
**OFFICE OF
THE INSPECTOR GENERAL**

SOCIAL SECURITY ADMINISTRATION

**OLD-AGE, SURVIVORS AND DISABILITY INSURANCE
BENEFITS AFFECTED BY STATE OR LOCAL
GOVERNMENT PENSIONS**

November 2011

A-13-10-10143

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.

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.



SOCIAL SECURITY

MEMORANDUM

Date: November 9, 2011

Refer To:

To: The Commissioner

From: Inspector General

Subject: Old-Age, Survivors and Disability Insurance Benefits Affected by State or Local Government Pensions (A-13-10-10143)

OBJECTIVE

Our objective was to identify Old-Age, Survivors and Disability Insurance (OASDI) beneficiaries whose payments may have been affected by State or local government pensions. We limited our review to those beneficiaries who may have been receiving State or local government pensions and for whom the Social Security Administration (SSA) had not determined whether the Windfall Elimination Provision (WEP) or Government Pension Offset (GPO) applied.

BACKGROUND

SSA administers the OASDI program under Title II of the *Social Security Act*.¹ The program provides monthly benefits to retired or disabled workers and their families as well as to survivors of deceased workers. An individual may be eligible for OASDI benefits under his/her own work history as well as under a spouse's work history.

The *Social Security Act* includes two provisions that reduce Social Security monthly benefits paid to individuals who receive a pension based on Federal, State, or local government employment not covered by Social Security.^{2, 3} WEP eliminates "windfall" Social Security benefits for retired or disabled workers and their families receiving pensions from employment not covered by Social Security.⁴ Under WEP, SSA uses a modified benefit formula to determine a wage earner's monthly Social Security benefit. The GPO provision reduces monthly Social Security benefits for spouses, divorced spouses, and surviving spouses who receive a pension based on their own work for a

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

² *Social Security Act* § 215(a)(7) and (d)(3), 42 U.S.C. § 415(a)(7) and (d)(3).

³ *Social Security Act* § 202(k)(5), 42 U.S.C. § 402(k)(5).

⁴ SSA, POMS, RS 00605.360 A (effective February 11, 2009).

Federal, State, or local government not covered by Social Security. The GPO reduction is generally equal to two-thirds of the government pension.⁵ See Appendix B for additional background information.

In September 2010, we obtained from one segment of the Master Beneficiary Record,⁶ an electronic data extract of individuals who were receiving OASDI benefits on or after 1985 and had no evidence on their records of prior WEP or GPO decisions. We then compared this file to SSA's Master Earnings File to identify beneficiaries who had significant earnings from work not subject to Social Security taxes. We identified 23,944 beneficiaries who met our screening criteria as of September 2010.

From the 23,944 beneficiaries identified, we selected for review a random sample of 250 individuals. We sent *Pension Confirmation Letters* to the employers of the selected beneficiaries. The letters requested employers provide information about beneficiaries receiving pensions from wages not covered by Social Security. Subsequently, employers and pension administrators provided us pension information. Based on information received, we requested SSA review those instances where it appeared WEP or GPO applied. See Appendix C for our scope and methodology and Appendix D for our sampling methodology and results.

RESULTS OF REVIEW

We identified OASDI beneficiaries who were overpaid because SSA had not reduced their benefits for non-covered work from State or local government pensions. Of the 250 beneficiaries sampled, 79 were receiving pension payments based on non-covered employment. Of our remaining 171 sample cases, 147 beneficiaries were not receiving pension payments based on their State or local government employment. The employers for the remaining 24 beneficiaries⁷ had not yet responded to our request for information. Of the 79 beneficiaries receiving pensions,

- 13 beneficiaries had State or local government pensions, and SSA overpaid them about \$326,000 in OASDI benefits;
- 1 beneficiary's payments were reduced, but SSA staff had not correctly coded his record to indicate his payments had been offset for WEP;

⁵ SSA, POMS, GN 02608.100 A.1 and A.2.a and B.4 (effective June 22, 2011).

⁶ The last 2 digits of the Social Security number (SSN) contain digits "00" to "99." SSA categorizes SSNs into 20 segments, each containing 5 sequential groups of these digits. For this audit, we randomly selected SSNs ending with the digits "40" to "44," which represents 1 SSN segment. As of February 2011, there were 2.7 million individuals in current pay status in this 1 SSN segment.

