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**OFFICE OF  
THE INSPECTOR GENERAL**

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**SOCIAL SECURITY ADMINISTRATION**

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**INDIVIDUAL REPRESENTATIVE PAYEES  
WHO MISUSE BENEFITS**

May 2012

A-13-10-10182

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**AUDIT REPORT**

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## **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: May 4, 2012

Refer To:

To: The Commissioner

From: Inspector General

Subject: Individual Representative Payees Who Misuse Benefits (A-13-10-10182)

## OBJECTIVE

Our objective was to review Agency actions concerning individual representative payees who were serving 14 or fewer beneficiaries and who misused benefit payments.

## BACKGROUND

Some individuals are not able to manage or direct the management of their finances because of their youth or mental and/or physical impairment. For such beneficiaries, Congress provided for payment through a representative payee who receives and manages benefit payments for the beneficiary.<sup>1</sup> The Social Security Administration (SSA) selects representative payees for Old-Age, Survivors and Disability Insurance<sup>2</sup> and/or Supplemental Security Income<sup>3</sup> beneficiaries<sup>4</sup> when representative payments would serve the individual's interests.<sup>5</sup> A representative payee may be an individual or an organization.

According to SSA policy, misuse of benefits occurs when the payee does not use the benefits for the beneficiary's current and foreseeable needs or conserve remaining benefits for the beneficiary's future needs. To protect the beneficiary's best interests,

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<sup>1</sup> *Social Security Act* §§ 205(j)(1) and 1631(a)(2)(A)(ii)(I), 42 U.S.C. §§ 405(j)(1) and 1383(a)(2)(A)(ii)(I).

<sup>2</sup> The Old-Age, Survivors and Disability Insurance program provides retirement and disability benefits to qualified individuals and their dependents as well as to survivors of insured workers. *Social Security Act* § 202 *et seq.*, 42 U.S.C. § 402 *et seq.*

<sup>3</sup> The Supplemental Security Income program provides payments to individuals who have limited income and resources and who are age 65 or older, blind, or disabled. *Social Security Act* § 1601 *et seq.*, 42 U.S.C. § 1381 *et seq.*

<sup>4</sup> We use the term "beneficiary" generically in this report to refer to both Old-Age, Survivors and Disability Insurance beneficiaries and Supplemental Security Income recipients.

<sup>5</sup> *Social Security Act* §§ 205(j)(1) and 1631(a)(2)(A)(ii)(I), 42 U.S.C. §§ 405(j)(1) and 1383(a)(2)(A)(ii)(I).

the Agency is required to investigate all allegations of misuse, determine the facts, and make a formal determination of whether misuse occurred. When SSA determines misuse has occurred, policy states it must refer the violation to the Office of the Inspector General (OIG) for further investigation.

Under certain circumstances, SSA is required to repay benefits misused by certain payees. With enactment of the *Social Security Protection Act of 2004*,<sup>6</sup>—regardless of whether SSA obtains restitution from the payee—SSA is required to certify an amount equal to misused benefits for repayment to the beneficiary or alternate representative payee in all cases when

- the payee was not an individual, or
- the payee was an individual payee serving 15 or more beneficiaries for any month when the period of misuse occurred.

When the misuser is an individual representative payee serving 14 or fewer beneficiaries at the time of misuse, the *Social Security Act* requires that SSA certify the misused benefits for payment to the beneficiary or alternate representative payee if SSA's negligent failure to investigate or monitor the representative payee resulted in the misuse.<sup>7</sup> Negligent failure to monitor a payee occurs when SSA does not take appropriate and timely action to deter, detect, or stop misuse of benefits.

To meet our objective, we analyzed an electronic data extract from the Representative Payee System (RPS).<sup>8</sup> For the period January 1, 2007 to June 10, 2010, the data extract contained misuse information for individual payees serving 14 or fewer beneficiaries. We identified 1,561 beneficiaries who had about \$7.6 million in payments recorded (1,576 instances) as misused by 1,368 individual representative payees.<sup>9</sup>

In response to our inquiries, the Agency reported its staff erroneously recorded 26 instances of misuse. As a result, we adjusted the number of beneficiaries, representative payees, and instances of misuse applicable to our audit period. See Table 1 for details.

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<sup>6</sup> Pub. L. No. 108-203 § 101 (2004). See *Social Security Act* §§ 205(j)(5), 807(i), and 1631 (a)(2)(E), 42, U.S.C. §§ 405(j)(5), 1007(i) and 1383(a)(2)(E).

<sup>7</sup> *Social Security Act* §§ 205(j)(5), 807(i), and 1631 (a)(2)(E).

