
**OFFICE OF
THE INSPECTOR GENERAL**

SOCIAL SECURITY ADMINISTRATION

**SOCIAL SECURITY ADMINISTRATION'S
CONTROLS OVER THE TITLE XVI
OVERPAYMENT WAIVER PROCESS**

October 2004

A-06-03-13077

AUDIT REPORT



Mission

We improve SSA programs and operations and protect them against fraud, waste, and abuse by conducting independent and objective audits, evaluations, and investigations. We provide timely, useful, and reliable information and advice to Administration officials, the 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

By conducting independent and objective audits, investigations, and evaluations, we are agents of positive change striving for continuous improvement in the Social Security Administration's programs, operations, and management and in our own office.



SOCIAL SECURITY

MEMORANDUM

Date: October 25, 2004

Refer To:

To: The Commissioner

From: Acting Inspector General

Subject: Social Security Administration's Controls Over the Title XVI Overpayment Waiver Process (A-06-03-13077)

OBJECTIVE

Our objectives were to (1) evaluate the Social Security Administration's (SSA) controls over the Title XVI overpayment waiver process to assess the appropriateness of overpayment waiver decisions of \$500 or less and (2) determine whether overpayment waivers exceeding \$500 were developed in accordance with the provisions defined in Title XVI of the Social Security Act (the Act).

BACKGROUND

Title XVI of the Act as amended, established the Supplemental Security Income (SSI) program, effective January 1, 1974.¹ SSA is responsible for administering this program.² SSI provides a minimum level of income for people who are age 65 or over, 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.³ SSA relies heavily upon beneficiary self-disclosure of resources and earnings, as well as computer matching from other Federal and State agencies to determine eligibility and to compute monthly benefits. Financial resources and earnings may vary from month to month and recipients may elect payment continuation during a disability cessation appeal,⁴ 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.

¹ 20 C.F.R. § 416.101.

² 20 C.F.R. § 416.105.

³ 20 C.F.R. § 416.110.

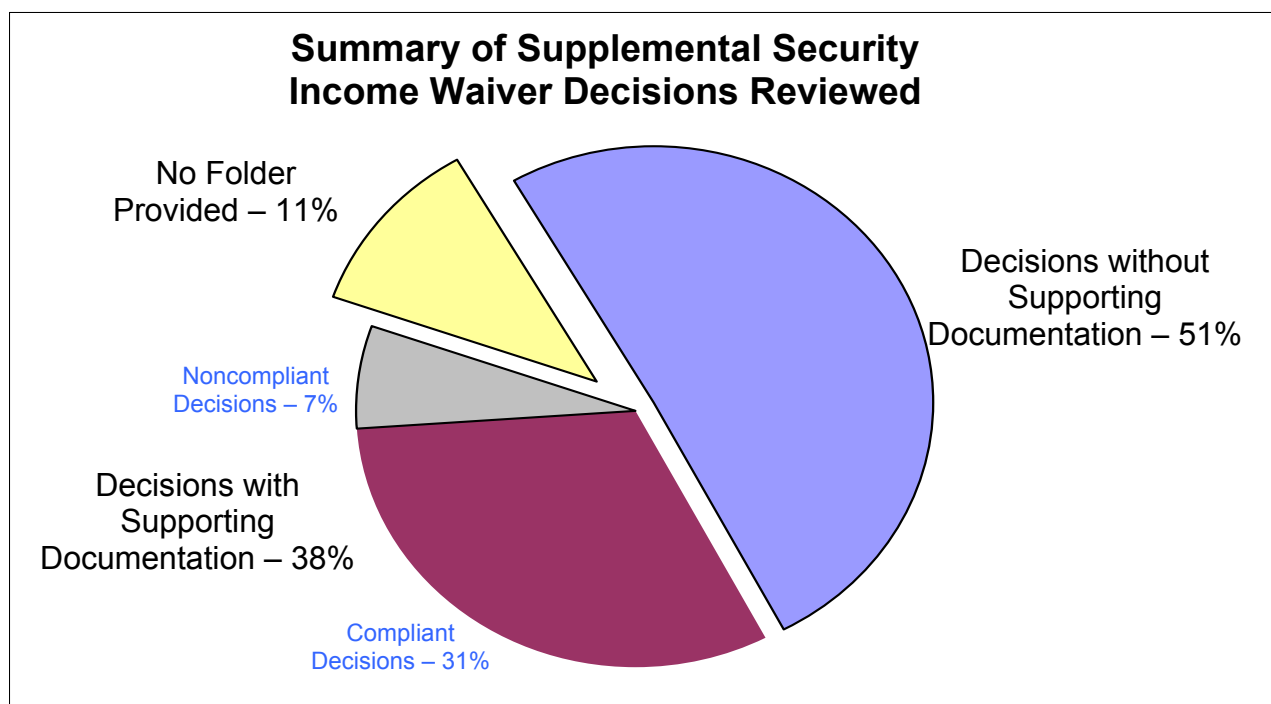
⁴ SSA, Program Operations Manual System (POMS), SI 02260.007(2)(a).