⁷ Employers for 24 beneficiaries did not respond to our letters and telephone calls requesting information. We are continuing our attempts to obtain this pension information.

- 1 beneficiary's payments were subject to offset for WEP, but could not be reduced because SSA applied administrative finality;⁸
- 22 beneficiaries were still being reviewed by SSA to determine whether WEP or GPO applied to their OASDI benefits; and
- 42 beneficiaries were receiving pensions, but neither WEP nor GPO applied.

Based on the results of our review, we estimate SSA overpaid about \$623.8 million in OASDI benefits to approximately 24,900 beneficiaries because Agency staff did not apply WEP and GPO provisions to the OASDI benefits. If SSA does not take action to identify and correct these payment errors, we estimate it will pay about \$869.9 million in future overpayments over the beneficiaries' lifetimes.⁹ We based our estimates on the 13 beneficiaries with confirmed overpayments. As SSA confirms additional overpayments for the 22 pending cases, we expect our estimates to increase. We will update our estimates as SSA staff resolves the 22 pending cases.

BENEFICIARY PAYMENTS AFFECTED BY STATE OR LOCAL GOVERNMENT PENSIONS

We found instances where SSA overpaid beneficiaries because of their State or local government pensions. Information we received for 226 beneficiaries indicated 147 were not receiving pension payments. In 79 cases, beneficiaries were receiving pension payments from employers based on wages not subject to Social Security taxes. Of the 79 responses, the WEP or GPO provisions applied to 15 beneficiaries' payments but did not apply to the payments of 42 beneficiaries.¹⁰ As of October 24, 2011, the Agency was reviewing pension information to determine whether WEP or GPO applied to the payments of 22 beneficiaries.

For the 15 beneficiaries where WEP or GPO applied, SSA was aware of the government pension for 2 beneficiaries. SSA reduced the payments for one beneficiary, but Agency staff had not coded the beneficiary's record to indicate the decision to apply the WEP offset.¹¹ In the second instance, SSA was aware the beneficiary received a pension subject to offset for WEP, but Agency staff did not reduce the Social Security payments in a timely manner. Thus, SSA did not apply

⁸ Administrative finality is the concept that an Agency determination or decision becomes final and binding when rendered, unless it is timely appealed or later reopened and revised for special reasons.

⁹ See Appendix D for more information.

¹⁰ See Appendix E for more information.

¹¹ SSA applied the WEP offset to the individual's OASDI benefits. An incorrect "primary insurance amount" code was on the Master Beneficiary Record. However, this coding error did not cause an overpayment on the beneficiary's record.

administrative finality and reduce the Social Security benefits.¹² Before our audit, SSA was not aware of the pensions paid to the remaining 13 beneficiaries, and as a result, the Agency overpaid them about \$326,000.

In one example, the beneficiary met the eligibility requirements to receive a State government pension in October 1986. Beginning June 2001, the beneficiary was receiving both a pension and Social Security benefits. We provided SSA pension information for the beneficiary in February 2011. For the period June 2001 through April 2011, the Agency overpaid the beneficiary \$38,721. If we had not notified the Agency about this pension, SSA would not have applied the offset and would have paid an estimated additional \$42,834 over the beneficiary's lifetime.

In another instance, a beneficiary met the eligibility requirements to receive a State government pension in January 1995. Beginning September 2002, she started receiving both a pension and Social Security benefits. We provided SSA pension information for the beneficiary in February 2011. For the period September 2002 to April 2011, SSA overpaid the beneficiary \$52,911. Had we not notified the Agency about this pension, SSA would not have applied the offset and would have overpaid an estimated additional \$76,020 during the beneficiary's lifetime.

On August 9, 2011, we discussed the overpayment cases with representatives from SSA's Office of Public Service and Operations Support under the Deputy Commissioner for Operations. Agency staff stated some claimants are not providing information related to State or local government pensions when applying for retirement benefits. SSA relies on beneficiaries to self-report any pensions they receive based on wages not subject to Social Security tax. There were no indications in SSA's records that these beneficiaries reported their pensions to SSA.