<sup>8</sup> RPS contains data about representative payees and beneficiaries/recipients who have payees.

<sup>9</sup> Two instances of misuse totaling \$1,223 were inadvertently omitted.

<b>Table 1: Individual Representative Payee Misuse<sup>10</sup> January 1, 2007 to June, 10, 2010<sup>11</sup></b>					
<b>Type of Beneficiary</b>	<b>Number of Beneficiaries<sup>12</sup></b>	<b>Number of Payees<sup>13</sup></b>	<b>Instances of Misuse<sup>14</sup></b>	<b>Benefits Misused</b>	<b>Average Misuse</b>
Child	1,038	898	1,050	\$5,420,947	\$ 5,163
Adult	523	470	526	\$2,166,867	\$ 4,120
<b>Subtotal<sup>15</sup></b>	<b>1,561</b>	<b>1,368</b>	<b>1,576</b>	<b>\$7,587,814</b>	
Recording Errors	(26)	(19)	(26)	(\$70,174)	
<b>Total</b>	<b>1,535</b>	<b>1,349</b>	<b>1,550</b>	<b>\$7,517,640</b>	

For selected payees and instances of misuse, we examined the Agency's actions and assessed its compliance with applicable policies and procedures. See Appendices B and C for our detailed scope and methodology and sampling methodology, respectively.

In October 2011, we became aware of a new Agency system for tracking representative payee misuse. The Electronic Representative Payee System [eRPS] Misuse System Version 1.0 allows users to record misuse allegations and track the allegations to final disposition by providing a checklist to guide Agency staff through the review process. The checklist includes references to (a) generating notices in applicable SSA systems and (b) referring instances of misuse to the proper components and recovery processes. SSA expects the interface with RPS to assist in indentifying other beneficiaries the payee serves and provide the misuse history if the payee applies to serve another beneficiary. Furthermore, the system creates reports that summarize misuse development activities. SSA staff confirmed eRPS had become available and staff had received training regarding the use of the system by October 17, 2011. On February 6, 2012, Agency staff informed us that SSA released eRPS Version 1.1 in January 2012 with additional functionality.

<sup>10</sup> Payees served 14 or fewer beneficiaries when misuse occurred.

<sup>11</sup> Although SSA reported 26 erroneous misuse records to us in our samples, additional erroneously recorded instances of misuse likely occurred in our population. Therefore, the number of beneficiaries, individual representative payees, and instances of misuse applicable to our audit period are estimates.

<sup>12</sup> Eleven beneficiaries had payments that were misused more than once during this period.

<sup>13</sup> A total of 138 payees misused benefits more than once during the period.

<sup>14</sup> An instance of misuse is one data entry/one RPS record of representative payee misuse.

<sup>15</sup> Two instances of misuse totaling \$ 1,223 were inadvertently omitted.

## RESULTS OF REVIEW

SSA did not always take appropriate actions concerning individual representative payees who were serving 14 or fewer beneficiaries and who misused benefit payments. Specifically, the Agency did not always (1) obtain restitution from payees when it could use benefit adjustment to do so; (2) certify benefits for payment to beneficiaries when Agency negligence was determined; (3) document negligence decisions; (4) refer instances of misuse to OIG; (5) make restitution to beneficiaries when misused funds were collected in installments from payees; (6) follow policy regarding retention of payees who commit misuse; and (7) record misuse-related data accurately in RPS.

### EFFORTS TO OBTAIN RESTITUTION FROM MISUSERS USING BENEFIT ADJUSTMENT

SSA needs to improve its efforts to obtain restitution from payees who misused benefit payments. Generally, we found SSA did not use its benefit adjustment debt collection tool to obtain restitution for beneficiaries whose individual representative payees misused their Social Security payments. For our audit period, we found SSA did not adjust benefits—withhold a debt from ongoing benefit payments—for 408 payees to collect about \$2.1 million in misused benefits.

Agency policy states that a payee who misuses benefits is indebted to the beneficiary and is obligated to make restitution. Further, policy states SSA will take action on the beneficiary's behalf to request and obtain restitution. SSA can recover misused benefits from a representative payee by adjusting a payee's own Social Security benefits.<sup>16</sup>

SSA's records indicated that as of October 2010, it was collecting debts from 199 payees. Of the 199, the Agency's records indicated benefits were being adjusted for 189 payees, about 14 percent of the 1,349 individual representative payees who misused payments during our audit period. SSA used benefit adjustment to recover about \$958,000 in misused funds. For the remaining 10 payees, SSA used other arrangements for restitution for 12 instances of misuse.