Office of Management and Budget (OMB) Circular A-123⁵ defines Agencies' stewardship responsibilities and management controls to protect programs from waste, fraud, and mismanagement. Appendix B provides additional background information and makes reference to three other Office of the Inspector General (OIG) audits on SSI overpayments. The scope and methodology of our review is described in Appendix C. Appendix D illustrates SSA's procedures for granting waivers, and Appendix E contains our sample methodology and results.

RESULTS OF REVIEW

While SSA established policies and procedures that provided safeguards from fraud, waste, and mismanagement for SSI overpayment waivers, these procedures were not always implemented. Specifically, our review of a statistical sample of 250 waiver decisions below \$20,000 and all 13 waiver decisions above \$20,000 from one segment of the Supplemental Security Record disclosed:

- No documentation was available to support waiver decisions for 133 of 263 sample items (50.6 percent).
- SSA was unable to provide case folders for another 30 decisions (11 percent).
- There were decisions that did not conform to SSA policy for 17 waiver approvals (7 percent).



⁵ OMB Circular A-123, *Management Accountability and Control* (1995).

We project the amount of unsupported approved waiver decisions could total at least \$64.4 million for an estimated 159,880 cases below \$20,000 and \$418,500 for an estimated 20 cases above \$20,000. Because SSA was unable to provide us case folders for 30 sample items (11.4 percent)—27 cases below \$20,000 and 3 cases above \$20,000—we were unable to assess the appropriateness of the waiver decisions for these 30 items. Based on this result, we estimate SSA would be unable to provide case folders to support 24,880 waiver decisions with a total value of at least \$16.8 million.

UNSUPPORTED WAIVER DECISIONS

There was no documentation to support waiver decisions for 133 of 263 sample items (50.6 percent). According to SSA policy, a recipient's request for waiver of 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 We determined that none of the overpayments in our sample were caused by excess resources of \$50 or less.

SSA provided the case folder for 233 (88.6 percent) of the 263 sample items, but the documentation was incomplete or missing for 133 waiver decisions. Waiver decisions lacked documentation for 84 cases of \$500 or less, 47 cases exceeding \$500, and 2 cases exceeding \$20,000. Based on discussions with SSA employees responsible for waiver decisions, we found that employees displayed a general lack of concern for small waiver amounts and failed to adequately document and maintain waiver documents. Without supporting documentation, there was no assurance that SSA complied with its management controls for overpayment waivers. If SSA does not comply with its waiver process, the integrity of the process is weakened and waivers are susceptible to fraud, waste and mismanagement.

SSA policy requires that the resolution of SSI overpayments be documented.⁷ SSA must also document case development used to make a waiver determination.⁸ Field Offices (FO) and Tele-Service Centers (TSC) send post-eligibility (PE) documents, such as waiver documentation, to the Wilkes-Barre Folder Servicing Operations (WBFSO) for long-term storage. SSA policy states that waiver documentation (Forms SSA-632-BK, SSA-5002, or SSA-795) is to be retained until the claims file is destroyed.⁹

To review the adequacy of supporting documentation, we

- Requested the initial claim and PE files for all sample items from WBFSO, the current folder location, and the waiver-approving FO (if different from the current folder location), and

⁶ SSA, POMS, SI 02260.035(A)(6), SI 02260.005(A)(1) & (2), SI 02260.005(C)(3)(d).

⁷ SSA, POMS, SI 02220.005(B).

⁸ See SSA, POMS, SI 02260.010(B), GN 02250.230(A).

⁹ See SSA, POMS, GN 01085.025.

- Queried and reviewed electronic documentation in the Modernized Supplemental Security Income Claims System (MSSICS), Modernized Developmental Worksheet (MDW), and Debt Management System (DMS) for supporting waiver information.

We considered waiver decisions to be unsupported if the supporting documentation for the waiver decision was missing or the waiver documentation was not completed.

Waiver Decisions of \$500 or Less

For waiver requests on overpayments of \$500 or less,¹⁰ SSA is required to document the request on Form SSA-795 (*Statement by Claimant or Other Person*) when the individual makes the request in person or Form SSA-5002 (*Record of Contact*) when the individual makes the request by phone.¹¹ We regarded waiver requests recorded by SSA in MSSICS, MDW, or DMS as supporting documentation. SSA provided 116 case folders but could not provide the folders for 9 cases in our sample. Of the 116 case folders provided, there was no documentation to support 84 decisions. These included 83 waivers processed as approved and one processed as denied. Specifically, for these 84 decisions, there was no evidence in the case folder that a waiver had been requested, nor was there evidence in MSSICS, MDW, or DMS to demonstrate that a waiver had been requested. The 83 approved waivers totaled \$15,486.

