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108466

REPORT BY THE

# Comptroller General

OF THE UNITED STATES

*SSA*

## Social Security Should Improve Its Collection Of Overpayments To Supplemental Security Income Recipients

Efficient resolution of Supplemental Security Income overpayments requires that they be acted upon quickly and uniformly so that the debts are collected promptly and that the overpaid recipients are treated fairly. The Social Security Administration has not acted quickly or uniformly.

SSA needs to improve its overpayment collection process if it is to achieve uniformity and objectivity, reduce its unresolved backlog of over 1.2 million cases, and collect the maximum possible amount of Supplemental Security Income overpayments.

This report was requested by Senator William Proxmire.



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HRD-79-21  
JANUARY 16, 1979





COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON, D.C. 20548

B-164031(4)

The Honorable William Proxmire  
United States Senate

Dear Senator Proxmire:

In response to your request of February 25, 1977, we are reporting on the Social Security Administration's efforts to recover overpayments to Supplemental Security Income recipients. We have studied your questions about the possibility of millions of dollars being lost each year because of negligence in collecting overpayments in the Supplemental Security Income program. Although we confirmed that there are weaknesses with Social Security's policies and procedures which adversely affect efforts to recover Supplemental Security Income overpayments, we could not conclude that Social Security was negligent in collecting overpayments to Supplemental Security Income recipients. The report also discusses administrative changes needed to improve Social Security's recovery efforts.

At your request, we did not take the additional time to obtain written comments from the Department of Health, Education, and Welfare. The matters covered in the report, however, were discussed with Social Security officials; their comments are incorporated where appropriate.

As arranged with your office, unless you publicly announce its contents earlier we plan no further distribution of this report until 10 days from the date of the report. At that time, we will send copies to the Department of Health, Education, and Welfare and other interested parties, and make copies available to others upon request.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Thomas R. Staebli".

Comptroller General  
of the United States



D I G E S T

Recovery or waiver by the Social Security Administration of overpayments to Supplemental Security Income recipients has been, and continues to be, a problem. The administration has taken steps to reduce overpayments and to correct underlying problems. However, additional improvements are needed if the Social Security Administration is to achieve uniformity and objectivity in resolving overpayments, reduce an unresolved backlog of over 1.2 million overpayments, and collect the maximum possible amount of overpayments due the Government.

From January 1974 to September 1978 \$27.9 billion was paid in Supplemental Security Income benefits. The Social Security Administration identified 3.2 million instances of overpayments totaling about \$1.5 billion. Of the \$1.5 billion

- about \$443 million was waived;
- \$295.8 million was collected;
- \$148.8 million of collections were in process;
- recovery efforts on \$147.7 million were suspended;
- incorrectly computed overpayments for about \$5.9 million were adjusted; and
- the remaining \$462.4 million (over 1.2 million cases) had not been resolved.  
(See p. 3.)

Efficient resolution of overpayments requires that they be quickly and uniformly processed to assure that the debts are promptly collected and that the overpaid recipients are treated fairly. Social Security has not acted quickly or uniformly. ]

Whether a recipient's overpayment was waived or recovered depended, because of the criteria, on the subjective judgments and attitudes of Social Security personnel reviewing the overpayment case when determining whether the overpaid recipient was with or without fault. The result was inconsistent decisions on overpayment cases with similar circumstances. (See pp. 9 to 15.)

The Social Security Administration has no mechanism to assure itself that overpayment policies and procedures are applied consistently among its district offices. It needs a quality control system--one similar to that used to measure Supplemental Security Income benefit payment accuracy--to monitor and evaluate overpayment resolution decisions and actions carried out by its district offices. (See pp. 14 and 15.)

Social Security Administration procedures require its district offices to provide a recipient with an overpayment notice informing the individual of overpayment; when overpaid; the cause of the overpayment; and the proposed method for recovering the overpayment.

When the district office is in personal communication with the recipient, it immediately provides that individual with the required overpayment notice; however, for overpayments detected by computer--those resulting from data exchange with other Federal benefit paying programs at Social Security Headquarters--recipients are unaware of overpayments until the case is sent to the district office for resolution. The district office then prepares and mails a notice of overpayment to the recipient.

The Social Security Administration needs an automated overpayment notice to relieve *at least some* district offices of this task and to assure that an overpaid recipient is notified in a timely manner. (See pp. 8 and 9.)

As of September 1978 about \$462.4 million in Supplemental Security Income overpayments remained outstanding and unresolved. Of

this amount about \$382 million involved overpayments to recipients no longer on the program rolls (nonpay status). GAO randomly sampled 80,000 nonpay status records and, based on the sample, estimated that 580,940 nonpay recipients receive income from other Federal benefit-paying sources and that they have been overpaid about \$233.7 million in Supplemental Security Income benefits. Furthermore, of the \$233.7 million, 541,566 former Supplemental Security Income recipients receiving regular Social Security (title II) benefits have been overpaid \$209.3 million, GAO estimates. (See p. 17.)