Of the remaining 1,150 misusers, as of January 2011, 408 payees were receiving their own benefit payments after the misuse occurred, and SSA could have used benefit adjustment to recover some of the debt from their benefits. Benefit adjustment could have collected funds pertaining to about \$2.1 million in misused benefits for 491 instances of misuse. SSA used benefit adjustment for about 32 percent of payees who could have had their Social Security payments reduced to make restitution to beneficiaries. We believe the Agency should increase its use of benefit adjustment. See Table 2 for details.

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<sup>16</sup> Once misuse of benefits is determined, the misused amount is treated as an overpayment of benefits to the misuser per *Social Security Act* §§ 205(j)(7)(A) and 1631(a)(2)(H)(i). Also see *Social Security Act* §§ 204(a)(1)(A), 1147(a), and 1631 (b)(1)(A).

<b>Table 2: Agency Use of Benefit Adjustment Debt Collection Tool</b>			
	<b>Payees</b>	<b>Instances of Misuse</b>	<b>Misused Amounts</b>
Payees Not Receiving Social Security Benefits <sup>17</sup>	742	832	\$ 4,395,625
Payees Receiving Social Security Benefits			
Benefit Adjustment Used <sup>18</sup>	189	215	\$ 957,750
Benefit Adjustment Not Used	408	491	\$ 2,112,581
Payees with Other Arrangements for Restitution	10	12	\$ 51,684
<b>Total for Audit</b>	<b>1,349</b>	<b>1,550</b>	<b>\$ 7,517,640</b>

From the payees without ongoing or pending recoveries, we selected a sample of 50 payees to determine why SSA had not arranged restitution from the payees.<sup>19</sup> The 50 payees committed 57 instances of misuse. On March 4, 2011, we requested SSA to explain why it had not pursued collection efforts against the misusers. In response to our inquiry, the Agency reported that 17 were not misuse but were erroneously recorded as instances of misuse in RPS. In addition, the Agency indicated it could not provide documentation detailing its collection efforts for 20 instances of misuse. Therefore, we excluded these 37 instances of misuse from our analysis. We summarize the Agency's responses for the remaining 20 instances of misuse involving 18 payees in Table 3.

<b>Table 3: Reasons for No Collection Efforts</b>		
<b>Reason Provided by Agency</b>	<b>Instances of Misuse</b>	<b>Percent of Total</b>
Agency Failed to Follow Policy	14	70
Civil Monetary Penalty Pursued	3	15
Other <sup>20</sup>	3	15
<b>Total</b>	<b>20</b>	<b>100</b>

<sup>17</sup> Payees were not receiving their own Social Security benefits as of January 2011.

<sup>18</sup> Benefit adjustment indicated in SSA records as of October 2010.

<sup>19</sup> When payees were selected, our sampling frame consisted of 1,169 payees. However, the Agency subsequently reported its staff erroneously recorded 26 instances of misuse by 19 payees. Of these, 15 payees committing 17 instances of misuse were included in our sample. We use the adjusted number of payees (1,150) to report the results of our review.

<sup>20</sup> For one instance of misuse, SSA recovered the overpayment; for a second instance of misuse, SSA is pursuing collection; and for the third instance of misuse, the Agency waived the overpayment.

After our inquiry, the Agency began efforts to collect some misused payments from payees included in our sample. For example, in one instance, the payee had misused a child's benefits totaling over \$13,000 from April 2006 through January 2008. In March 2011, we inquired why misused benefits were not being collected. In April 2011, SSA staff responded that the Agency planned to start efforts to collect these misused funds. As of April 2011, SSA had started collection efforts for 8 of the 20 instances of misuse in our sample. These benefits misused in these eight instances totaled about \$28,000.

On October 28, 2011, we discussed with staff from the Offices of the Deputy Commissioners for Operations (DCO) and Retirement and Disability Policy (DCRDP) why the Agency had not used benefit adjustment to obtain restitution from misusers. Staff explained that recording misuse is not automated. Agency staff must manually track misuse, collection, and repayment, and sometimes certain aspects of misuse cases may be overlooked.

We reviewed the Agency's eRPS video-on-demand and training manual for Version 1.0. This Version did not include a feature to automatically use benefit adjustment for payees receiving their own Social Security benefits after the misuse occurs.

However, in February 2012, we verified eRPS Version 1.1 included a screen requiring that Agency staff indicate whether the misuser is receiving "active entitlements." This will assist Agency staff in identifying those instances where misused benefits may be recoverable on behalf of beneficiaries through SSA's benefit adjustment.

SSA needs to improve its efforts to obtain restitution for beneficiaries when individual representative payees serving 14 or fewer beneficiaries misuse benefits. SSA could pursue collection efforts by adjusting misusers' Social Security benefits. SSA should adjust payments made to the 408 payees we identified as receiving their own Social Security benefits. This would enable the Agency to recover about \$2.1 million of additional misused benefits for beneficiaries.