Based on discussions with SSA employees responsible for processing waiver requests, we were told that waiver documentation was destroyed, improperly maintained, or was not completed. For example, one SSA field office employee informed us they administratively waived overpayments of \$500 or less, in many instances, without contacting the recipient or without the recipient's request for waiver. SSA employees at other field offices also stated they would administratively waive the overpayment without completing the supporting documentation or shred waiver documentation they thought to be immaterial. Employees from three TSCs said they shredded the overpayment documents 3 to 12 months after the waiver decision, instead of shipping the PE material to the WBFSSO as mandated in SSA policy.¹²

Waiver Decisions Between \$500 and \$20,000

SSA is required to document waiver requests for overpayments exceeding \$500 on Form SSA-632-BK (*Request for Waiver of Overpayment Recovery of Change in Recovery Status*) except when equivalent information about fault and financial circumstances is included in the file.¹³ SSA provided 107 case folders but could not

¹⁰ There were four waiver decisions of overpayments below \$500 where the original overpayment amounts were greater than \$500. Because POMS guidelines did not clearly state that documentation decisions were to be based on original overpayment amounts, we applied the documentation requirements applicable to amounts under \$500 for these four waiver decisions. We noted that for two of the decisions, the field office applied an administrative waiver although the original overpayment was greater than \$500.

¹¹ SSA, POMS, SI 02260.005(C)(3)(d).

¹² SSA, POMS, SM 01201.170(C).

¹³ SSA, POMS, SI 02260.005(A)(1) & (2).

provide the folders for 18 cases in our sample. Of the 107 case folders provided, there was no documentation to support 47 decisions, nor was there any electronic documentation to support these cases. Of these 47, SSA approved 38 waiver requests totaling \$75,864 and denied 9 waiver requests totaling \$15,975.

In discussing the lack of supporting documentation with SSA employees, the employees stated that waiver documentation was completed for waiver decisions exceeding \$500. The employees believed the documentation could not be located for the following reasons: (1) the creation of multiple PE folders can complicate locating PE documents; (2) the recording of folder movement is prone to error or not updated; and/or (3) retrieving folders from WBFSO is unreliable. To emphasize this point, one SSA employee informed us that her FO had participated in an on-site case folder review, whereby they attempted to retrieve previously completed waiver documentation for 8 waiver decisions from the WBFSO. The overpayment waiver documentation could not be located for any of the 8 cases.

Waiver Decisions Exceeding \$20,000

SSA could not provide supporting documentation for 2 of 13 waiver requests above \$20,000. Of these, SSA approved one waiver totaling \$20,925 and denied another waiver totaling \$30,489. SSA could not provide the case folder for three of the waiver requests above \$20,000.

WAIVER DECISIONS APPROVED CONTRARY TO SSA POLICY

Because supporting documentation was not available or a case folder was not provided for 163 decisions, we reviewed the appropriateness of only 100 of the 263 waiver decisions. Of the 100 waiver decisions with supporting documentation, 17 decisions totaling \$144,547 had been approved contrary to SSA policy. Four waiver approvals totaling \$58,631 were approved for overpayments that, on further development, were not considered overpayments. Six waiver approvals totaling \$40,395 were inappropriately approved by SSA. Also, seven waiver approvals totaling \$45,521 lacked the necessary supervisory review. Since SSA relies on prior overpayment information for determining fault,¹⁴ the approval of overpayment waivers for an invalid debt can adversely affect the recipient's payment/debt collection record. Waiver decisions approved contrary to SSA policy eliminate the possibility of collecting improper payments and impose an unnecessary burden on taxpayer dollars.

Invalid Overpayments Waived

SSA approved four overpayment waivers that, on further development, were not considered overpayments. The overpayment resolution process is continuous and ongoing. It ends when the entire amount of the debt has been accounted for through recovery or waiver; or through a determination that the debt did not exist or is

¹⁴ SSA, POMS, SI 02260.010(F)(5).

uncollectible.¹⁵ In one example, SSA determined an individual was overpaid because he elected to have his benefits continued during a disability cessation appeal. However, the administrative law judge overturned the decision to cease the individual's disability benefits and the appeal was fully favorable to the individual. SSA approved waivers for three similar cases in our sample where the overpayment was later dismissed.

SSA relies on overpayment waiver information and decisions already on the recipient's record to make collection decisions on future overpayments. Therefore, SSA could incorrectly deny a request for a waiver based on invalid or incorrect information on the recipient's record.

