entity audited was SSA's Regional Commissioners under the Office of the Deputy Commissioner for Operations. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We tested the data obtained for our audit and determined them to be sufficiently reliable to meet our objective. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

¹ We did not review concurrent claimants whose Title XVI record was suspended for incarceration while the Title II record was in current payment status. This is because Title XVI payments are suspended when an individual is incarcerated throughout a month, while Title II benefits are suspended when an individual is incarcerated more than 30 days and convicted of a crime. Additionally, there could be other reasons why a recipient's Title XVI payments were not reinstated after Title II benefits, such as excess income or resources.

SAMPLE RESULTS

Table A-1: Population and Sample Size	
Population size	1,042
Sample size	100

Table A-2: Cases with Improper Payments	
Attribute Projections	
Sample cases	79
Point estimate	823
Projection lower limit	746
Projection upper limit	887

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

Table A-3: Amount of Improper Payments	
Dollar Projections	
All Improper Payments	
Sample results	\$1,382,228
Point estimate	\$14,402,813
Projection lower limit	\$11,617,285
Projection upper limit	\$17,188,341
Underpayments Only	
Sample results	\$1,345,900
Point estimate	\$14,024,281
Projection lower limit	\$11,212,474
Projection upper limit	\$16,836,088
Overpayments Only	
Sample results	\$36,327
Point estimate	\$378,532
Projection lower limit	\$69,559
Projection upper limit	\$687,504

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

Agency Comments



SOCIAL SECURITY

MEMORANDUM

Date: March 1, 2012

Refer To: S1J-3

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

From: Dean S. Landis /s/
Deputy Chief of Staff

Subject: Office of the Inspector General Draft Report, "Concurrent Beneficiaries Released from Incarceration Whose Title II Benefits Have Not Been Reinstated" (A-01-11-21168)—
INFORMATION

Thank you for the opportunity to review the draft report. Please see our attached comments.

Please let me know if we can be of further assistance. You may direct staff inquiries to Teresa Rojas, at (410) 966-6784.

Attachment

**COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL DRAFT REPORT,
“CONCURRENT BENEFICIARIES RELEASED FROM INCARCERATION WHOSE
TITLE II BENEFITS HAVE NOT BEEN REINSTATED” (A-01-11-21168)**

Recommendation 1

Review the remaining cases in our population in which it appears the Title II benefits were not reinstated after the beneficiaries’ release from incarceration and/or Title XVI payments were not suspended and take appropriate corrective action.

Response

We agree.

Recommendation 2

Remind staff to consider both Title II and XVI benefits when suspending and reinstating benefits because of incarceration.

Response

We agree.

OIG Contacts and Staff Acknowledgments

OIG Contacts

Judith Oliveira, Director, Boston Audit Division

David Mazzola, Audit Manager

Acknowledgments

In addition to those named above:

Katie Greenwood, Senior Auditor

Kevin Joyce, IT Specialist

N. Brennan Kraje, Statistician

Alla Resman, IT Specialist

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