A solution to collecting overpayments from former Supplemental Security Income recipients receiving other Federal benefits would be to offset or adjust the other Federal benefits at given rates until the debt is repaid; however, Social Security maintains that it has no legal authority to collect from benefits being paid to these recipients under other Federal programs.

Although legislation to offset Supplemental Security Income overpayments against title II and other Federal benefits could provide the Social Security Administration with a viable method of recovering Supplemental Security Income overpayments, GAO is not, at this time, recommending that the Congress enact such legislation. The Social Security Administration ~~must correct the deficiencies noted in this report and get its Supplemental Security Income overpayment collection process functioning efficiently and uniformly before it is authorized to collect Supplemental Security Income overpayments from moneys due to recipients from other Federal benefit-paying programs.~~ (See p. 17.)

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~~In this regard,~~ the Secretary of Health, Education, and Welfare should direct the Commissioner of Social Security to adopt a stronger and more active management role in recovering Supplemental Security Income overpayments by:

--Establishing standards for timely processing of Supplemental Security Income overpayments.

--Developing a quality control mechanism to assure continuing performance in accordance with the Social Security Administration's <sup>SSA</sup> overpayment policies and procedures. The quality control mechanism should be designed to be able to identify needed corrective actions, needed changes in policy and procedures, and inequities with the subjectivity of the criteria for the with- or without-fault determinations, and to develop solutions to the inequities so that determinations in cases with similar circumstances can be more consistent.

--Developing improved instructions and additional training in overpayment resolution for claims representatives to insure that overpayment cases are afforded more uniform treatment.

--Developing an automated notice to inform overpaid recipients when they have been overpaid; the cause of the overpayment; proposed agency action; and the recipient's appeal rights. This would assure that recipients are provided with proper notice and should help assure that overpayments are resolved in a timely manner.

The Secretary should also direct the Commissioner to develop--through use of the quality control mechanism--more useful and less subjective criteria for claims representatives to use in determining whether an overpaid recipient was with or without fault in causing the overpayment. The goal is to minimize the inconsistent overpayment resolutions now occurring by finding and using a criteria that can be more consistently administered by the thousands of Social Security claims representatives who must make these critical waiver/recovery decisions throughout the country. (See pp. 9 to 15.)

After the above recommendations are implemented and there has been a measurable improvement in Social Security's overpayment collection process, the Secretary should seek legislation to authorize offsetting Supplemental Security Income overpayments against Title II and other Federal benefit-paying programs.



As requested by Senator Proxmire, GAO did not take the additional time to obtain written comments from the Department of Health, Education, and Welfare. The matters covered in the report, however, were discussed with Social Security officials, and their comments were incorporated where appropriate.



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ABBREVIATIONS

DO            District and branch offices  
GAO           General Accounting Office  
SSA           Social Security Administration  
SSI           Supplemental Security Income

## CHAPTER 1

### INTRODUCTION

The Social Security Amendments of 1972 (42 U.S.C. 1381 (Supp. II, 1972)) established the Supplemental Security Income (SSI) program to replace the former Federal grant-in-aid programs administered by the States. SSI is administered by the Social Security Administration (SSA) through its headquarters office in Baltimore, Maryland, 10 regional offices, and over 1,300 district and branch offices (DOs) throughout the Nation. Thousands of DO claims representatives are responsible for resolving overpayment cases. The program is funded by the Federal Government. Some States supplement SSI benefits and many State supplements are administered for the States by SSA.

In addition to being aged, blind, and/or disabled, an individual's SSI eligibility is subject to certain income and resource limitations. For example, an individual with more than \$1,500 (\$2,250 for a couple) of countable resources is ineligible.

SSI eligibility is based on a continuing need for financial assistance; therefore, once eligibility is established, recipients are to immediately report changes in income, resources, or other circumstances which could affect the amount of their benefit payments or their eligibility. The accuracy and appropriateness of benefit payments depend on accurate and timely reporting of changes in recipient circumstances. Improperly reporting these changes causes erroneous payments to be made to recipients.

The accurate computation of benefits is further complicated by SSI legislation generally requiring SSA to compute a recipient's payment based on the recipient's anticipated circumstances for the next calendar quarter. Once computed, the quarterly benefit amount is paid in three equal monthly installments. If circumstances affecting the payment change during the month, then an incorrect payment for the month and probably for the quarter can occur.

Shortly after implementing SSI, SSA identified several problem areas that caused overpayments to many recipients. In general, several States incorrectly computed their supplemental payment; an inflated payment was issued to many recipients in nursing homes; State changes were received at SSA too late for processing; and duplicate payments were made to a number of recipients.

## DISCOVERY OF SSI OVERPAYMENTS

SSA generally discovers an overpayment in three ways. The first is when a recipient or third party reports to a DO a change in income, resources, or other circumstances which reduce the recipient's benefits. The second is during the annual redetermination process, at which time the recipients are contacted by a DO to determine if they are still eligible and to determine whether the SSI payment is correct. Finally, overpayments may be discovered by SSA headquarters through computer payment data exchanges with other Federal benefit-paying programs.