Based on the results of our review, we estimate SSA overpaid about \$623.8 million in retirement benefits to 24,900 beneficiaries because SSA staff did not apply WEP and GPO provisions to their OASDI payments. If SSA does not take action to identify and correct these payment errors, we estimate it will pay about \$869.9 million in future overpayments over the beneficiaries' lifetimes.

As of October 24, 2011, the Agency was still reviewing pension data to determine whether WEP or GPO applies to the OASDI benefits for 22 beneficiaries we identified. We based our estimates on the 13 beneficiaries SSA confirmed were overpaid. As SSA identifies additional overpayments among the 22 pending cases, we expect our estimates to increase significantly.

¹² In 1996, the beneficiary reported receiving a pension not covered by Social Security. SSA staff erroneously determined the pension was not subject to the WEP offset. When we provided information about this beneficiary to the Agency, time had elapsed under the rules of administrative finality for considering the matter. Therefore, the Agency did not impose the WEP offset based on its initial determination.

Furthermore, we encourage SSA to make a priority its efforts to use various approaches to identify OASDI beneficiaries receiving a State or local government pension whose payments should be subject to WEP or GPO. In September 2011, the Agency reported it and the Internal Revenue Service (IRS) are "...jointly pursuing approaches to effectively and efficiently identify State and local pension payments that are based in any part on non-covered earnings. SSA would use such information to identify beneficiaries potentially subject to WEP and GPO. One approach SSA and IRS are currently pursuing is the feasibility of conducting a matching operation using existing IRS pension data."

NO RESPONSES FROM EMPLOYERS TO LETTERS OR FOLLOW-UP INQUIRIES

During our review, we did not always receive responses from State and local government employers regarding our inquiries to obtain pension information. For 24 beneficiaries, we generally received no response to our correspondence to the employers requesting pension information, and we did not receive them by returned mail as undeliverable. As of the date of this report, we were continuing our attempts to obtain the pension information for these beneficiaries.

In six instances, we issued *Pension Confirmation Letters* to, and called directly, employers using information recorded in SSA's Master Earnings File. As of the date of this report, we had not received responses from these employers.

For four beneficiaries, we discussed our requests for pension information with employers' staffs. Although we confirmed the applicable addresses and components for forwarding our requests, these employers did not respond to our *Pension Confirmation Letters*. We attempted to contact the employers again by telephone. However, the employers failed to respond to our additional attempts to contact them.

Lastly, for 14 beneficiaries, we spoke to employers' staffs and confirmed the mailing address and component to direct our *Pension Confirmation Letters*. Employers' staffs provided limited information. Subsequently, we called the employers to obtain additional data. However, our follow-up inquiries resulted in no further contact with employers' staffs.

CONCLUSION AND RECOMMENDATIONS

We identified OASDI beneficiaries overpaid because SSA did not know about and adjust their benefits for the State or local government pensions they received. During our review, we found unreported State or local government pensions affected the payments of 13 beneficiaries in our sample. Before our audit, the Agency did not have information that the beneficiaries received pensions from State or local government employment. SSA has acknowledged the impact of beneficiaries' not self-reporting pensions for State or local government employment. In addition, the Office of Management and Budget's *Fiscal Year 2012 Budget of the U.S. Government* includes a

legislative proposal that would provide an electronic mechanism for obtaining the information, estimating savings of \$3.3 billion in improper payments over 10 years.

Based on our sample, we estimate about 24,900 beneficiaries were overpaid approximately \$623.8 million in OASDI benefits through April 2011 because WEP or GPO were not properly imposed. Unless SSA takes corrective action to identify and correct these payment errors, we estimate these beneficiaries will receive additional overpayments of approximately \$869.9 million over their lifetimes. We based our estimates on the 13 beneficiaries with confirmed overpayments. As SSA confirms additional overpayments for the 22 pending cases, we expect our estimates to increase. We will continue updating our estimates as SSA staff resolves the 22 pending cases.

For the 24 beneficiaries we have not received responses to inquires for pension information, we are taking additional actions to obtain these data from State and local government employers.

We recommend SSA:

1. Complete the determinations of whether the WEP or GPO provisions apply for the remaining beneficiaries identified during our review.
2. Pursue legislation and alternative approaches for electronically obtaining State and local government pension data to enable application of the WEP and GPO provisions.
3. Evaluate characteristics of the beneficiaries we identified as overpaid to determine whether it is cost effective for the Agency to identify similar overpayments to beneficiaries with unreported pensions subject to WEP or GPO.