Inappropriate Waiver Decisions

SSA inappropriately waived 6 overpayments because the individuals were ineligible for waiver approvals or the circumstances involved did not support a waiver approval. This included two cases in which representative payees¹⁶ misused funds, two waivers over \$500 that were improperly approved by the Program Service Center (PSC), and two waivers not properly developed.

The determination of responsibility for repayment of an overpayment is as much a part of the determination of overpayment, as is the fact and amount of the overpayment.¹⁷ A representative payee is personally responsible for repayment when the funds were not used for the support and maintenance of the recipient.¹⁸ For two waiver requests totaling \$8,868, the representative payee was the responsible individual; however, the waiver request was approved for the SSI recipients. The SSI recipients were not at fault and did not benefit from or receive the overpaid funds. SSA attempted to recover the overpaid funds from the representative payee for one case. For another case, SSA did not attempt to recover the misused funds. We referred this case to OIG, Office of Investigations for further review.

The PSC approved two waiver requests above \$500 totaling \$5,028 although SSA policy explicitly forbids it from approving waiver requests above \$500.¹⁹ In one case, the waiver documentation completed by the field office determined the individual was at fault for the overpayment and was, therefore, ineligible for a waiver approval.²⁰

SSA approved two waiver requests totaling \$26,499 without proper development for overpayments caused by payment continuation during a disability cessation appeal. One recipient was in prison during the entire appeals process, and being an inmate of a public institution throughout a month is a reportable event that stops SSI payments.²¹

¹⁵ SSA, POMS, SI 02201.005(A)(2)(a).

¹⁶ A representative payee is an individual or organization who manages a recipient's SSI payments. SSA appoints representative payees when individuals are incapable of managing their own payments.

¹⁷ SSA, POMS, SI 02201.005(A)(3).

¹⁸ SSA, POMS, SI 02201.021(A)(1)(b).

¹⁹ SSA, POMS, GN 02210.219(A)(4).

²⁰ See 20 CFR § 416.550.

²¹ SSA, POMS, SI 02301.005(B)(2), SI 00520.001(B)(4), SI 00520.001(C)(1)(b).

According to documents in the file, SSA did not consider the recipient's incarceration when developing the facts surrounding the waiver request, even though the recipient used his incarceration as an excuse on the waiver request. Another recipient did not attend any of the three scheduled medical appointments requested by OHA. Further, the recipient missed three scheduled OHA hearings before attending. Without the requested additional medical evaluation, the recipient was unable to provide evidence of his continuing disability. The waiver documentation in the file showed no indication that the recipient's lack of cooperation was taken into consideration in developing the waiver request.

Lack of Supervisory Review for Waivers Exceeding \$2,000

According to SSA policy, waiver decisions above \$2,000 must be reviewed by an immediate supervisor.²² Seven (30.4 percent) of the 23 cases above \$2,000 did not have the appropriate supervisory review. In total, there were 42 approved waiver decisions above \$2,000 in our sample of 263 waiver decisions; however, only 23 had supporting documentation for our review. Therefore, we could only determine if 23 cases had the appropriate supervisory review.

Effective April 24, 2004, SSA implemented a change in its management review process for overpayments exceeding \$2,000 whereby managers would use their personal identification number to document and post their review of the disposition decision.²³ We did not test the effectiveness of this control to determine if employees could bypass the manager's review; however, if effective, it should minimize the risk that waiver decisions above \$2,000 will be approved contrary to SSA policy.

CONCLUSION AND RECOMMENDATIONS

SSA's policies and procedures provided safeguards from fraud, waste and mismanagement for SSI overpayment waivers; however, there was no documentation for 50.6 percent of the decisions to demonstrate that SSA complied with its policies. Discussions with field office staff confirmed that SSA policy was being circumvented by issuing waivers without the required request from the recipient. We also found waiver decisions had been made without the required development of the recipient's fault and financial circumstances. Failure to document that waiver policies and procedures are followed or the inability to produce that documentation brings into question the integrity of this process.

We also found that SSA made waiver decisions contrary to SSA policy for 17 of 100 decisions for which documentation was available. As a result of these findings, the waiver process is susceptible to fraud, waste, and mismanagement.

²² SSA, POMS, SI 02220.005(C)(5) & (6).

²³ SSA, POMS, SI 02220.005(A).

We recommend that SSA:

1. Ensure that employees develop and maintain documentation for all waivers to include the recipients request for waivers, and discontinue the practice of shredding waiver documentation.
2. Ensure that employees properly develop fault and financial circumstances and discontinue the practice of granting waivers when development is incomplete.
3. Ensure that waivers over \$2,000 are reviewed by supervisors before a decision becomes final.