## OVERPAYMENT PROCEDURES AFTER DISCOVERY

SSA classifies overpaid recipients into two categories: current pay (those still on SSI rolls) and nonpay (those who are no longer on SSI).

### Current pay procedures

When a DO discovers an overpayment, it is required to notify the recipient by a written overpayment notice. The notice advises the recipient of the amount, the cause, their right to appeal the overpayment determination, and the options available for relief from recovery or adjustment of the overpayment. The notice also includes a proposed overpayment recovery rate--by reducing the ongoing benefit payment--and informs the recipient that the proposed action will take place if the recipient does not request waiver and/or recovery at a different rate within 30 days of the notice's receipt.

The DO then notifies the SSA headquarters computer of the overpayment and that the ongoing benefit payment is incorrect.

If the computer-recorded overpayment is subsequently collected or waived, the DO notifies the computer, and the recorded overpayment is reduced to zero. If the overpayment is collected by reducing the ongoing benefit, the computer automatically reduces the overpayment until the overpayment reaches zero. If the overpayment is not resolved, the computer holds the overpayment for subsequent release to the DO for additional resolution. Overpayments discovered by SSA headquarters through computer tape matching are held in the computer for subsequent release to DOs for resolution.

### Nonpay procedures

Resolution procedures for nonpay overpayments are similar to current pay procedures, except that the DO requests that the overpayment be refunded and notifies the computer that the recipient is no longer eligible for SSI benefits.

### SSI OVERPAYMENTS

Of the \$27.9 billion paid in SSI benefits from January 1974 to September 1978, SSA identified 3.2 million instances of overpayments that totaled more than \$1.5 billion--\$1.1 billion in Federal benefits and \$404 million in State supplemental payments. SSA had waived about \$443 million, collected \$295.8 million, had \$148.8 million of collections in process, suspended recovery efforts on \$147.7 million, and adjusted \$5.9 million in incorrectly computed overpayments. The remaining \$462.4 million--over 1.2 million cases--were unresolved.

These overpayments ranged as follows:

<u>Dollars</u>	<u>Numbers</u>
\$45.00 or less	285,844
\$45.01 to \$500.00	683,016
\$500.01 to \$1,000.00	143,157
Greater than \$1,000.00	<u>151,723</u>
Total	<u>1,263,740</u>

Senator William Proxmire asked that we assess SSA's efforts to recover SSI overpayments. We do not address why these overpayments occurred or how the mistakes that caused them could be reduced or eliminated. We have issued a number of reports 1/ on ways to prevent SSI overpayments; we continue to review these matters as part of our ongoing audit work at SSA.

### SCOPE OF REVIEW

We made our review at 31 DOs in six SSA regions--Atlanta, Boston, Chicago, Dallas, San Francisco, and Seattle. We randomly sampled 80,000 cases of overpaid SSI recipients that

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1/See app. I for a listing of these reports.

were no longer on SSI rolls to determine if they were receiving other Federal benefits. Our review included an analysis of 1,286 overpayment cases processed by DOs. We interviewed SSA headquarters and regional officials responsible for SSI and briefed the Director of SSA's Bureau of Supplemental Security Income and her staff on the results of our review. The Director and her staff generally agreed with our findings. As a result of the briefing, SSA has taken action to correct some of the problems we presented.

The overpayment statistics used in this report are from SSA's overpayment and underpayment accounts system and only include identified amounts. We did not test the adequacy and validity of this information.



## CHAPTER 2

### OVERPAYMENT RESOLUTIONS HAVE

#### NOT BEEN TIMELY OR UNIFORM

Efficient resolution of overpayments requires that they be acted upon quickly and uniformly to insure that the debts are promptly collected and that the overpaid recipients are treated fairly.

SSA has not acted quickly or uniformly. Large backlogs of overpayments have accumulated and remained unresolved for years and, in many cases, resolved overpayments have resulted in inequitable treatment to overpaid recipients.

#### MASSIVE OVERPAYMENT BACKLOGS BECAUSE OF LACK OF ACTION

Massive backlogs accumulated as a result of the problems encountered early in the program (see p. 1) and because of low priorities on resolving SSI overpayments. The backlogs also grew because some DOs did not immediately process overpayments which they discovered; instead, they merely transmitted information to adjust the benefit level for future payments and recorded, in the computer, the overpaid amount on the recipient's record. The overpayment was then held in the computer. SSA's efforts to recover these overpayments were limited to the release for resolution to DOs of approximately 65,000 current pay cases of the 1.2 million cases backlogged in December 1974. At that time, no information on the amount of nonpay backlog cases was available.

To ease the SSI overpayment burden, the SSA Commissioner made two administrative decisions concerning 1974 overpayments.

--In September 1974 the Commissioner waived all overpayments of \$45 or less which were created during the first 6 months of the SSI program (other than those caused as a result of duplicate payments).

--In August 1975 the Commissioner waived all 1974 SSI overpayments of \$45 or less and allowed the DOs to consider recipients with calendar year 1974 overpayments between \$45 and \$450 to be without fault 1/ in

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1/See p. 9.

causing the overpayment (except for those overpayments incurred as a result of a one-time payment, a multiple payment, or those in which information already in possession of SSA indicated that a without-fault finding was not justified).