AGENCY COMMENTS AND OIG RESPONSE

SSA agreed with our recommendations. See Appendix F for the Agency's comments.



Patrick P. O'Carroll, Jr.

Appendices

APPENDIX A – Acronyms

APPENDIX B – Background

APPENDIX C – Scope and Methodology

APPENDIX D – Sampling Methodology and Results

APPENDIX E – Beneficiaries Exempt from Windfall Elimination Provision or
Government Pension Offset

APPENDIX F – Agency Comments

APPENDIX G – OIG Contacts and Staff Acknowledgments

Acronyms

| | |
|--------|---|
| FY | Fiscal Year |
| GAO | Government Accountability Office |
| GPO | Government Pension Offset |
| IRS | Internal Revenue Service |
| MBR | Master Beneficiary Record |
| MEF | Master Earnings File |
| OASDI | Old-Age, Survivors and Disability Insurance |
| OIG | Office of the Inspector General |
| POMS | Program Operations Manual System |
| SSA | Social Security Administration |
| SSN | Social Security Number |
| U.S.C. | United States Code |
| WEP | Windfall Elimination Provision |
| YOC | Years of Coverage |

Background

The Social Security Administration (SSA) administers the Old-Age, Survivors and Disability Insurance (OASDI) program under Title II of the *Social Security Act*.¹ The program provides monthly benefits to retired or disabled workers and their families and to survivors of deceased workers. An individual may be eligible for OASDI benefits under his/her own work history as well as under a spouse's work history.

The *Social Security Act* includes two provisions that reduce monthly Social Security benefits paid to individuals who receive a pension based on Federal, State, or local government employment not covered by Social Security.^{2, 3} The Windfall Elimination Provision (WEP) eliminates "windfall" Social Security benefits for retired or disabled workers and their families receiving pensions from employment not covered by Social Security.⁴ Under this provision, a modified benefit formula is used to determine a wage earner's monthly Social Security benefit. The Government Pension Offset (GPO) provision reduces monthly Social Security benefits for spouses, divorced spouses, and surviving spouses who receive a pension based on their own work for a Federal, State, or local government not covered by Social Security.⁵ The GPO reduction is generally equal to two-thirds of the government pension.

SSA has suggested changes to improve the administration of WEP and GPO. In an August 29, 2008 letter⁶ to the Speaker of the House of Representatives, the Agency suggested requiring that State and local governments provide government pension data directly to SSA. The Agency stated this action would "...improve our [SSA's] stewardship of the program and the Social Security trust funds through the receipt of more accurate and timely information on pensions for work not covered by Social Security."

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

² *Social Security Act* § 215(a)(7) and (d)(3), 42 U.S.C. § 415(a)(7) and (d)(3).

³ *Social Security Act* § 202(k)(5), 42 U.S.C. § 402(k)(5).

⁴ SSA, POMS, RS 00605.360 A (effective February 11, 2009).

⁵ SSA, POMS, GN 02608.100 A.1 and A.2.a and B.4 (effective June 22, 2011).

⁶ Letter from SSA Commissioner Michael J. Astrue to the Honorable Nancy Pelosi (August 29, 2008).

Furthermore, SSA previously reported effects from the Agency not having appropriate pension information for applying WEP and GPO. In its *Fiscal Year 2009 Title II Payment Accuracy Report*,⁷ SSA states:

When pension information is not provided timely an overpayment will often result. Nearly 62 percent of the overpayment computational deficiency dollars for FY [Fiscal Year] 2005 through 2009 period involved WEP. A legislative proposal in Congress requiring the state and local governments to provide pension data directly to SSA based on work not covered by Social Security has the potential to improve the timeliness in identifying non-covered work which may require WEP recalculation.

The Agency also acknowledged “Errors involving GPO account for about 9 percent of all Title II deficiency dollars for FY 2005 through 2009...During the 5 year period, only 51 percent of the errors in this category were due to the beneficiary’s failure to report pension information or pension changes....”⁸

In March 2011, the Government Accountability Office (GAO) reported⁹ SSA “...needs accurate information from state and local governments on retirees who receive pensions from employment not covered under Social Security. SSA needs this information to fairly and accurately apply Government Pension Offset (GPO), which generally applies to spouse and survivor benefits, and the Windfall Elimination Provision (WEP), which applies to retired worker benefits.” Providing information on the receipt of State and local government non-covered pension benefits to SSA via tax data could, according to GAO, help the Agency more accurately and fairly administer GPO and WEP.

