
**OFFICE OF
THE INSPECTOR GENERAL**

SOCIAL SECURITY ADMINISTRATION

**FOLLOW-UP: THE
SOCIAL SECURITY ADMINISTRATION'S
CONTROLS OVER THE TITLE XVI
OVERPAYMENT WAIVER PROCESS**

September 2009

A-06-08-18078

AUDIT REPORT



Mission

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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: September 3, 2009

Refer To:

To: The Commissioner

From: Inspector General

Subject: Follow-up: The Social Security Administration's Controls over the Title XVI Overpayment Waiver Process (A-06-08-18078)

OBJECTIVE

Our objective was to determine whether the Social Security Administration (SSA) corrected discrepancies identified in our October 2004 report, *Social Security Administration's Controls Over the Title XVI Overpayment Waiver Process*.

BACKGROUND

Title XVI of the *Social Security Act* established the Supplemental Security Income (SSI) program effective January 1, 1974.¹ SSI provides a minimum level of income for people who are age 65 or older or who are blind or disabled and who do not have sufficient income and resources to maintain a standard of living at the established Federal minimum income level.² SSA relies on beneficiary self-disclosure of resources and earnings, as well as computer matching from other Federal and State agencies, to determine eligibility and compute monthly payments. Financial resources and earnings may vary by month. Consequently, SSI payments can be error-prone and may result in overpayments. Under certain situations when the recipient is not at fault, SSA will grant an overpayment waiver. The waiver relieves the individual from further liability for the overpayment. Recovery of an overpayment may be waived, if such recovery would be against equity and good conscience, impedes effective or efficient administration of title XVI because of the small amount involved, or defeats the purpose of the SSI program.³ Appendix B provides additional background on SSI overpayment waiver procedures.

¹ 20 C.F.R. § 416.101.

² 20 C.F.R. § 416.110.

³ 20 C.F.R. § 416.550.

Office of Management and Budget (OMB) Circular A-123⁴ defines agencies' stewardship responsibilities and management controls to protect programs from waste, fraud, and mismanagement. Our 2004 audit found that even though SSA had established policies and procedures that provided safeguards against fraud, waste, and mismanagement of SSI overpayment waivers, they were not always implemented. Specifically, for the waivers reviewed, our prior review found that documentation was not available in case folders to support 51 percent of waiver decisions. In addition, SSA was unable to provide case folders to support 11 percent of waiver decisions, and 7 percent of waiver decisions did not conform to SSA policy. We recommended that SSA ensure (1) employees develop and maintain documentation for all waivers, (2) employees properly develop fact and financial circumstances and discontinue granting waivers when development is incomplete, and (3) waivers over \$2,000 are reviewed by supervisors before a decision becomes final. The Agency agreed with all three recommendations.

In June 2008, we obtained a data extract from 1 payment record segment identifying 11,154 overpayment waivers totaling \$8.1 million that SSA approved from October 1, 2006 through June 23, 2008. We reviewed a sample of these waivers to determine whether SSA documented and approved the waivers in accordance with SSA policies. When we initiated the audit, SSA policy required that requests for overpayments exceeding \$500 be documented on Form SSA-632-BK (*Request for Waiver of Overpayment or Overpayment Recovery or Change in Repayment Rate*) except when equivalent information, in writing and over the individual's signature (or that of his or her representative payee, legal counsel, or other appointed representative), was on file.⁵ SSA could administratively discontinue recovery of amounts \$500 or less. Effective September 27, 2008, SSA increased the limit on administrative discontinuation of overpayment recovery from \$500 to \$1,000. This change applied to all requests for waiver pending or received on or after September 27, 2008. Because all waivers included as part of this review were approved before the policy change, we applied the waiver criteria in effect when the waivers were approved. The scope and methodology of our review is described in Appendix C.