As a result of these two decisions, SSA headquarters waived over 431,000 SSI overpayment cases amounting to over \$9.2 million. However, SSA could not determine the number of overpayments waived by DOs as a result of the Commissioner's decisions because records on the number of DO overpayment waivers were not maintained.

SSA's unresolved overpayment backlog continued to grow, and by December 1975 amounted to about 1.4 million cases involving over \$418 million (508,000 nonpay cases and 879,000 current pay cases).

Except for about 49,000 current pay cases that were released to the DOs for resolution in November 1975, no other action had been taken to clear up the backlog by the end of calendar year 1975.

#### SSA EFFORTS TO RESOLVE OVERPAYMENTS SINCE FEBRUARY 1976: CURRENT PAY CASES

In February 1976 SSA decided to release unresolved current pay overpayment cases to DOs in conjunction with a recipient's annual eligibility redetermination. An SSA study indicated that this change would result in less overall processing time than if the overpayment cases were handled separately from the redetermination process. The change was an improvement over the way previous current pay overpayment releases were handled, and it allowed the cases to be released to DOs on a scheduled and continuing basis. However, a side effect of this combination was substantial delays in the timeliness with which overpayment cases were addressed. For example, if an overpayment was detected in January but the individual was not scheduled for redetermination until December, the overpayment would not be released to the DO for resolution until the scheduled redetermination date.

SSA revised this combined process in April 1978 to provide for the quarterly release of certain current pay overpayments to DOs--those cases where an overpayment was detected after a redetermination during the same calendar year. This lets DOs address the current pay overpayment cases in a more timely manner. Overpayment cases where the individual's scheduled redetermination had not yet been

performed would not be released until the quarter in which the redetermination was scheduled.

SSA has made a concerted effort to become current in resolving overpayments made to recipients who are still on the SSI rolls. Backlogged cases in this category were reduced from just under 880,000 cases in December 1975 to about 347,000 in September 1978. This is significant because about 700,000 additional overpayment cases were identified during this period. However, SSA's efforts to resolve overpayments to individuals no longer on SSI rolls was minimal until recently.

SSA EFFORTS TO RESOLVE OVERPAYMENTS:  
NONPAY CASES

From the beginning of the SSI program until October 1977, SSA held nonpay cases at SSA headquarters and did not forward them to the DOs for resolution. As a result a backlog of nonpay cases had grown to over 902,000 as of September 1977. During October 1977 SSA released about 93,000 nonpay cases to DOs for resolution--which reduced the backlog to about 809,000.

To resolve this large nonpay backlog and to become current in working these cases, SSA had planned to release the entire backlog--889,000 cases--to its DOs by the end of December 1977. In August 1977 we expressed concern to SSA headquarters officials that (1) taking such action would to a large extent merely shift backlogs to DOs and (2) an assessment had not been made of the effect the release would have on DO operations.

We told SSA officials that, although the expeditious processing of nonpay overpayment cases should be a priority item, SSA should reconsider the release of such a large workload to DOs. We suggested that SSA freeze the backlog of nonpay cases which had accumulated from January 1, 1974, to December 31, 1976, for study, and that SSA release all nonpay cases detected after January 1, 1977, to DOs. This would require DOs to work nonpay status overpayments on a continuing basis as a part of their current workload and give SSA an opportunity to thoroughly analyze the remaining backlog to better assess its recovery potential.

SSA agreed with our proposal. SSA began releasing these nonpay cases to DOs for resolution in October 1977 and informed us that by June 1978 all nonpay status overpayments detected after January 1, 1977--229,000 cases--had been released to DOs for resolution, and that the older nonpay cases (those with the last payment before January 1, 1977)

were being studied to determine how they might be best handled. SSA released about 61,000 of these older cases that were over \$1,000 to the DO's for resolution in September 1978. Study results on the remaining backlogged cases were not available as of December 1978.

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SSA's total unworked overpayment backlog was about 1.2 million cases as of September 1978. This consisted of an unresolved current pay backlog of about 347,000 cases involving over \$80 million and a nonpay backlog of about 868,000 cases involving over \$382 million.

#### AUTOMATED OVERPAYMENT NOTICES ARE NEEDED

A current-pay-status SSI recipient is first advised of an overpayment either verbally (when he/she is in contact with the DO because he/she reported a change in circumstances which resulted in the overpayment or because of a scheduled annual redetermination) or by mail (when the DO sends him/her an overpayment notice). (See p. 2.) The DO is responsible for providing the recipient with written notice of the overpayment in both instances. While we agree with SSA's procedure for notifying an SSI recipient of an overpayment immediately (when the DO is in contact with the recipient), we believe that, for systems-detected overpayments--resulting from computer data exchanges with other Federal benefit-paying programs--an automated overpayment notice from SSA headquarters in Baltimore should be sent directly to the recipient rather than by routing overpayment cases to DOs for overpayment notice preparation and mailing.