GAO also reported it “...continues to believe that it is important to apply these laws consistently and equitably. Specifically, GAO continues to suggest that Congress consider giving IRS [Internal Revenue Service] the authority to collect the information that SSA needs on government pension income to administer the GPO and WEP provisions accurately and fairly.”¹⁰

In the Office of Management and Budget’s *Fiscal Year 2012 Budget of the U.S. Government: Terminations, Reductions, and Savings*, a provision is discussed that proposes to increase WEP and GPO enforcement. The budget document states, “It would reduce the overpayments that occur because the Social Security Administration (SSA) does not find out the Windfall Elimination Provision (WEP) or the Government Pension Offset (GPO) should have been applied until after the beneficiary has received

⁷ SSA, Office of Quality Performance, *Fiscal Year (FY) 2009 Title II Payment Accuracy (Stewardship) Report*, pp. 7-8, June 2010.

⁸ *Id.* at p.9.

⁹ GAO, *Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue*, GAO-11-318SP, p. 326, March 2011.

¹⁰ *Id.* at p. 328.

benefits for a number of years.”¹¹ Under the new proposal, SSA would develop an electronic mechanism for obtaining information about pensions in State and local government non-covered employment—employment not covered by Social Security. SSA would use this information to apply WEP or GPO to applicable benefits. The Office of Management and Budget estimated the provision would save \$3.3 billion in improper payments over a 10-year period.

¹¹ Office of Management and Budget, *Fiscal Year 2012 Budget of the U.S. Government; Terminations, Reductions, and Savings*, p.197, February 14, 2011.

Scope and Methodology

To accomplish our objective, we:

- Reviewed the applicable sections of the *Social Security Act*, Code of Federal Regulations; Fiscal Year 2012 Budget of the U.S. Government: Terminations, Reductions, and Savings; and the Social Security Administration's (SSA) Program Operations Manual System.
- Identified and reviewed prior Office of the Inspector General and Government Accountability Office reports pertaining to the Windfall Elimination Provision (WEP) and Government Pension Offset (GPO).
- Examined information from an electronic data extract of the Agency's Master Beneficiary Record (MBR) and Master Earnings File (MEF). In September 2010, we obtained from one segment of the MBR¹ an electronic data extract of individuals who met the following screening requirements: (1) either a primary or spousal beneficiary in current payment status; (2) received Old-Age, Survivors and Disability Insurance (OASDI) benefits only; (3) OASDI entitlement date after 1985; and (4) no evidence of WEP or GPO decisions on their records. Data recorded in the MEF were extracted for those beneficiaries who met these screening requirements and had at least 20 quarters of wages not subject to Social Security taxes. We identified 23,944 beneficiaries from the segment.

We excluded those beneficiaries eligible on their own and another person's earnings (dually entitled).² In addition, we excluded beneficiaries who may be receiving Federal pensions since SSA has a computer matching agreement with the Office of Personnel Management that provides pension information to SSA.

- Selected a random sample of 250 beneficiaries from the 23,944 identified from 1 segment of the MBR and MEF data.
- Contacted State and local government agencies to confirm mailing addresses and obtain pension data.

¹ The last 2 digits of the Social Security number (SSN) contain digits "00" to "99." SSA categorizes the SSNs into 20 segments, each containing 5 sequential groups of these digits. For this audit, we randomly selected SSNs ending with the digits "40" to "44," which represents 1 SSN segment. As of February 2011, there were 2.7 million individuals in current pay status in this 1 SSN segment.

² Dually entitled beneficiaries—beneficiaries eligible on their own and another person's earnings—were examined in a prior review. SSA, OIG, *Dually Entitled Beneficiaries who are Subject to Government Pension Offset and the Windfall Elimination Provision* (A-09-07-27010), September 2008.