## **BENEFICIARY REIMBURSEMENT WHEN THE AGENCY ACKNOWLEDGED NEGLIGENCE**

SSA did not always pay beneficiaries when it determined it was negligent regarding its actions involving individual representative payees serving 14 or fewer beneficiaries. SSA is required to certify for payment to the beneficiary or alternate representative payee where misused benefits resulted from SSA's negligent failure to investigate or monitor a representative payee.<sup>21</sup> SSA must also make a good faith effort to obtain restitution from the terminated representative payee who misused the benefit.<sup>22</sup> Of the

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<sup>21</sup> *Social Security Act* §§ 205(j)(5), 807(i), and 1631 (a)(2)(E), 42, U.S.C. §§ 405(j)(5), 1007(i) and 1383(a)(2)(E).

<sup>22</sup> *Id.*

19 payees<sup>23</sup> who misused funds where SSA acknowledged negligence, the Agency could not provide information to confirm reimbursement to all the affected beneficiaries. For the period January 1, 2007 to June 10, 2010, we identified 19 payees who committed misuse, and SSA concluded its failure to investigate or monitor the representative payees resulted in the misuse. For the 19 payees, we asked SSA to provide information regarding repayment of misused funds to the beneficiaries involved. For two payees, the Agency reported its staff recorded three instances of misuse in RPS in error. For three additional payees, SSA staff reported three negligence determinations were recorded in RPS erroneously, and the Agency was, in fact, not negligent for the occurrence of misuse. Additionally, for one payee, the Agency did not provide data to confirm whether about \$30 in misused funds was repaid to the beneficiary. For the remaining 13 payees, SSA

- provided adequate documentation to confirm beneficiaries served by 9 payees were repaid misused benefits totaling about \$77,000 and
- did not repay \$30,934 to beneficiaries for misuse committed by 4 payees.

On October 28, 2011, we discussed with DCO and DCRDP staff why not all beneficiaries were paid. Agency staff could not provide an explanation. We provided the Agency information about the four beneficiaries not repaid in our sample.

Agency policy, revised January 27, 2012, directs staff to reissue misused benefits when SSA determines itself negligent for misuse by payees serving 14 or fewer beneficiaries. The Agency also included detailed instructions on reissuing benefits in these situations.

## **SUPPORT FOR THE AGENCY'S DECISIONS ON NEGLIGENCE**

After establishing misuse of benefits, Agency policy states staff should prepare an individual "negligence determination" on Form SSA-553, *Special Determination*, for each affected beneficiary. In this document, staff is to include such information as (a) state whether SSA was negligent in investigating or monitoring the payee, (b) summarize the rationale for negligence decision, and (c) conclude whether SSA will repay the beneficiary. When we performed our review, SSA policy did not require that a claims representative or higher-level staff subsequently review and approve the negligence decision. Rather, Agency policy directed the individual who made the negligence decision to indicate his/her title in the "Approved by" block. For the period January 1, 2007 to June 10, 2010, SSA acknowledged it was negligent in less than 2 percent of the misuse instances we identified. See Table 4 for details.

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<sup>23</sup> The 19 individual representative payees misused funds of 20 beneficiaries involving 21 instances of misuse.

<b>Table 4: SSA Determinations of Negligence for Misused Benefits January 1, 2007 to June 10, 2010</b>				
<b>SSA Negligent</b>	<b>Instances of Misuse</b>	<b>Number of Beneficiaries</b>	<b>Amount of Misuse</b>	<b>Percent</b>
No	1,535	1,521	\$7,409,748	98.6
Yes	15	14	\$107,892	1.4
<b>Total</b>	<b>1,550</b>	<b>1,535</b>	<b>\$7,517,640</b>	<b>100</b>

To determine whether SSA prepared the negligent determination on Form SSA-553 in accordance with Agency policy, we selected for review 50 beneficiaries who had benefits misused, but Agency staff determined SSA was not negligent regarding the misuse.<sup>24</sup> We requested the Agency provide the applicable Forms SSA-553 and documentation used to determine negligence. In response to our inquiry, the Agency reported five instances of misuse for five beneficiaries had been recorded erroneously in RPS. The remaining 45 instances involved payee misuse of about \$250,500.