Under this arrangement, the SSI computer system would release directly to the recipient and the DO an overpayment notice informing the individual that he/she has been overpaid; when he/she was overpaid; the cause of the overpayment; his/her appeal and waiver rights on the overpayment; and SSA's proposed method and rate of recovering the amount overpaid. The notice would also inform the current pay recipient that unless he/she contacts his/her servicing DO to request an appeal to waiver within 30 days, his/her future SSI benefit checks would be automatically adjusted to recover the overpaid amount at the proposed rate.

We believe that automated overpayment notices would (1) relieve the DOs from having to take time to write and mail written overpayment notices to every overpaid recipient and (2) assure that an overpaid recipient receives timely notification.

We discussed the automated payment notice with SSA headquarters and field office officials, and they agreed that automated overpayment notices could improve SSA's overall collection efforts. They stated that the sooner an overpayment is addressed, the greater the chance of collection. However, field officials expressed concern about the ability of DOs to schedule these workloads--they could not anticipate the number of recipients who would respond to the overpayment notices. We agree that such an arrangement may hinder DO's scheduling of particular workloads; but we also believe that SSA's current overpayment notice procedures damage its collection efforts because: (1) it could be difficult for overpaid recipients to reconstruct past events, (2) there is less chance that an overpaid recipient would have the overpaid money available, (3) claims representatives show a greater tendency to waive older overpayments, and (4) delays create unnecessary increases in SSA's overpayment backlogs.

THE SSI OVERPAYMENT RESOLUTION  
PROCESS LACKS UNIFORMITY

Overpaid SSI recipients should have their overpayments resolved in a uniform manner. Our review of SSA's DO overpayment recovery operation showed that overpaid SSI recipients do not always receive uniform treatment when their overpayments are handled. Whether a recipient's overpayment is waived or recovered can depend on the subjective judgments and attitudes of the claims representative reviewing the overpayment case and the amount of local management emphasis placed on overpayment resolutions.

Overpayment waiver/recovery criteria  
is subjective

The legal waiver/recovery criteria to determine whether to waive or recover an overpayment is subjective, allows personal prejudices to affect the process, and results in inconsistent decisions on cases with similar circumstances.

Section 1631(b) of title XVI of the Social Security Act, as amended, requires recovery of an SSI overpayment unless the individual was determined to be without fault in causing the overpayment and recovery of the overpaid amount would (1) defeat the program's purpose, (2) be against equity or good conscience, or (3) impede the program's efficient or effective administration because of the small amount involved.

The SSA claims manual establishes how the law should be applied; however, determining with or without fault is very subjective, and whether an individual is with or without fault depends on all circumstances pertinent to the overpayment. For example, claims representatives in DOs are required to consider the individual's understanding of the reporting requirements, his/her agreement to report events affecting benefits, his/her awareness of events that should have been reported, and his/her efforts to comply with the reporting requirements. Collection action is taken if an individual is determined to be at fault.

If an individual has been determined to be without fault in causing the overpayment, the overpayment must still be collected unless it can be determined that recovery of the overpayment would defeat the program's purpose, be against equity or good conscience, or impede efficient or effective administration.

According to the manual, the "defeat the purpose" category is met if the individual's current total monthly income does not exceed the applicable Federal monthly SSI benefit standard payment amount plus the applicable income disregard (\$20 for a nonworking recipient or \$20 plus \$65 for a working recipient) plus the applicable State supplement. If this test is not met, the "defeat the purpose" category nevertheless is met if the recipient needs most of his/her current income for ordinary and necessary living expenses.

If the "defeat the purpose" test is not met, the claims representative is then required to determine whether overpayment recovery would be against equity or good conscience. This test requires consideration of the circumstances which resulted in the overpayment. Recovery is against equity or good conscience when the individual, relying on receipt of a benefit or on notice from SSA that benefits would be paid, relinquished a valuable right or changed his/her position for the worse. An individual is considered to have relinquished a valuable right or changed his/her position for the worse when he/she has incurred a financial obligation in anticipation of benefit payments; for example, signed a lease on an apartment or room renting for \$15 a month more than the space he/she had previously occupied.

According to the manual, recovery is also considered to impede efficient or effective administration of the program when the average cost of recovery equals or exceeds the overpayment.

In 1974 the Secretary of Health, Education, and Welfare (HEW) set \$45 as the amount below which it would not be cost effective for SSA to attempt overpayment recovery. This amount was set with the understanding that it would be reevaluated as additional program experience was gained. Under this rule, if an overpayment is \$45 or less and the individual is determined to be without fault in causing the overpayment, no recovery effort is made because the cost of such recovery effort would equal or exceed the recovered amount.

The appropriateness of the \$45 amount or any tolerance amount has generated a great deal of controversy within HEW and SSA. The Secretary of HEW set the amount at the beginning of the SSI program without knowing what it costs to recover an overpayment. To date, SSA has not thoroughly reevaluated the \$45 tolerance rule, and the amount is subject to question because SSA does not know the true costs of collecting SSI overpayments. However, SSA is currently developing information on the cost of resolving an overpayment case. The study is scheduled for completion in April 1979.