- Mailed *Pension Confirmation Letters* to obtain non-covered employment information from State or local government agencies.
- Contacted pension administrators to obtain pension data.
- Issued subpoenas, as needed, to obtain certain pension information. In some cases, pension administrators were unwilling to provide the pension data for our sample cases. We issued 59 subpoenas to obtain pension information and received pension information for 54 beneficiaries. Our Office of the Counsel to the Inspector General worked with several Assistant U.S. Attorneys in the appropriate jurisdictions to file actions in the Federal Court to enforce compliance for five beneficiaries. As a result, we obtained the pension data for those beneficiaries.
- Coordinated with the Office of Counsel to the Inspector General and Assistant U.S Attorneys, as required, to obtain required pension data.
- Requested SSA review those instances where it appeared WEP or GPO applied.
- Estimated the future overpayments using the Department of Health and Human Services, Centers for Disease Control and Prevention, National Vital Statistics Report's Life Tables. See Appendix D for details about our estimates.

We determined the computer-processed data used for this audit were sufficiently reliable for their intended use. Further, any data limitations were minor in the context of this assignment, and the use of the data should not lead to an incorrect or unintentional conclusion. The electronic data used in our audit were primarily extracted from the MBR and MEF.

The entity audited was the Office of Operations. We performed our review in Baltimore, Maryland, from November 2010 to July 2011. We conducted this performance audit in accordance with generally accepted 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 believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Sampling Methodology and Results

As discussed in Appendix C, we identified 23,944 Old-Age, Survivors and Disability Insurance (OASDI) beneficiaries from 1 segment¹ of the Master Beneficiary Record as possibly being overpaid because they received a pension subject to the Windfall Elimination Provision (WEP) or Government Pension Offset (GPO). Of these 23,944, we selected and reviewed a random sample of 250 individuals. For the 250 individuals sampled, we requested pension information from State and local government agencies about non-covered work by the retired employees. We also requested that Social Security Administration (SSA) staff review those instances where it appeared that WEP or GPO applied.

| | |
|------------------------------|--------|
| Population Size of 1 Segment | 23,944 |
| Sample Size | 250 |

Of the 250 individuals in our sample, we found WEP or GPO applied for 13 individuals who were overpaid \$325,653. Projecting these results to all 20 segments of the MBR, we estimated improper payments of approximately \$623.8 million to about 24,900 beneficiaries. The following tables provide the details of our sample results, statistical projections, and estimates.

| | |
|--|--------|
| Number of OASDI Beneficiaries who should have WEP or GPO Applied | 13 |
| Point Estimate | 1,245 |
| Projection Lower Limit | 746 |
| Projection Upper Limit | 1,945 |
| Total Estimate (All 20 Segments) | 24,900 |

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

¹ The last 2 digits of the Social Security number (SSN) contain digits “00” to “99.” SSA categorizes the SSNs into 20 segments, each containing 5 sequential groups of these digits. For this audit, we randomly selected SSNs ending with the digits “40” to “44,” which represents 1 SSN segment. As of February 2011, there were 2.7 million individuals in current pay status in this 1 SSN segment.

| Table D-3: Amount of OASDI Benefits Not Offset for WEP/GPO | |
|--|---------------|
| Amount of OASDI Benefits Not Offset for WEP/GPO | \$325,653 |
| Point Estimate | \$31,189,742 |
| Projection Lower Limit | \$13,459,250 |
| Projection Upper Limit | \$48,920,234 |
| Total Estimate (All 20 Segments) | \$623,794,840 |

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

To estimate the amount of payment errors that may occur, we multiplied the monthly overpayment amount by the number of months the beneficiaries are expected to live beyond April 2011. We used the life expectancy rates published by the Department of Health and Human Services, Centers for Disease Control and Prevention (National Vital Statistics Report, Volume 58, Number 21, Tables 2 and 3, June 28, 2010) to determine the number of months the beneficiaries were expected to live beyond April 2011. We used this methodology to estimate improper payments that may occur if SSA does not identify and correct the amount of OASDI benefits.

| Table D-4: Future OASDI Benefit Payment Errors if Corrective Actions Not Taken to Apply WEP/GPO | |
|---|---------------|
| Amount of OASDI Benefits that will be Overpaid in the Future if WEP/GPO Not Applied | \$454,140 |
| Point Estimate | \$43,495,713 |
| Projection Lower Limit | \$20,581,923 |
| Projection Upper Limit | \$66,409,502 |
| Total Estimate (All 20 Segments) | \$869,914,260 |

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

Beneficiaries Exempt from Windfall Elimination Provision or Government Pension Offset

During our review, we received pension data for 226 beneficiaries. Of the 226, we received responses stating 79 beneficiaries were receiving pension payments from employers based on wages not subject to Social Security. Of the 79 responses, the Windfall Elimination Provision (WEP) or Government Pension Offset (GPO) did not apply to the payments of 42 beneficiaries.