AGENCY COMMENTS

SSA agreed with our recommendations. SSA stated, however, that the main reason for the report findings leading to the first recommendation was that it changed the overpayment documentation policies on January 9, 2003, from a paper process to a paperless workload. In addition, overpayment decisions have been processed through MSSICS since September 2001. SSA also provided technical comments that we incorporated into the final report as appropriate. See Appendix F for the text of SSA's comments.

OIG RESPONSE

The policy change made on January 9, 2003, had no impact on the report findings because we reviewed overpayment waiver decisions made during the period October 2001 through September 2002. We acknowledge that overpayment decisions were processed through MSSICS since September 2001. As part of our audit, we retrieved and considered information available through MSSICS along with supporting documentation from the case folders to determine if the waivers were properly documented and in accordance with SSA policies.



Patrick P. O'Carroll, Jr.

Appendices

[APPENDIX A](#) – Acronyms

[APPENDIX B](#) – Background

[APPENDIX C](#) – Scope and Methodology

[APPENDIX D](#) – Title XVI Overpayment Waiver Procedures

[APPENDIX E](#) – Sample Methodology and Results

[APPENDIX F](#) – Agency Comments

[APPENDIX G](#) – OIG Contacts and Staff Acknowledgments

Acronyms

DMS	Debt Management System
FO	Field Office
MDW	Modernized Development Worksheet
MSSICS	Modernized Supplemental Security Income Claims System
OIG	Office of the Inspector General
OMB	Office of Management and Budget
PE	Post Eligibility
POMS	Program Operations Manual System
PSC	Program Service Center
SSA	Social Security Administration
SSI	Supplemental Security Income
TSC	Tele-Service Centers
WBFSO	Wilkes-Barre Folder Servicing Operation

Background

The Supplemental Security Income (SSI) program administered by the Social Security Administration (SSA) was created as a result of the Social Security Amendments of 1972. The SSI program under Title XVI of the Social Security Act, which was effective on January 1, 1974, provides income to financially needy individuals who are aged, blind or disabled.¹ SSA relies heavily upon beneficiary self-disclosure of resources and earnings, as well as computer matching from other Federal and State agencies to determine eligibility and compute monthly benefits. Since financial resources and earnings may vary from month to month and recipients may elect payment continuation during a disability cessation appeal, SSI payments are error prone and may result in overpayments.

SSA grants SSI overpayment waivers under certain situations when the recipient is not at fault for the overpayment.² Recovery of an overpayment may be waived, if such recovery would be against equity and good conscience, impedes effective and efficient administration because of the small amount involved, or defeats the purpose of the SSI program. In December 1993, SSA increased the overpayment waiver tolerance from \$100 to \$500 for determining if development of an overpayment waiver would impede efficient and effective administration of SSA programs.

Office of Management and Budget (OMB) Circular A-123, *Management Accountability and Control*, section 3, revised June 21, 1995 states,

Agencies and individual Federal managers must take systematic and proactive measures to (i) develop and implement appropriate, cost-effective management controls for results-oriented management; (ii) assess the adequacy of management controls in Federal programs and operations; (iii) identify needed improvements; (iv) take corresponding corrective action; and (v) report annually on management controls.

It further defines management controls, including organization, policies, and procedures, as "...tools to help program and financial managers achieve results and safeguard the integrity of their programs."³ Also "... management controls are the organization, policies, and procedures used to reasonably ensure that programs and resources are protected from waste, fraud, and mismanagement."⁴

SSA has procedures in place that specify conditions under which waivers can be approved. These procedures constitute management controls designed to ensure the

¹ Social Security Amendments of 1972 (Public Law 92-603).

² See 20 CFR § 416.550.

³ OMB Circular A-123, Attachment I (as amended June 21, 1995).

⁴ OMB Circular A-123, section 2 (as amended June 21, 1995).

integrity of SSA actions with respect to Title XVI overpayment waivers and help minimize the risk of waste, fraud and mismanagement. Appendix D illustrates SSA's overpayment waiver procedures.

During our review, three other audits were being conducted on SSI overpayments, and our work was coordinated to ensure there was no overlap. The three other audits are discussed below.

- *SSA's Controls over Suspending Collection Efforts on Title XVI Overpayment* (A-04-04-24029) will assess SSA's controls over suspending collection efforts on Title XVI overpayments, and determine whether they were in accordance with SSA's policies and procedures.
- *SSA's Administrative Finality Rules* (A-01-04-24024) will assess the Agency's application of administrative finality rules to SSI and Old-Age, Survivors, and Disability Insurance case.
- *Supplemental Security Income Overpayments* (A-01-04-24022), issued April 2004, assessed SSA's efforts to identify, prevent, and resolve SSI overpayments.