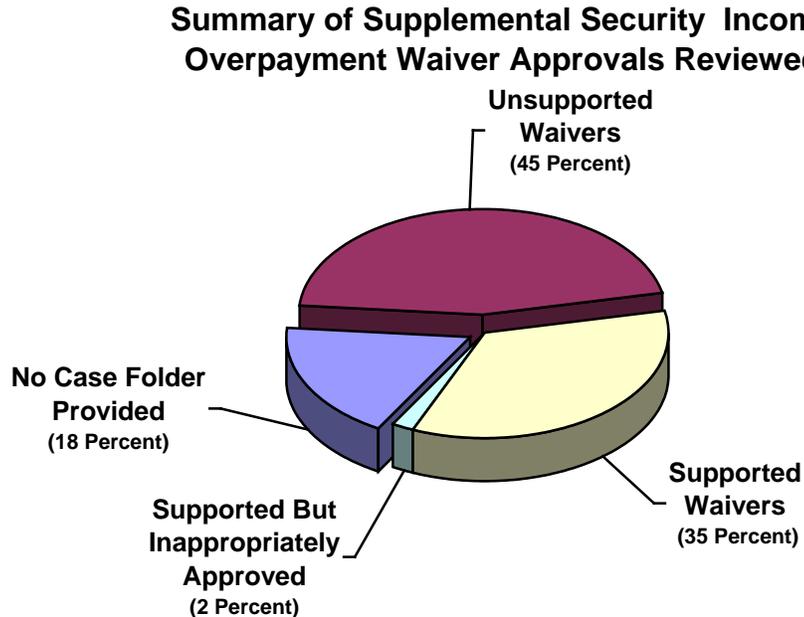
⁴ OMB Circular A-123, *Management Accountability and Control* (June 21, 1995).

⁵ SSA, Program Operations Manual System (POMS), SI 02260.005A.2, *Completing the SSA-632-BK (Request for Waiver of Overpayment or Overpayment Recovery or Change in Repayment Rate)*.

RESULTS OF REVIEW

SSA appears to have made little progress correcting the problems identified in our 2004 report. SSA implemented a process to ensure waivers over \$2,000 were approved by two SSA employees. However, our review of 200 approved waivers between \$500.01 and \$19,999.99 and all 10 approved waivers \$20,000 or more disclosed the following.

- Documentation was not available to support 95 (45 percent).
- SSA could not provide complete case folders to support another 38 (18 percent).
- Available documentation supporting four (2 percent) indicated SSA should have denied the waiver requests.



The percentages in the chart are similar to those discussed in our 2004 report. Based on our sample results, we estimate the amount of unsupported approved waiver decisions totaled approximately \$55.5 million for about 28,380 approved waivers between \$500.01 and \$19,999.99 and approximately \$650,000 for about 20 approved waivers of \$20,000 or more. Because SSA could not provide complete case folders for 38 sample items and no electronic documentation supporting these decisions was maintained, we could not assess the appropriateness of these decisions. Therefore, we estimate SSA could not provide complete case folders to support 12,520 waiver decisions totaling approximately \$20.1 million. Further details regarding our sampling projections are included in Appendix D.

UNSUPPORTED WAIVER DECISIONS

SSA did not always document waiver development and could not always provide the evidence or information used for waiver approvals. Our review disclosed the following.

- For 172 of the 210 approved waivers reviewed, hard copy folders and/or electronic documentation supporting the waiver decision were available for review.
 - ✓ SSA did not maintain required documentation to support 95 approval decisions. We considered waiver decisions to be inadequately supported if the required documentation for the waiver decision was missing or if significant portions of the waiver documentation were not completed (for example, sections of Form SSA-632-BK were left blank).
 - ✓ SSA obtained and maintained documentation to support 77 approval decisions. According to SSA policy, a recipient's request for overpayment recovery must be documented except when the overpayment was caused by the recipient's resources exceeding the resource limit by \$50 or less.⁶ However, in four instances, the facts and circumstances described in the supporting documentation indicated the waiver should have been denied.⁷
- For 38 of the 210 approved waivers reviewed, SSA was unable to provide complete documentation to support waiver decisions. For each of these recipients, we searched SSA's Claims File Records Management System, Modernized Supplemental Security Income Claims System (MSSICS), and eView, and found no documentation supporting or justifying the waiver. Realizing that supporting documentation could be included in hardcopy case folders, we made several unsuccessful attempts to obtain the folders from the claimant's servicing district offices, the folder's current and previous locations, and the Automated Folder Location Website. Therefore, we could not assess the support for approved waivers totaling \$107,110 made on behalf of these 38 recipients.