For 33 (73 percent) of the 45 beneficiaries, SSA did not provide the requested Forms SSA-553. We reviewed documentation pertaining to the negligence decisions for the misuse involving these beneficiaries. For one instance, the payee made full restitution, which eliminated the need for Agency staff to prepare a negligence determination. The remaining documents did not specify a justification for the negligence decisions recorded in RPS. For the 12 remaining beneficiaries, the Agency was able to provide the Forms SSA-553. We found these forms complied with policy.<sup>25</sup>

Without justification for the decisions, we question the Agency's assessments of negligence. When improper decisions are made, SSA's reimbursement of misused payments is impacted. When SSA determines it is negligent, the Agency is required to certify benefits for repayment. However, when negligence did not occur, SSA is directed to obtain restitution from misusers then reimburse beneficiaries.

We believe eRPS will assist SSA staff to better document negligence decisions. ERPS has a checklist feature that contains the negligent determination document. The checklist should remind staff to prepare the negligence decision.

In almost 99 percent of the cases, SSA found itself not negligent. The negligence decision determines whether SSA repays the beneficiary from Agency funds or waits until the misuser repays the funds to reissue benefits. The negligence determination, like the misuse decision, is a critical decision that affects the beneficiary's repayment

<sup>24</sup> When beneficiaries were selected, our sampling frame consisted of 1,561 beneficiaries. We then excluded the 20 beneficiaries for whom SSA acknowledged it was negligent regarding the misuse. However, the Agency subsequently reported its staff erroneously recorded a total of 26 instances of misuse involving 26 beneficiaries. We use the adjusted number of beneficiaries (1,535) to report the results of our review.

<sup>25</sup> For two instances, the information required on Form SSA-553 was present in SSA's electronic records, although not recorded on an actual Form SSA-553. We counted these instances as being in compliance with policy.

and should be prepared and approved by two different Agency employees. A January 2012 policy update accompanying the release of eRPS Version 1.1 requires additional review and approval from a claims representative or higher-level staff for all negligence determinations.

## REFERRING MISUSE INSTANCES TO THE OIG

SSA was still not reporting all payee misuse cases to OIG. The Agency referred only about 484 (31 percent) of the 1,550 instances of misuse we identified during our audit. See Table 5 for details.

<b>Referral</b>	<b>Instances of Misuse</b>	<b>Dollar Amount</b>
Yes	484	\$ 3,545,314
No	1,066	3,972,326
<b>Total<sup>26</sup></b>	<b>1,550</b>	<b>\$ 7,517,640</b>

When SSA makes a misuse determination, it should refer the suspected violation to OIG for further review and investigation. Agency policy states that staff should use the electronic version of Form SSA-8551-U (e8551), *Referral of Potential Violation*, to refer all instances of misuse to the OIG. Failure to refer misuse cases to OIG precludes potential development of criminal, civil, and administrative investigations that could yield court-ordered restitution, fines/penalties, and administrative action to prevent losses, achieve savings, or recover fraud losses.

In a June 2002 report,<sup>27</sup> *Analysis of Information Concerning Representative Payee Misuse of Beneficiaries' Payments*, we found that SSA was not always referring representative payees who misused benefit payments to the OIG. We recommended that the Agency follow policy in referring all future instances of misuse to the OIG. In January 2007, we issued a follow-up report<sup>28</sup> that stated the Agency was still not referring all instances of misuse to the OIG.

On October 28, 2011, we discussed with DCO and DCRDP staff reasons why many misuse cases were not referred to OIG. Agency staff responded that before eRPS was implemented, they were required to manually complete the electronic fraud referral Form e8551 outside RPS. However, eRPS is intended to automatically generate an

<sup>26</sup> For our audit period, we initially identified 1,576 instances of misuse. However, SSA reported 26 instances of misuse involving 26 beneficiaries were erroneously recorded in RPS. We adjusted the misuse information for our audit period accordingly.

<sup>27</sup> SSA OIG, *Analysis of Information Concerning Representative Payee Misuse of Beneficiaries' Payments* (A-13-01-11004), June 2002, pp.4 and 5.

<sup>28</sup> SSA OIG, *Follow-up: Analysis of Information Concerning Representative Payee Misuse of Beneficiaries' Payments* (A-13-06-26097), January 2007, pp.3-4.

e8551 while the misuse information was entered into the system. Our review of information related to the system found a feature on the eRPS checklist that reminds Agency staff to send the e8551 to OIG. This feature may improve the Agency's compliance with the policy to refer all misuse determinations to OIG for review.

### **BENEFICIARY RESTITUTION WHEN MISUSED FUNDS ARE COLLECTED IN INSTALLMENTS FROM THE PAYEE**

SSA lacked policy to ensure funds collected in installments from payee misusers as restitution were timely paid to beneficiaries or their current payee. At the time of our review, policy stated the Agency should repay restitution obtained from misusers to beneficiaries or their current payee. However, we were unable to locate timeframes in the policy for when the Agency should make restitution to the beneficiaries when it collects misused funds from payees. During an October 2011 meeting, DCRDP staff confirmed there was no such information in the policy.