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SSA officials estimate that, for those persons found to be without fault, the application of the remaining waiver/recovery criteria results in about 98 percent of the overpayments being waived.

WITH- OR WITHOUT-FAULT DECISIONS  
ARE INCONSISTENT

In applying the manual's interpretation of the law, some claims representatives stated that many of their decisions on whether individuals are with or without fault are very subjective; some stated that many decisions were made "by the seat of our pants." One claims representative stated that he rarely finds younger SSI recipients without fault because he feels they are better able to understand reporting responsibilities than are elderly recipients. Many claims representatives said that they felt uncomfortable about taking money away from individuals with limited means of subsistence, and they rarely find recipients with fault unless there are clear indications of fraud.

Claims representative attitudes varied. Some were sympathetic to the recipients' needs, while others took a stern approach and granted waivers on the basis of without fault only when a person was thought to be mentally incompetent. We noted that these personal feelings and the subjective criteria used for developing with or without fault result in inconsistent decisions on overpayment cases with

similar circumstances among the various DOs, and within the same DO. Some inconsistent decisions include:

- Two recipients in the same DO were overpaid SSI benefits because SSA established that they were eligible for title II benefits and had been eligible for previous months. SSA subsequently paid the individuals retroactive title II payments for the previous months of eligibility, thus causing SSI overpayments. Both individuals requested waivers, saying that they did not know they were required to report the checks. In the first case, the claims representative handling the overpayment found the recipient without fault and waived the \$503 overpayment because the recipient thought SSA knew of the checks. In the second case, the claims representative found the recipient with fault and denied a request for waiver of \$424 because the recipient received an explanation of SSI reporting responsibilities when he first applied for benefits.
- Two recipients in separate DOs were overpaid because their receipt of title II benefits was not detected in time to decrease their SSI benefits. Both recipients stated that they did not know their SSI benefit was incorrect and felt that SSA should have been aware of the change in title II benefits. A claims representative in one office found the recipient without fault and granted a waiver of \$1,143 because she believed the recipient did not know that the change should be reported. The claims representative in the other office found the recipient with fault and denied a request for waiver of \$306 because she felt that the recipient should have known to report the change in income.
- Two recipients reported changes in time to have their next monthly check adjusted. The DO failed to decrease the SSI benefit amount for several months. Both recipients requested waiver on the grounds that they had informed SSA of the changes in time to have prevented any overpayment. One claims representative found the recipient without fault and allowed a waiver of \$1,635 because SSA did not process the change efficiently, while the other claims representative found the recipient with fault and denied a waiver request of \$1,116 because (1) the recipient should have known something was wrong when the SSI benefit amount did not decrease, and (2) he should have notified the office that his check did not decrease.



In these examples, the inconsistent decisions resulted from claims representatives having to use subjective judgment when determining whether the recipient was with or without fault in causing the overpayment.

INCONSISTENT APPLICATION OF OVERPAYMENT  
RESOLUTION POLICIES AND PROCEDURES

SSA policy requires that overpayments be processed as soon as the DO becomes aware of them because collectability diminishes with time. We noted, however, that because SSA had not developed overpayment processing standards, some DOs processed first the largest overpayments, some processed first the oldest, some the newest, and others processed few, if any.

The SSA claims manual requires that waiver cases for amounts above \$2,000 be reviewed by a supervisor. 1/ Those cases between \$1,000 and \$2,000 are required to be reviewed by two claims representatives before waiver is approved. However, about 95 percent of all SSI overpayment cases are under \$1,000, and these critical decisions are not reviewed by anyone.

Although we did not specifically review the application of this requirement, we noted that SSA has no mechanism to assure that waived overpayments are reviewed as required. In one DO we found six resolved overpayment cases with waived overpayments over \$2,000; none of these decisions had been reviewed for correctness by a supervisor. We were also informed by the DO officials that, as a general rule, overpayment decisions over \$2,000 were never reviewed.

According to SSA's manual, if the claims representative learns during an interview of changed recipient's circumstances that caused an overpayment to have been made and the recipient questions the proposed recovery, the claims representative should make a waiver/recovery determination at that time.

We found that some claims representatives follow SSA procedures and make a waiver/recovery determination

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1/In June 1978, after completion of our field work, the supervisory review range was changed so that supervisors are required to review all waiver case amounts between \$1,001 and \$5,000.

immediately, as required. However, others merely inform the recipient that he/she had been overpaid and that he/she will be sent an overpayment notice at a later date; if a DO does not receive a request for waiver or reconsideration of the overpayment from the recipient within 30 days of the notice's date, collection is initiated at the rate proposed in the overpayment notice.

We noted that the chance of the overpaid amount being waived is greatly increased when waiver/recovery determinations are made during an interview. Conversely, when a waiver determination is not made during the interview and the overpayment notice is sent, the likelihood of a recipient requesting a waiver within the allowed 30-day period is significantly decreased. Some DO officials stated that many overpayments are collected because recipients do not request waivers; several claims representatives stated that waivers would have been granted if the recipients had requested them. Our review showed that 82 percent of the overpayment cases were waived in one DO where waiver/recovery determinations were made at the time of the recipient interview. The waiver rate was 12 percent in another DO where the overpayment was discussed during the interview but waiver was not considered until the recipient's response to the overpayment notice.