According to SSA, field offices and teleservice centers send post-eligibility documents, such as waiver documentation, to the Wilkes-Barre Folder Servicing Operations. After keying the information into the system, Wilkes-Barre sends the documents to Philadelphia for long-term storage. SSA further stated that documentation could not be located because (1) retrieving folders from the Wilkes-Barre Folder Servicing Operation is not always reliable, (2) the creation of multiple folders complicates locating post-eligibility documents or (3) recording of folder movement is error-prone or not updated.

⁶ SSA, POMS, SI 02260.005A.2.c, and SI 02260.035A.1.a, *Individual's Countable Resources Exceed Limit By \$50.00 or Less*.

⁷ We did not provide a projection associated with inappropriately approved waivers because of a low error rate (2 percent of all sample items reviewed).

Without adequate supporting documentation, SSA has no assurance that overpayment waivers were valid. Noncompliance with established management controls weakens the integrity of the waiver process and makes it susceptible to fraud, waste, and mismanagement.

WAIVER DECISIONS APPROVED CONTRARY TO SSA POLICY

SSA approved four overpayment waivers totaling \$15,637 although available documentation established the recipients were at fault. Two examples follow.

- SSA overpaid one recipient \$3,677 because she failed to report an increase in wages received between July 2007 and February 2008. Available documentation indicated the recipient earned wages that, if reported to SSA, would have affected her SSI eligibility. When completing the waiver request, the individual responded to the question, “Explain why you believe you should not have to return this amount?” by stating “Because I’m still struggling understanding the whole procedure of my live [sic].” In addition, when asked “Why did you think you were due the overpaid money and why do you think you were not at fault in causing the overpayment or accepting the money?”, she responded, “No one inform me [sic].” The individual also indicated that she had not previously been overpaid by SSA. However, review of available records indicated SSA waived two previous overpayments to this individual that resulted from underreporting of wages.
- SSA overpaid another recipient \$10,730 because she failed to disclose ownership of life insurance policies with cash surrender values over the SSI resource limit when she applied for SSI. Upon denying the initial waiver request, an SSA employee recorded a note in MSSICS that stated the claimant “. . . is a chronic non-informer and has been given numerous oppertunities [sic] to report income and resources timely.” However, upon reconsideration, an SSA employee approved the waiver request without explanation.

According to SSA policy, waiver requests should only be approved when the liable person is without fault in causing the overpayment.⁸ SSA policy also states the burden of establishing a lack of fault lies with the individual.⁹ Situations that indicate fault include willful misstatements or concealment of material facts or fraud that directly or indirectly caused the overpayment, and the claimant’s knowledge of a similar overpayment that occurred in the past and his/her obligation to report the overpayment.¹⁰ The waiver documentation in the file did not indicate SSA employees considered the recipients’ concealment of facts or knowledge of similar overpayments

⁸ SSA, POMS, SI 02201.005A.5.c, *SSI – What Is an Overpayment?*

⁹ SSA, POMS, SI 02260.015A, *Establishing Without Fault for a Supplemental Security Income (SSI) Overpayment.*

¹⁰ SSA, POMS, SI 02260.010B.5.a and SI 02260.010B.5.e, *Development of Without Fault for a Supplemental Security Income (SSI) Overpayment Waiver.*

before approving these waivers. Waiver decisions approved contrary to SSA policy eliminate the possibility of collecting improper payments and impose an unnecessary burden on taxpayer dollars.

CONCLUSION AND RECOMMENDATION

SSA established management controls over the SSI overpayment waiver process designed to prevent fraud, waste, and abuse. However, we found that waiver documentation was not always properly maintained or completed, and some waivers were approved contrary to SSA policy. Without adequate supporting documentation, there is no assurance that SSA complied with its management controls for overpayment waivers, weakening the integrity of the process and making the waiver process susceptible to fraud, waste, and mismanagement.

