

The Social Security Administration's Administrative Finality Policy

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May 2021

Office of Audit Report Summary

Objective

To summarize prior work on the Social Security Administration's (SSA) administrative finality policy and evaluate the Agency's actions to update it.

Background

Administrative finality is the concept that, when a determination or decision is rendered, it becomes final and binding, unless it is appealed or reopened. Once a determination or decision becomes final, it can only be reopened and revised for certain reasons and within certain time periods pursuant to SSA's administrative finality policy.

Under the Old-Age, Survivors and Disability Insurance (OASDI) program, SSA does not consider each month's payment to be a new determination. This prevents SSA from revising future benefits if the Agency discovers an error under its current administrative finality policy. However, SSA can correct future Supplemental Security Income (SSI) payments when it finds an error because SSA considers each month's payment to be an initial determination.

Findings

Our prior work showed SSA had not corrected millions of ongoing OASDI payments because of its administrative finality policy. Although SSA agreed with our recommendation to evaluate its administrative finality policies since 2012, as of April 2021, SSA had not finalized its decision on policy changes. SSA has taken the following actions.

- SSA solicited public comment on proposed policy revisions in 2013.
- SSA requested and reviewed a 2016 Law Library of Congress' report, which stated, "A government agency may correct a mistake, and no principle of administrative law consigns an agency to repeating a mistake into perpetuity. Administrative agencies have the inherent authority to correct adjudications which appear to be erroneous." This comports with our prior recommendations, which SSA has not implemented, to correct ongoing payments.
- In 2017, SSA established a workgroup to develop recommendations to revise its administrative finality policy. In 2020, SSA informed us the workgroup planned to present options for policy updates to the Commissioner in Fiscal Year 2021 and implement changes by December 2022.

We also compared SSA's administrative finality policy to that of other agencies and found the Railroad Retirement Board and Department of Veterans Affairs' administrative finality policies permit revisions to ongoing and future payments in certain circumstances beyond those allowed by SSA policy.

Recommendation

We recommended SSA finalize its decision on updating its administrative finality policy and execute an action plan with specific milestones to ensure any updates are implemented timely. SSA agreed with the recommendation.