To determine whether SSA repaid benefits collected as restitution from payees who misused payments, we selected for review 33 of the 226 instances of misuse identified as involving recovery actions. The Agency did not provide responses for four of the instances selected for review and indicated that one instance was recorded in error and was not misuse.

Of the 28 remaining instances of misuse, we found 10 had collection actions pending, but SSA had not collected any funds as of June 2011. Further, the Agency obtained restitution from payee misusers and repaid beneficiaries about \$8,500 for four instances of misuse. The misuse benefit payments totaled about \$12,000. For one instance, we are following up with the Agency on their response. For the remaining 13 instances involving about \$115,000, the Agency obtained restitution of about \$34,000 from the misusers. However, SSA had only repaid about \$4,400 of these funds to the beneficiaries as of January 2012.

In one instance, the misuse took place between June 2003 and July 2007 and totaled about \$19,000. In response to our inquiry, SSA staff reported, as of June 6, 2011, the Agency had received \$12,736 in restitution from the payee. However, as of January 2012, SSA had not repaid any of the recovered benefits to the beneficiary. In another instance, the misuse, totaling about \$3,700, occurred between October 2007 and March 2008. The Agency had obtained restitution of \$150 as of June 6, 2011 but had not paid the recovered benefits to the beneficiary because the misuser was still serving as the beneficiary's payee. We asked SSA why it allowed this misuser to continue as the representative payee for this beneficiary, but as of November 2011, we had not received a response.

Since repayment of misused benefits often occurs through the monthly benefit adjustment, it may take years for payees to repay the misused funds in full. We believe SSA should return these funds to the beneficiaries as the Agency collects them from the misuser payee.

SSA amended its policy in January 2012 to state the Agency must start repaying recovered misused funds to the beneficiary immediately upon receipt. If immediate payment is not possible, staff should document the reason in eRPS, and pay the funds as soon as possible, but no later than 60 days.

### **PAYEES WHO MISUSED FUNDS CONTINUED TO SERVE AS PAYEES**

According to SSA policy, (a) payees who are allowed to continue serving must have repaid or have plans to repay the misused benefits, and (b) staff are to document in RPS how decisions for allowing payees to continue to serve were reached.<sup>29</sup> Of the 1,349 individual representative payees identified for misuse of benefits for our audit period, as of March 2011, Agency records indicated 645 of the payees continued serving as payees (see Table 6). Of these 645 payees, SSA's records indicated 203 were serving new and other beneficiaries.

<b>Table 6: Individual Representative Payees Who Misused Benefits and Continued Serving as Payees as of March 2011</b>		
<b>Type of Beneficiary</b>	<b>Number of Beneficiaries</b>	<b>Payees</b>
Same <sup>30</sup>	492	442
New and Other <sup>31</sup>	345	203
<b>Total</b>	<b>837</b>	<b>645</b>

Of the 203 payees, we selected 30 payees for further review to determine whether SSA complied with its policies for allowing the payees to continue serving as payees after misuse of benefits. In November 2011, we reviewed information recorded in RPS for the 30 payees. Of the 30, we found information pertaining to the retention of 1 payee. The following was recorded in RPS, "In spite of prior problems with . . . I don't think she ever intended to misuse SSI money. She is very slow and does try to do what is right . . . ."

On November 4, 2011, we requested SSA staff explain why the 30 payees were retained. In February 2012, SSA responded that it did not plan to respond to our request to review these sample cases.

In a June 2002 report,<sup>32</sup> *Analysis of Information Concerning Representative Payee Misuse of Beneficiaries' Payments*, we found that SSA was allowing representative payees who misused benefit payments to continue to serve as payees. We

<sup>29</sup> SSA, POMS, GN 00502.134(B)(2), (March 27, 2012)

<sup>30</sup> Payees continued to serve at least one beneficiary who had their benefits misused by the payees.

<sup>31</sup> New and other includes payees who were allowed to serve either (a) at least one new beneficiary after the misuse or (b) at least one beneficiary previously served who did not have a misuse determination.

<sup>32</sup> SSA OIG, *Analysis of Information Concerning Representative Payee Misuse of Beneficiaries' Payments* (A-13-01-11004), June 2002, p. 5.

recommended that the Agency follow policy in rarely retaining misusers as payees and periodically assessing the continued suitability of representative payees that previously misused benefits.<sup>33</sup> In January 2007, we issued a follow-up report<sup>34</sup> that found the Agency was still retaining payees who committed misuse and could not provide documentation detailing what follow-up actions were taken to assess the continued suitability of these payees.