We recommend that SSA consider providing refresher training for staff involved in the waiver decision process to include instructions on developing fault, approving waivers only when development is complete, and documenting waiver decisions in accordance with established policy.

AGENCY COMMENTS

SSA agreed with our recommendation. The Agency's comments are included in Appendix E.



Patrick P. O'Carroll, Jr.

Appendices

APPENDIX A – Acronyms

APPENDIX B – Title XVI Overpayment Waiver Procedures

APPENDIX C – Scope and Methodology

APPENDIX D – Sampling Methodology and Results

APPENDIX E – Agency Comments

APPENDIX F – OIG Contacts and Staff Acknowledgments

Acronyms

C.F.R.	Code of Federal Regulations
CFRMS	Claims File Records Management System
EF	Electronic Folder
MSSICS	Modernized Supplemental Security Income Claims System
OMB	Office of Management and Budget
POMS	Program Operations Manual System
SSA	Social Security Administration
SSI	Supplemental Security Income

DOCUMENTATION STORAGE LOCATION

SSA policy states that waiver documents are retained until the paper claims file is destroyed.³ In addition to being stored in the traditional paper claims file, waiver documents can be maintained electronically via the Claims File Records Management System (CFRMS) and eView. SSA uses CFRMS to electronically manage claims files and supporting documents. It provides a consolidated view of the electronic folder. CFRMS also provides the ability to access, track, maintain, audit, and destroy electronic claims folders. EView is a Web-based application that enables users to view and/or print the disability information in the electronic folder. When the electronic process is fully implemented, both initial claims and post-entitlement actions will be maintained in the electronic folder.⁴ While the traditional paper folder, CFRMS, and eView serve to maintain overpayment documentation, the resolution of Supplemental Security Income (SSI) overpayments must be documented via the Modernized Supplemental Security Income Claims System (MSSICS). SSA uses MSSICS to input the level and type of overpayment decisions. All decisions must be coded in MSSICS through direct Supplemental Security Record update.⁵ The status of overpayment development is documented on the Supplemental Security Record.

DETERMINATION OF FAULT

In determining fault, SSA must consider all circumstances surrounding the overpayment. Among other factors, SSA evaluates the recipient's comprehension and mental capacity to understand and comply with reporting responsibilities for the SSI program. The recipient will be found at fault in the following situations:

- failure to furnish information the recipient knew or should have known was material;
- an incorrect statement made by the recipient, which he knew or should have known was incorrect; or
- the individual did not return a payment, which he knew or could have been expected to know, was incorrect.⁶

³ SSA, POMS, GN 01085.025, *Exhibit – Retention Periods for Program-Related Forms*.

⁴ SSA, POMS, DI 80830.010, *Electronic Folder (EF)*.

⁵ SSA, POMS, SI 02220.005C.2, *Documenting the Supplemental Security Income (SSI) Overpayment*.

⁶ 20 C.F.R. § 416.552.

DEFEATS THE PURPOSE OF SSI

Recovery of an overpayment would defeat the purpose of SSI if the individual's income and resources are needed for ordinary and necessary living expenses; and, for a currently eligible individual, if the individual's income (including any deemed income) does not exceed the

- Federal benefit rate; plus
- \$20 general exclusion; plus
- \$65 earned income exclusion; plus
- Federally administered State supplementary payment (if any).⁷

AGAINST EQUITY AND GOOD CONSCIENCE

Recovery of an overpayment is against equity and good conscience if an individual changed his or her position for the worse or relinquished a valuable right upon reliance that a payment would be made or was incorrect. It is also against equity and good conscience to collect any part of an overpayment not received by a member of an eligible couple who was legally separated and/or living apart during the overpayment period.⁸ Examples include situations where the individual incurred additional expenses, such as increased rental liability or college expenses, or if the individual failed to take advantage of a private or organization charity relying instead on the award of SSI payments for support.