Scope and Methodology

We reviewed 250 statistically selected overpayment waiver requests recorded in 1 of 20 Supplemental Security Record segments during the period October 1, 2001 through September 30, 2002. Our sample included 125 overpayment waiver requests of \$500 or less and 125 overpayment waiver requests exceeding \$500. We also selected the entire population of 13 overpayment waiver requests above \$20,000. Waiver request amounts can differ from total overpayment amounts. In four instances, the selected overpayment waiver requests were less than \$500, but the total overpayment exceeded \$500. For two of these cases, SSA used an administrative waiver applicable to overpayments under \$500. In evaluating these four cases, we applied the documentation requirements applicable to overpayments under \$500. See Appendix D for a description of the Title XVI overpayment waiver procedures. We reviewed each overpayment waiver for appropriateness as defined in the Program Operations Manual System and Tele-Service Center Operating Guide, reliability of data located on the Supplemental Security Record, and existence of supporting documentation.

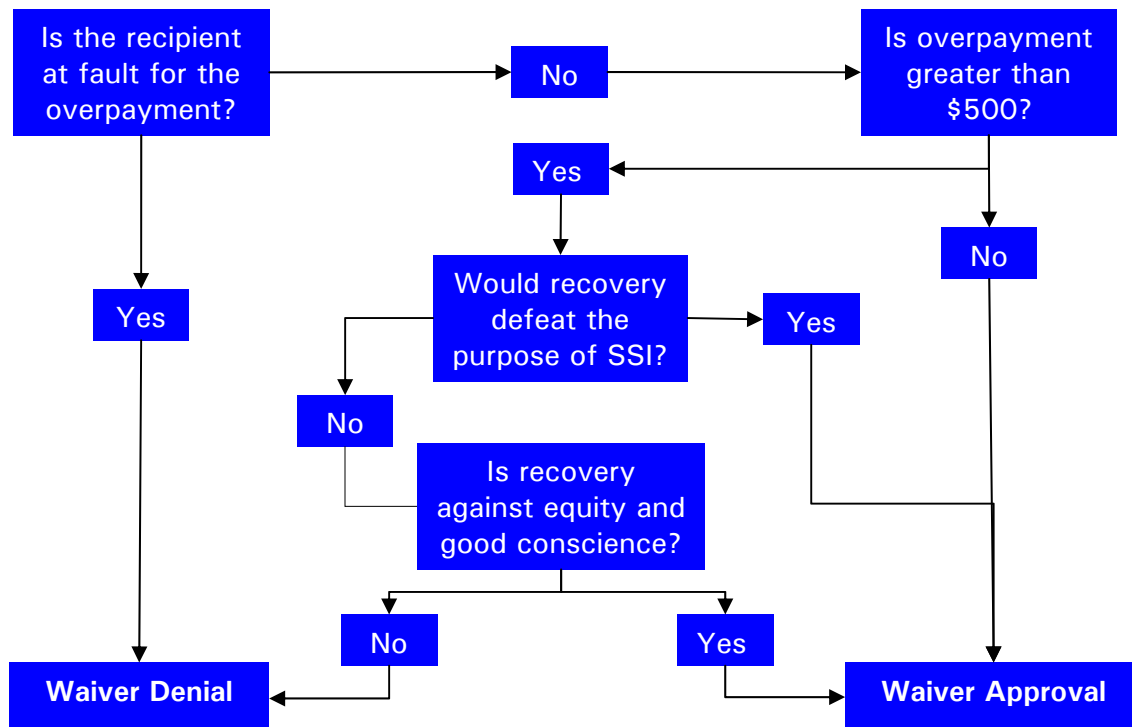
We also:

- Reviewed applicable Federal regulations governing overpayment waivers under Title XVI of the Social Security Act.
- Interviewed field office staff regarding procedures used in developing an overpayment decision.
- Reviewed prior Office of the Inspector General and Government Accountability Office reports pertaining to Supplemental Security Income overpayment waivers.
- Requested and reviewed case files from Social Security Administration (SSA) field offices, Disability Determination Services, Offices of Hearings and Appeals, and the Wilkes-Barre Folder Servicing Operation.
- Queried and reviewed overpayment waiver information for sample items from SSA's Modernized Supplemental Security Income Claims System, Modernized Development Worksheet, and Debt Management System.

We conducted field work from August 2003 through March 2004 at SSA's Regional Office in Dallas, Texas. The entity audited was the Office of Income Security Programs within the Office of the Deputy Commissioner for Disability and Income Security Programs. We conducted this audit in accordance with generally accepted government auditing standards.