## **INTEGRITY OF MISUSE DATA**

SSA needs to improve the integrity of the misuse-related data recorded in RPS. During our review of selected instances of misuse, SSA frequently reported that misuse data within RPS was not accurate. During this review, we examined 191 instances of misuse.<sup>35</sup> Of the 191, 29 (about 15 percent) had data integrity issues—26 in recording the misuse in RPS and 3 regarding the negligence decisions.

Agency policy requires investigation and development of misuse allegations and the preparation of a formal misuse determination before recording information about the misuse and the misuser in RPS. SSA staff explained the Agency erroneously recorded the misuse in RPS for 26 instances of misuse. We believe staff recorded the potential misuse in RPS before completing the formal misuse determination.

For the remaining three instances, RPS indicated the Agency reported it was negligent regarding its actions involving the beneficiary. However, Agency staff subsequently reported the data entry was an error. Rather, SSA determined it was not negligent in these instances.

If the Agency erroneously records misuse information in RPS, any management analysis of the magnitude of misuse or related conclusions may be inaccurate. We believe the enhanced features of eRPS will improve the integrity of misuse data.

## **CONCLUSION AND RECOMMENDATIONS**

SSA did not always take certain actions concerning individual representative payees who were serving 14 or fewer beneficiaries and who misused benefit payments. Specifically, the Agency did not always obtain restitution from payees when it could use benefit adjustment; certify benefits for payment to beneficiaries when Agency negligence was determined; document negligence decisions; refer instances of misuse to OIG; make restitution to beneficiaries when misused funds were collected in installments from payees; follow policy regarding retention of payees who commit misuse; and record misuse-related data accurately in RPS.

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<sup>33</sup> Id. at p. 9.

<sup>34</sup> SSA OIG, *Follow-up: Analysis of Information Concerning Representative Payee Misuse of Beneficiaries' Payments* (A-13-06-26097), January 2007, pp. 4-6.

<sup>35</sup> See Appendix C, Sampling Methodology.

SSA had taken actions intended to improve its oversight and management of these payees. In October 2011 and January 2012, SSA released new versions of its eRPS Misuse System and revised its policies. However, SSA needs to take additional actions to improve its oversight and management of individual representative payees serving 14 or fewer beneficiaries who misused benefit payments. Therefore, we recommend SSA:

1. Use, when appropriate, benefit adjustment to obtain restitution from the 408 payees we identified to recover about \$2.1 million in misused funds.
2. Remind staff to use the benefit adjustment debt collection tool when possible to obtain restitution for beneficiaries who had individual representative payees misuse their benefits.
3. Repay the four beneficiaries we identified who Agency negligence was determined concerning the misuse, but the beneficiaries were not paid.
4. Remind staff to comply with SSA policy and procedures to repay beneficiaries if Agency negligence is determined when individual representative payees misuse benefits.
5. Repay the 13 beneficiaries identified in our audit for which the Agency has obtained restitution from the misusers, but has not repaid these funds to the beneficiaries.

## **AGENCY COMMENTS**

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



Patrick P. O'Carroll, Jr.

# *Appendices*

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APPENDIX A – Acronyms

APPENDIX B – Scope and Methodology

APPENDIX C – Sampling Methodology

APPENDIX D – Agency Comments

APPENDIX E – OIG Contacts and Staff Acknowledgments

## Acronyms

DCO	Deputy Commissioner for Operations
DCRDP	Deputy Commissioner for Retirement and Disability Policy
eRPS	Electronic Representative Payee System
OIG	Office of the Inspector General
Pub. L. No.	Public Law Number
RPS	Representative Payee System
SSA	Social Security Administration
U.S.C.	United States Code

# Scope and Methodology

To accomplish our objective, we:

- Reviewed applicable laws, regulations, and Social Security Administration (SSA) policies and procedures regarding misuse of funds by representative payees.
- Reviewed prior Office of the Inspector General (OIG) reports relevant to our audit objective.
- Obtained and analyzed an electronic data extract from the Representative Payee System (RPS). The data extract included information about misuse committed by individual representative payees who served 14 or fewer beneficiaries when the misuse occurred. The misuse occurred between January 1, 2007 and June 10, 2010.
- Performed demographic analysis to search for trends in the data.
- Determined whether (a) misused payments were collected and returned to beneficiaries according to SSA policies and procedures; (b) information was adequate to support SSA's decisions about Agency negligence regarding payee misuse; (c) instances of misuse identified were referred, as required, to OIG for criminal prosecution or civil monetary penalty; and (d) data recorded in RPS were accurate.
- Selected and reviewed samples of payees, beneficiaries, and instances of misuse. See Appendix C for our sampling methodology.