For 28 of the 42 responses, the beneficiaries were exempt from WEP because they met the requirement for years of coverage. Social Security Administration (SSA) policy¹ states, “Workers who have 30 YOCs [years of coverage] are fully exempt from the Windfall Elimination Provision (WEP).” In one case, the beneficiary retired and began receiving her pension in July 2004. However, she had 36 YOCs or 36 years of Social Security covered earnings.

The remaining 14 beneficiaries were exempt from WEP or GPO for the following reasons.

- Two beneficiaries were exempt because they were eligible for a pension before January 1, 1986. According to SSA policy,² “WEP does not affect workers eligible for a pension before 1986 under an early-out option if the worker meets all requirements for the pension other than having actually filed.”
- Two beneficiaries were exempt because SSA policy³ states the “*Social Security Protection Act of 2004 (P.L. 108-203)* amended the Government Pension Offset (GPO) provisions to require that State and local government employees be covered by Social Security throughout their last 60 months of the employment to be exempt from GPO” or “. . . the last day exemption may still apply if the last day of employment was before July 1, 2004.”

¹ SSA, POMS, RS 00605.362.A (effective February 17, 2011).

² SSA, POMS, RS 00605.362.C.1 (effective February 17, 2011).

³ SSA, POMS, GN 02608.102.A.1 (effective August 11, 2010).

- Seven beneficiaries were exempt from WEP and three beneficiaries were exempt from GPO because they received refunds or withdrew retirement funds. The Agency does not consider these actions to be pension payments. SSA policy⁴ states “...withdrawals from a pension plan, before or after eligibility for the pension, of only employee contributions (plus any interest) (i.e., none of the employer contributions are included in the withdrawal), whereby the employee relinquishes all rights of the pension plan” is not considered a pension. For example, one beneficiary withdrew \$30,299 of her employee contributions with no rights in a pension plan with the Ohio Public Employees Retirement System, and therefore, no pension offset applies.

⁴ SSA, POMS, GN 02608.100.B.2 (effective June 22, 2011).

Agency Comments



SOCIAL SECURITY

MEMORANDUM

Date: October 24, 2011 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, "Old-Age, Survivors and Disability Insurance Benefits Affected by State or Local Government Pensions" (A-13-10-10143)--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 Frances Cord at (410) 966-5787.

Attachment

**COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL DRAFT REPORT,
"OLD-AGE, SURVIVORS AND DISABILITY INSURANCE BENEFITS AFFECTED BY
STATE OR LOCAL GOVERNMENT PENSIONS" (A-13-10-10143)**

Recommendation 1

Complete the determinations of whether the Windfall Elimination Provision (WEP) or Government Pension Offset (GPO) provisions apply for the remaining beneficiaries identified during our review.

Response

We agree.

Recommendation 2

Pursue legislation and alternative approaches for electronically obtaining State and local government pension data to enable application of the WEP and GPO provisions.

Response

We agree. The President's fiscal year 2012 budget includes a legislative proposal to develop automated data exchanges to collect State and local government pension data. This information will help us enforce the WEP and GPO provisions. We will continue exploring alternative approaches to obtain pension data electronically under current law.

Recommendation 3

Evaluate characteristics of the beneficiaries we identified as overpaid to determine whether it is cost effective for the agency to identify similar overpayments to beneficiaries with unreported pensions subject to WEP or GPO.

Response

We agree. We already started a review of WEP/GPO case development data to measure the level of staff's compliance with our current policy and to identify case characteristics that may lead to more accurate case processing.

OIG Contacts and Staff Acknowledgments

OIG Contacts

Shirley E. Todd, Director, Evaluation Division

Randy Townsley, Audit Manager

Acknowledgments

In addition to those named above:

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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 Counsel to the Inspector General (OCIG), 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.