Title XVI Overpayment Waiver Procedures

According to Social Security Administration (SSA) policy, a recipient's request for overpayment waiver recovery must be documented except if the overpayment was caused by the recipient's resources exceeding the resource limit by \$50 or less.¹ For waiver requests of overpayments above \$500, the Form SSA-632-BK (*Request for Waiver of Overpayment Recovery or Change in Repayment Status*) is used to obtain sufficient information from the recipient about fault and financial circumstances to make a waiver decision.² SSA may accept similar information about fault and financial circumstances in place of Form SSA-632-BK submitted by the recipient with the recipient's signature.



If SSA administratively waives an overpayment of \$500 or less, a Form SSA-632-BK is not needed. Instead, SSA uses Form SSA-5002 (Record of Contact) or Form SSA-795 (Statement by Claimant or Other Person) to document the recipient's request for an

¹ SSA, POMS, SI 02260.035(A)(6), SI 02260.005(A)(1) & (2), SI 02260.005(C)(3)(d).

² SSA, POMS, SI 02260.005(A)(1) & (2).

overpayment waiver. SSA policy states that waiver documents are retained until the claims file is destroyed.³ After the waiver has been requested, SSA develops the request according to waiver procedures set forth in SSA policy.⁴

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 Supplemental Security Income (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.⁵

For a waiver request of \$500 or less, a recipient is assumed to be without fault in causing the overpayment, unless an indication of fault is apparent on the face of the waiver request.⁶

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
- The \$20 general exclusion; plus
- The \$65 earned income exclusion; plus
- The 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

³ See SSA, POMS, GN 01085.025.

⁴ See SSA, POMS, GN 02201.019; GN 02201.021 and GN 02201.023.

⁵ 20 CFR § 416.552.

⁶ SSA, POMS, SI 02260.030(C)(1).

⁷ See 20 CFR § 416.553.

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.

⁸ See 20 CFR § 416.554.

Sampling Methodology and Results

SAMPLE POPULATION FROM 1 OF 20 SUPPLEMENTAL SECURITY RECORD SEGMENTS FISCAL YEAR 2002		
Strata	Waiver Decisions	Dollar Amount
\$500 or Less	11,004	2,077,145
Exceeding \$500	5,006	11,805,181
Above \$20,000	13	391,110
	16,023	14,273,436

We selected a stratified statistical sample of 250 waiver requests from one segment of the Supplemental Security Record in Fiscal Year 2002. We selected 125 items where the waiver request was \$0.01 through \$500.00 and 125 items where the waiver request was \$500.01 through \$19,999.99.

There were 13 waiver decisions of \$20,000 or more in FY 2002 and we selected all 13 decisions.

Attribute Appraisal: Unsupported Approved Waiver Decisions Under \$20,000	
Total Segment Population	16,010
Sample Size	250
Number of Unsupported Approved Waivers	121
Projection of Unsupported Approved Waivers in Segment Population:	
Lower Limit	7,994
Point Estimate	8,828
Upper Limit	9,662
Estimate of Unsupported Approved Waivers in all 20 Segments	159,880

All projections are at the 90-percent confidence level.

Variable Appraisal: Unsupported Approved Waiver Decisions Under \$20,000	
Total Segment Population	16,010
Total Sample Size	250
Total Dollars of Unsupported Approved Waivers in Sample	\$91,350
Projected Value of Unsupported Approved Waivers in Segment:	
Lower Limit	\$3,218,507
Point Estimate	\$4,401,437
Upper Limit	\$5,584,367
Estimated Value of Unsupported Approved Waivers in all 20 Segments	\$64,370,140

All projections are at the 90-percent confidence level.

Attribute Appraisal: Waiver Decisions Under \$20,000 Without Case Files	
Total Segment Population	16,010
Sample Size	250
Number of Unsupported Approved Waivers	27
Projection of Waiver Decisions Without Case Files in Segment Population:	
Lower Limit	1,241
Point Estimate	1,729
Upper Limit	2,331
Estimate of Waiver Decisions Without Case Files in all 20 Segments	24,820

All projections are at the 90-percent confidence level.

Variable Appraisal: Waiver Decisions Under \$20,000 Without Case Files	
Total Segment Population	16,010
Total Sample Size	250
Total Dollars of Unsupported Approved Waivers in Sample	\$29,807
Projected Value of Waiver Decisions Without Case Files in Segment:	
Lower Limit	\$723,444
Point Estimate	\$1,273,703
Upper Limit	\$1,823,962
Estimated Value of Waiver Decisions Without Case Files in all 20 Segments	\$14,468,880

All projections are at the 90-percent confidence level.