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In view of the subjectivity of the waiver/recovery criteria, the inconsistent application of SSA policy by local management, and the nonuniform application of SSA requirements, we believe SSA needs better management controls to assure more consistent resolution of overpayments.

SSA has a quality control system which assesses SSI's operation and administration. This system is designed to determine if SSI payments made during tested sample periods were accurate and, if not, to determine the underlying causes of the inaccuracies. A similar quality control system for assessing the SSI overpayment resolution process could provide SSA with the information necessary for improving the SSI overpayment resolution process.

We discussed this need with SSA headquarters officials. They agreed that a quality control system was needed, and in early 1978 began to design an ongoing review of SSI overpayments. SSA began a pilot study using three regions as test sites in September 1978. The study will select, once a month, a sample of overpayment decision input to the SSI

computer system and will, according to SSA, provide reliable data to the regional level. The study is intended to improve the uniformity of overpayment policy application and to provide data on deficiencies in adjudicative practices of DOs. Case characteristics are also to be gathered to allow analysis of such considerations as waiver allowance/denial rates and recovery rates.

### CHAPTER 3

#### POSSIBILITY OF OFFSETTING SSI OVERPAYMENTS

##### AGAINST OTHER FEDERAL BENEFITS

SSI recipients who have been overpaid and remain on SSI rolls are disadvantaged when compared with former SSI recipients who have overpayments on their records but no longer receive SSI benefits. The recipients who remain eligible for SSI are subject to future benefit check withholdings for collection of overpaid amounts, while former recipients are not.

When an overpaid individual is no longer receiving SSI benefits and he/she refuses to repay an overpayment, SSA usually suspends collection until the individual may again become eligible for SSI so that SSI check offsets can be made. However, many former SSI recipients are receiving benefits under other Federal programs.

SSA had done little to promote the possibility of offsetting SSI overpayments against moneys which former SSI recipients are receiving from other Federal benefit-paying programs, including the SSA-administered Old Age, Survivors, and Disability Insurance program (title II of the Social Security Act). About \$462.4 million in SSI overpayments remained outstanding and unresolved as of September 1978. About \$382 million of this amount involved overpayments to recipients that were in nonpay status.

We randomly selected and reviewed about 80,000 nonpay status records to estimate the number of overpaid former SSI recipients in nonpay status receiving other Federal benefits. Based on our sample results, we estimate that for January 1976 over 580,940 former SSI recipients were receiving income from other Federal benefit-paying sources, and they had been overpaid about \$233.7 million in SSI benefits.

Estimate of Former Overpaid SSI Recipients  
Receiving Benefits From Other Federal Programs

<u>Income source</u>	<u>Number of recipients</u>	<u>Estimated amount of SSI overpayments</u> (millions)
Title II	541,566	\$209.3
Railroad Retirement Board	5,610	2.7
Black lung benefits	1,143	.8
Veterans Administration	<u>32,621</u>	<u>20.9</u>
Total	<u>580,940</u>	<u>\$233.7</u>

A possible solution to collecting overpayments from former SSI recipients receiving other Federal benefits would be to offset or adjust the other Federal benefits at given rates until the debt is repaid. However, SSA maintains that it has no legal authority to collect from benefits being paid to recipients under other Federal programs.

As shown in the above table, the largest group of former overpaid SSI recipients receiving other Federal benefits are receiving them from social security (title II).

However, in administering the title II program SSA has concluded that it is precluded by law from allowing offset, except where it has it is specifically authorized by Federal statute.

In this regard, sections 205(i) and 207 of the Social Security Act mandate payment of title II benefits without reduction because of the beneficiary's other obligations. The only exceptions are sections 6331(a) and 6334 of the Internal Revenue Code (which authorizes a levy for Federal tax liability); section 459 of the Social Security Act (which authorizes a legal process to enforce child support or alimony obligations); and section 204 of the Social Security Act (which provides for recovery of title II overpayments by decreasing subsequent payments under title II).

SSA procedures allow nonpay-status SSI overpayments to be recouped from title benefits only if an overpaid former SSI recipient expressly requests it as a matter of convenience.

## CHAPTER 4

### CONCLUSIONS AND RECOMMENDATIONS

#### CONCLUSIONS

The recovery or waiver of overpayments to SSI recipients has been and continues to be a major problem. SSA has taken action to help reduce SSI overpayments and correct some of the resolution problems noted during our review. However, additional improvements are needed if SSA is to achieve a uniform and objective resolution process, reduce its unresolved backlog of 1.2 million overpayment cases, and collect the maximum possible amount of overpaid SSI benefits.

Our review showed that overpayment resolutions have not been timely and/or uniform. SSA was slow to react to the overpayment resolution problem during the early years of the SSI program, and large backlogs of unresolved overpayments accumulated and resulted in mass waivers of over a million cases. SSA's failure to establish standards for timely processing of overpayments also resulted in lengthy delays in overpayment case resolution.