IMPEDE EFFECTIVE OR EFFICIENT ADMINISTRATION

Recovery of an overpayment impedes effective or efficient administration when the nation-wide average cost of recovering the overpayment equals or exceeds the amount of the overpayment. During the timeframe covered by the audit (October 2006 through June 2008), administrative discontinuation of waiver development applied solely to overpayments of less than \$500.01. Effective September 2008, SSA increased the limit on administrative discontinuation of waiver development from \$500.00 to \$1,000.00. The change applied to all requests for waiver pending or received after September 27, 2008.⁹

⁷ 20 C.F.R. § 416.553.

⁸ 20 C.F.R. § 416.554.

⁹ SSA, POMS, SI 02260.030, *Impede Effective or Efficient Administration of Title XVI of the Act*.

Scope and Methodology

We reviewed 200 statistically selected overpayment waiver requests identified from 1 of 20 Supplemental Security Record segments and approved from October 1, 2006 through June 23, 2008. Our sample included 100 overpayment waiver requests of \$500.01 to \$2,000, and 100 overpayment waiver requests of \$2,000.01 to \$19,999.99. We also selected the entire population of 10 overpayment waivers \$20,000 or more. We reviewed each overpayment waiver for appropriateness as defined in the Program Operations Manual System, reliability of data in the Supplemental Security Record, and existence of supporting documentation. We also:

- Reviewed applicable Federal regulations governing overpayment waivers under Title XVI of the *Social Security Act*.
- Interviewed Social Security Administration (SSA) staff regarding procedures for developing an overpayment decision.
- Reviewed prior Office of the Inspector General reports pertaining to Supplemental Security Income overpayment waivers.
- Requested and reviewed case files from the Current Folder Location, Previous Folder Location, Servicing District Office, other possible locations referred to us from previous contacted locations, and the Automated Folder Location Web Site.
- Queried and reviewed overpayment waiver information for sample items from SSA's Modernized Supplemental Security Income Claims System, Claims Folder Records Management System, and Phone Directories.

We conducted field work from August 2008 through March 2009 at SSA's Regional Office in Dallas, Texas. The entity audited was the Office of Income Security Programs under the Deputy Commissioner for Retirement and Disability Policy. We conducted this 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 it was 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.

Sampling Methodology and Results

SAMPLE POPULATION FROM 1 OF 20 SUPPLEMENTAL SECURITY RECORD SEGMENTS FISCAL YEAR 2007 THROUGH JUNE 23, 2008		
Strata	Number of Approved Waiver Decisions	Dollar Amount
\$500.01 to \$2,000.00	2,209	\$2,022,758
\$2,000.01 to \$19,999.99	681	\$4,189,348
\$20,000 or more	10	\$248,876
Totals	2,900	\$6,460,982

We selected a stratified statistical sample of 200 waiver requests from 1 segment of the Supplemental Security Record from Fiscal Year 2007 through June 23, 2008. We selected 100 items where the waiver request was \$500.01 through \$2,000 (strata 1) and 100 items where the waiver request was \$2,000.01 through \$19,999.99 (strata 2). Strata 1 included 1,480 approved waivers (67 percent) of \$1,000 or less. These waivers comprised \$991,775 (49 percent) of the total dollar value of Strata 1 waiver decisions. There were 10 waiver decisions of \$20,000 or more from FY 2007 through June 23, 2008 and we selected all 10 decisions for review.

Attribute Appraisal: Unsupported Approved Waiver Decisions \$500.01 to \$19,999.99			
	Strata 1	Strata 2	Total
Sample Size	100	100	200
Number of Unsupported Approved Waivers	51	43	94
Total Population for Segment	2,209	681	2,890
Projection of Unsupported Approved Waivers in Segment Population:			
Point Estimate	1,127	293	1,419*
Lower Limit			1,234
Upper Limit			1,605
Estimate of Unsupported Approved Waivers in all 20 Segments			28,380

All projections are at the 90-percent confidence level.