Unsupported Approved Waiver Decisions Above \$20,000	
Total Segment Population	13
Number Reviewed	13
Number of Unsupported Waiver Approvals	1
Total Dollars of Unsupported Approved Waivers Reviewed	\$20,925
Estimate of Unsupported Approved Waivers in all 20 Segments	20
Estimated Value of Unsupported Approved Waivers in all 20 Segments	\$418,496

Waiver Decisions Above \$20,000 Without Case Files	
Total Segment Population	13
Number Reviewed	13
Number of Unsupported Waiver Approvals	3
Total Dollars of Waiver Decisions Without Case Files	\$115,466
Estimate of Waiver Decisions Without Case Files in all 20 Segments	60
Estimated Value of Waiver Decisions Without Case Files in all 20 Segments	\$2,309,320

Agency Comments



SOCIAL SECURITY

MEMORANDUM

33191-24-1110

Date: September 22, 2004

Refer To: S1J-3

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

From: Larry W. Dye /s/
Chief of Staff

Subject: Office of the Inspector General (OIG) Draft Report, "Social Security Administration's Controls Over the Title XVI Waiver Process" (A-06-03-13077)--INFORMATION

We appreciate OIG's efforts in conducting this review. Our comments to the recommendations are attached.

Please let us know if we can be of further assistance. Staff questions can be referred to Janet Carbonara at extension 53568.

Attachment:
SSA Response

COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL (OIG) DRAFT REPORT, “SOCIAL SECURITY ADMINISTRATION’S CONTROLS OVER THE TITLE XVI WAIVER PROCESS” A-06-03-13077

We appreciate the opportunity to comment on the draft report. We agree that properly documenting overpayment actions consistent with Agency guidelines will help ensure the integrity of the Supplemental Security Income (SSI) program. Also, it should be noted within the report that payments made pursuant to payment continuation are required by law and are not considered errors by the Agency, even though they might result in overpayments. The Office of Management and Budget (OMB) agreed with the Social Security Administration (SSA) that overpayments stemming from benefit (payment) continuation are not erroneous and are not considered improper payments. Therefore, mention of benefit continuation overpayments should not be associated with improper payment errors in the SSI program.

Our comments to the recommendations and technical comments to the report are below.

Recommendation 1

Ensure that employees develop and maintain documentation for all waivers to include the recipient’s request for waiver, and discontinue the practice of shredding waiver documentation.

Comment:

We agree. On January 9, 2003, the Agency officially released transmittal SI 02220.005 to change the overpayment documentation policies from a paper process to a paperless workload. Form SSA-8108 (SSI Overpayment and Disposition Determination) was declared obsolete as the direct Supplemental Security Record (SSR) Update is used to document overpayment decisions. Overpayment decisions have been processed through Modernized Supplemental Security Income Claims System (MSSICS) since September 2001. The current MSSICS screens allow for the claims representative to provide documentation on the Development Report of Contact (DROC) screen (SSA-5002), and Development Person Statement (DPST) screen (SSA-795), along with general remarks to be placed on the Claims Development screen. Prior to January 2003, all overpayment actions were documented on the paper form SSA-8108.

We believe that this documentation transition period, which coincided with OIG’s review period, was the main reason for the report findings that led to this recommendation. We are still in the process of fine tuning this paperless workload, which will require Program Operations Manual System (POMS) updates to match those processes from paper to electronic, field office (FO) reminders and possible refresher training.

We currently have a workgroup examining ways to appropriately collect and store folder documentation electronically. Storing paper folder documentation beyond the required retention period leads to difficulty storing folders and retrieving them at a later date, as was evidenced in this review. Consistent with the Agency’s paperless efforts, to the extent possible, documentation should be recorded and stored electronically for easy

future reference. All post-entitlement folders are to be shipped to the Wilkes-Barre Folder Servicing Operations in accordance with POMS SM 01201.170.

Recommendation 2

Ensure that employees properly develop fault and financial circumstances and discontinue the practice of granting waivers when development is incomplete.

Comment

We agree. We will release a reminder by the end of October 2004 to FO employees to develop “without fault” and financial circumstances prior to granting a waiver.

The current waiver screen in MSSICS (Overpayment and Underpayment Waiver (UOWV) screen) is designed for the decision-making employee to choose only “1” reason for granting the waiver, despite the fact that there are two factors which must be met for a waiver to be granted in all overpayments of more than \$500. We are concerned that this may be causing employees to simplify the decision and forget to consider both the “fault” and “financial” factors. We plan to address this issue during systems enhancements.

Recommendation 3

Ensure that waivers over \$2,000 are reviewed by supervisors before a decision becomes final.

Comment

We agree. Effective April 24, 2004, a change was implemented in the management review process for overpayments exceeding \$2,000 whereby a 2-pin process is required for management officials to approve overpayments and post their review of the disposition decision. Also, the 2-pin process prevents overpayments exceeding \$20,000 from being waived without Regional Office concurrence.

OIG Contacts and Staff Acknowledgments

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