We performed our review in Baltimore, Maryland, from February 2011 to January 2012. The principle entity audited was the Office of the Deputy Commissioner for Operations. We tested the data obtained for our review and determined them to be sufficiently reliable to meet our objective. Although we found and reported certain data integrity issues, we were able to use the data for its intended purpose. 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 believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

# Sampling Methodology

We obtained and analyzed an electronic data extract from the Social Security Administration's (SSA) Representative Payee System. The data extract included information about benefit misuse committed by individual representative payees who served 14 or fewer beneficiaries when the misuse occurred. Misuse occurred between January 1, 2007 and June 10, 2010. For this period, we identified a population of 1,368 payees who misused about \$7.6 million in benefits of 1,561 beneficiaries. These payees committed 1,576<sup>1</sup> instances of misuse. Based on this population, we selected certain payees and instances of misuse to assess SSA's actions concerning individual representative payees serving 14 or fewer beneficiaries who misused benefit payments. In response to our subsequent inquiries, SSA staff reported that employees erroneously recorded 26 instances of misuse. As a result, we adjusted the number of payees, beneficiaries, and instances of misuse applicable to our audit period. For our review, we used four samples.

### Sample 1

To determine why SSA had not arranged restitution from all payees, we randomly selected and reviewed 50 individual representative payees who committed 57 instances of misuse. Our sampling frame consisted of 1,169 representative payees whom SSA's records indicated had committed misuse and had not repaid the misused benefits as of October 2010.

### Sample 2

To determine whether SSA maintained sufficient and reliable documentation to support its decisions about negligence determinations, we randomly selected for examination a sample of 50 beneficiaries who had their benefits misused. Our sampling frame consisted of 1,541 beneficiaries who SSA's records indicated SSA was not negligent for the occurrence of misuse.

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<sup>1</sup> Two instances of misuse totaling \$1,223 were inadvertently omitted.

### **Sample 3**

To determine whether SSA repaid benefits collected as restitution from payees who misused payments, we selected for review a sample of 33 instances of misuse. Our sampling frame consisted of 226 instances of misuse for which Agency records indicated repayment was occurring. The 226 instances were grouped based on (1) type of benefit payment and (2) beneficiaries' ZIP codes. This resulted in the random selection of two instances of misuse for each of the Agency's 8 program service centers and 10 regional offices. Two program service centers and one regional office each had only one instance of misuse during our sample period. As a result, we selected and reviewed 33 instances of misuse.

### **Sample 4**

To determine why payees who misused funds were allowed to continue to serve, we randomly selected and reviewed 30 payees. Our sampling frame consisted of 203 payees for whom Agency records indicated SSA had retained them to serve as payees and they were serving new and other beneficiaries.

## Agency Comments



## SOCIAL SECURITY

### MEMORANDUM

Date: March 26, 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, "Individual Representative Payees Who Misuse Benefits" (A-13-10-10182)—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) 966-7284.

Attachment

**COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL DRAFT REPORT,  
“INDIVIDUAL REPRESENTATIVE PAYEES WHO MISUSE BENEFITS”  
(A-13-10-10182)**

**Recommendation 1**

Use, when appropriate, benefit offset to obtain restitution from the 408 payees we identified to recover about \$2.1 million in misused funds.

**Response**

We agree.

**Recommendation 2**

Remind staff to use the benefit offset debt collection tool when possible to obtain restitution for beneficiaries who had individual representative payees misuse their benefits.

**Response**

We agree.

**Recommendation 3**

Repay the four beneficiaries we identified who Agency negligence was determined concerning the misuse, but the beneficiaries were not paid.

**Response**

We agree.

**Recommendation 4**

Remind staff to comply with SSA policy and procedures to repay beneficiaries if Agency negligence is determined when individual representative payees misuse benefits.

**Response**

We agree.

**Recommendation 5**

Repay the 13 beneficiaries identified in our audit for which the Agency has obtained restitution from the misusers, but has not repaid these funds to the beneficiaries.

**Response**

We agree.

## OIG Contacts and Staff Acknowledgments

### ***OIG Contacts***

Shirley E. Todd, Director, Office of Audit, Evaluation Division

Randy Townsley, Audit Manager

### ***Acknowledgments***

In addition to those named above:

Gregory Trenchard, Auditor

Upeksha van der Merwe, Auditor

Brennan Kraje, Statistician

For additional copies of this report, please visit our Website at <http://oig.ssa.gov/> or contact the Office of the Inspector General's Public Affairs Staff at (410) 965-4518. Refer to Common Identification Number A-13-10-10182.

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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.

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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.

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