Overpaid recipients have not had their overpayments resolved uniformly. When an overpaid SSI recipient is determined to be with fault, collection action is undertaken. When an overpaid recipient is determined to be without fault, the law requires that before a waiver can be granted it must be established that recovery of the overpaid amount would (1) defeat SSI's purpose, (2) be against equity or good conscience, or (3) impede efficient and effective administration because of the small amount involved.

The criteria for determining with or without fault as set forth in the SSA claims manual is too subjective, and has caused inconsistent decisions on overpayment cases with similar circumstances because it allows claims representatives' feelings and attitudes to influence the overpayment resolution determination. Once an overpaid recipient is determined to be without fault the application of the remaining waiver/recovery criteria results in 98 percent of the overpayments being waived.

Since SSA has no mechanism to assure that waived overpayments are reviewed (as required) nor that overpayment policies and procedures are consistently applied among DOs, we believe that SSA needs to establish a quality control system similar to the system used to measure SSI benefit

accuracy to monitor and evaluate overpayment resolution decisions and actions as carried out by its DOs. The quality control study SSA is piloting, if properly implemented, could provide a basis for corrective action, changes in policy and procedures where deemed necessary, and strengthening of the criteria for with- or without-fault determinations, to more consistently and effectively carry out the overpayment resolution activity. We also believe that more efficient resolution of SSI overpayments can be achieved by an automated overpayment notice sent directly to the recipient from SSA headquarters.

SSA has done little to promote the possibility of offsetting SSI overpayments against moneys that former SSI recipients receive from other Federal benefit-paying programs. We estimate that in January 1976 overpaid SSI recipients in nonpay status who were receiving income from other Federal benefit-paying sources--about 580,940 recipients--had been overpaid approximately \$233.7 million. Over \$209 million of this amount involved former SSI recipients who receive title II benefits. Although legislation to offset SSI overpayments against title II and other Federal benefits could provide SSA with a viable method for recovering SSI overpayments, we are not at this time recommending that the Congress enact such legislation. We believe that SSA must correct the deficiencies noted in this report and get its SSI overpayment collection process functioning efficiently and uniformly before it is authorized to collect SSI overpayments from moneys due recipients from other Federal benefit-paying programs.

#### RECOMMENDATIONS TO THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE

We recommend that the Secretary direct the SSA Commissioner to adopt a stronger and more active management role in recovering SSI overpayments by:

- Establishing standards for timely processing of SSI overpayments.
- Developing a quality control mechanism to assure performance in accordance with SSA's overpayment policies and procedures. The quality control mechanism should be able to identify needed corrective actions, needed changes in policy and procedures, and inequities associated with the subjectivity of the criteria for the with- or without-fault determinations.

- Developing improved instructions and additional training in overpayment resolution for claims representatives to assure that all overpayment cases are afforded more uniform treatment.
- Developing an automated notice to inform overpaid recipients when they have been overpaid; the cause of the overpayment; proposed agency action; and the recipient's appeal rights. This would assure that recipients are provided with proper notice and should help provide assurances that overpayments are resolved in a timely manner.

We also recommend that the Secretary direct the SSA Commissioner to develop--through use of the quality control mechanism--more useful and less subjective criteria for claims representatives to use when determining whether an overpaid recipient was with- or without-fault in causing the overpayment. This is to minimize the inconsistent overpayment resolutions now occurring by finding and using a criteria that can be more consistently administered by the thousands of SSA claims representatives who must make these critical waiver/recovery decisions throughout the country.

After the above recommendations are implemented and there has been a measurable improvement in Social Security's overpayment collection process, we recommend that the Secretary seek legislation to authorize offsetting SSI overpayments against Title II and other Federal benefit-paying programs.



OUR REPORTS ON THE  
CAUSES OF SSI OVERPAYMENTS

<u>Title</u>	<u>Reference number</u>	<u>Date</u>
"Supplemental Security Income Payment Errors Can Be Reduced"	HRD-76-159	Nov. 18, 1976
"Supplemental Security Income Overpayments To Medicaid Nursing Home Residents Can Be Reduced"	HRD-77-131	Aug. 23, 1977
"The Social Security Adminis- tration Needs To Improve Its Disability Claims Process"	HRD-78-40	Feb. 16, 1978
"Review Of The Eligibility Of Persons Converted From State Disability Rolls To The Supplemental Security Income Program" (letter report)	HRD-78-97	Apr. 18, 1978
"Need For The Social Security Administration To Assess Penalties Against SSI Recip- ients That Fail To Report Changes In Their Circum- stances" (letter report)	HRD-78-118	May 22, 1978
"Evaluation Of The SSI Quar- terly Accounting Period For Determining Eligibility And Benefit Amount" (letter report)	HRD-78-114	May 26, 1978
"Supplemental Security Income Quality Assurance System: An Assessment Of Its Prob- lems And Potential For Re- ducing Erroneous Payments"	HRD-77-126	May 23, 1978

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