* Difference due to rounding

Variable Appraisal: Unsupported Approved Waiver Decisions \$500.01 to \$19,999.99			
	Strata 1	Strata 2	Total
Sample Size	100	100	200
Number of Unsupported Approved Waivers	51	43	94
Total Population for Segment	2,209	681	2,890
Total Dollars of Unsupported Approved Waivers in Sample	\$43,824	\$265,638	\$309,462
Projection of Unsupported Approved Waivers in Segment Population:			
Point Estimate	\$968,078	\$1,808,997	\$2,777,075
Lower Limit			\$2,298,627
Upper Limit			\$3,255,523
Estimate of Unsupported Approved Waivers in all 20 Segments			\$55,541,500

All projections are at the 90-percent confidence level.

Attribute Appraisal: Waiver Decisions \$500.01 to \$19,999.99 Without Case Files			
	Strata 1	Strata 2	Total
Sample Size	100	100	200
Number of Unsupported Approved Waivers	24	14	38
Total Population for Segment	2,209	681	2,890
Projection of Unsupported Approved Waivers in Segment Population:			
Point Estimate	530	95	626*
Lower Limit			469
Upper Limit			812
Estimate of Unsupported Approved Waivers in all 20 Segments			12,520

All projections are at the 90-percent confidence level.

* Difference due to rounding

Variable Appraisal: Waiver Decisions \$500.01 to \$19,999.99 Without Case Files			
	Strata 1	Strata 2	Total
Sample Size	100	100	200
Number of Unsupported Approved Waivers	24	14	38
Total Population for Segment	2,209	681	2,890
Total Dollars of Unsupported Approved Waivers in Sample	\$19,189	\$87,920	\$107,109
Projection of Unsupported Approved Waivers in Segment Population:			
Point Estimate	\$423,887	\$598,741	\$1,022,628
Lower Limit			\$731,186
Upper Limit			\$1,314,070
Estimate of Unsupported Approved Waivers in all 20 Segments			\$20,052,560

All projections are at the 90-percent confidence level.

Unsupported Approved Waiver Decisions \$20,000 or More	
Total Segment Population	10
Number Reviewed	10
Number of Unsupported Waiver Approvals	1
Total Dollars of Unsupported Approved Waivers Reviewed	\$32,492
Estimate of Unsupported Approved Waivers in all 20 Segments	20
Estimated Value of Unsupported Approved Waivers in all 20 Segments	\$649,840

All the waivers above \$20,000 had case folders; therefore, there are no projections for approved waivers above \$20,000 without case files.

Agency Comments



SOCIAL SECURITY

MEMORANDUM

Date: August 14, 2009 **Refer To:** S1J-3

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

From: Margaret J. Tittel /s/
Acting Chief of Staff

Subject: Office of the Inspector General (OIG) Draft Report, "Follow-Up: The Social Security Administration's Controls over the Title XVI Overpayment Waiver Process"
(A-06-08-18078)--INFORMATION

Thank you for the opportunity to review and comment on the draft report. We appreciate OIG's efforts in conducting this review. Attached is our response to the report recommendation.

Please let me know if we can be of further assistance. Please direct staff inquiries to Ms. Candace Skurnik, Director, Audit Management and Liaison Staff, at (410) 965-4636.

Attachment

**COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL'S DRAFT REPORT,
"FOLLOW-UP: THE SOCIAL SECURITY ADMINISTRATION'S CONTROLS OVER
THE TITLE XVI OVERPAYMENT WAIVER PROCESS" (A-06-08-18078)**

Our response to your specific recommendation is as follows.

Recommendation 1

Consider providing refresher training for staff involved in the waiver decision process to include instructions on developing fault, approving waivers only when development is complete, and documenting waiver decisions in accordance with established policy.

Comment

We agree. On June 22, 2009, we released our Annual Security Reminders (AM-09080), which included a reminder to properly approve and document all waivers. Further, we are currently working on a comprehensive Title XVI waiver refresher training package that will include written instructions and an Interactive Video Teletraining/Video On Demand broadcast. We expect to complete the training package and be ready for broadcast by December 2009.

OIG Contacts and Staff Acknowledgments

OIG Contacts

Ron Gunia, Director, Dallas Audit Division

Jason Arrington, Audit Manager

Acknowledgments

In addition to those named above:

Ashley Moore, Auditor

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