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Testimony

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**SOCIAL SECURITY
ADMINISTRATION**

**Cases of Federal Employees
and Transportation Drivers
and Owners Who
Fraudulently and/or
Improperly Received SSA
Benefits**

Statement of Gregory D. Kutz, Managing Director
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Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to discuss the results of our investigation of the disability programs managed by the Social Security Administration (SSA). SSA administers two of the nation's largest cash benefit programs for people with disabilities: the Disability Insurance (DI) program,¹ which provides benefits to workers with disabilities and their family members, and the Supplemental Security Income (SSI) program, which provides income for aged, blind, or disabled people with limited income and resources. In 2008, the DI program provided about \$104 billion to some 9 million beneficiaries,² and the SSI program provided about \$38 billion in financial benefits to some 7.5 million recipients.³

Given the magnitude of these cash benefit payments, it is important for SSA to have effective fraud prevention controls in place to minimize fraudulent and improper payments. My statement today summarizes our most recent report, describing cases of federal workers, commercial drivers, and commercial vehicle company owners who fraudulently or improperly received disability benefits.⁴ The objectives of the investigation were to (1) determine whether federal employees and commercial vehicle drivers and company owners may be improperly receiving disability benefits and (2) develop case study examples of individuals who fraudulently and/or improperly received these benefits. In conducting this investigation, we compared DI and SSI benefit data to civilian payroll records of certain federal agencies⁵ and carrier/driver records from the

¹To be eligible for DI benefits, individuals with disabilities must have a specified number of recent work credits under Social Security at the onset of medical impairment. Individuals may also be able to qualify based on the work record of a deceased spouse or of a parent who is deceased, retired, or eligible for disability benefits.

²The approximately 9 million DI beneficiaries include about 7 million eligible workers and about 2 million dependent spouses and children.

³The 7.5 million SSI recipients include 6.3 million recipients who are either blind or medically impaired and 1.2 million aged recipients.

⁴GAO, *Social Security Administration: Cases of Federal Employees and Transportation Drivers and Owners Who Fraudulently and/or Improperly Received SSA Disability Payments*, [GAO-10-444](#) (Washington, D.C.: June 25, 2010).

⁵The payroll records were obtained from the Department of the Treasury, the U.S. Postal Service, and the Defense Finance and Accounting Service (DFAS).

Department of Transportation (DOT) and 12 selected states.⁶ To develop our cases, we interviewed, as appropriate, each beneficiary and the beneficiary's employer and reviewed relevant SSA case file documents and employer payroll records. We conducted our audit work in accordance with generally accepted government auditing standards and our investigative work in accordance with standards prescribed by the Council of the Inspectors General on Integrity and Efficiency.

Federal Employees, Commercial Drivers, and Commercial Vehicle Company Owners Received SSA Disability Benefits

Thousands of federal employees, commercial drivers, and owners of commercial vehicle companies received Social Security disability benefits during fiscal year 2008, though we could not determine the extent to which beneficiaries improperly or fraudulently received payments. Because further investigation is required to determine whether these individuals are entitled to receive payments, our analysis provides only an indicator of potentially improper or fraudulent activity.⁷

Federal salary data from selected agencies for October 2006 through December 2008 show that about 1,500 federal employees may be improperly receiving payments.⁸ These employees were (1) DI beneficiaries who received federal salary above the earnings threshold for more than 12 months after the start date of their disabilities or (2) SSI recipients who received more than 2 months of federal salary above the maximum SSA earnings threshold for the SSI program after the start date of their disabilities. Based on their SSA benefit amounts, we estimate that these federal employees received about \$1.7 million in benefits a month.

⁶The 12 selected states were California, Florida, Illinois, Kentucky, Maryland, Michigan, Minnesota, Montana, Tennessee, Texas, Virginia, and Wisconsin. The 12 states were selected primarily based on the size of the licensed commercial driver population.

⁷Federal disability programs, such as SSA's "Ticket to Work," encourage certain disability beneficiaries to work and still receive all or a portion of their disability benefits. In addition, from the beneficiary's income, SSA may exclude certain out-of-pocket work expenses (e.g., costs of car modifications or attendant care) from the calculation of the beneficiary's income. The beneficiary's salary may also include compensation for sick leave, which SSA also excludes from the calculation of the beneficiary's income. From our analysis of the data, it is impossible to determine the extent to which this population beyond our 20 cases was affected by these factors.

⁸Federal civilian salary data and SSA disability data indicate that the total number of employees at the selected agencies is about 7,000. They earned wages while receiving SSA disability benefits during fiscal year 2008. While many of these beneficiaries may not receive payments fraudulently or improperly, the number suggests the importance of monitoring these cases.

According to SSA officials, SSA currently does not obtain payroll records from the federal government to identify SSA disability beneficiaries or recipients who are currently working. SSA officials stated that they have not determined the feasibility of conducting such a match. However, SSA acknowledged that these payroll records may be helpful in more quickly identifying individuals who are working so that work continuing disability reviews could be performed to evaluate whether those individuals should have their disability payments suspended.

Our analysis of data from DOT on commercial drivers and from SSA on disability beneficiaries found that about 600,000 individuals had been issued commercial driver's licenses (CDL) and were receiving full Social Security disability benefits. The actual number of SSA disability beneficiaries with active CDLs cannot be determined for two reasons. First, states, not DOT, maintain the current status of CDLs.⁹ Second, possession of a CDL does not necessarily indicate that the individual returned to work. Because federal regulations require interstate commercial drivers to be examined and certified by a licensed medical examiner to be able to physically drive a commercial vehicle once every 2 years, we selected a nonrepresentative selection of 12 states¹⁰ to determine how many SSA disability beneficiaries had CDLs issued after their disabilities were determined by SSA. Of the 600,000 CDL holders receiving Social Security disability benefits, about 144,000 of these individuals were from our 12 selected states. About 62,000 of these 144,000 individuals, or about 43 percent, had CDLs that were issued after SSA determined that the individuals met the federal requirements for full disability benefits. Because federal regulations require interstate commercial drivers to be examined and certified every 2 years by a licensed medical examiner to be able to physically drive a commercial vehicle, we consider the issuance of CDLs to be an indication that these individuals may no longer have serious medical conditions and may have returned to work.

⁹The DOT data do not contain identifiers to indicate whether a license is currently active. It is an index system designed to ensure that drivers do not obtain CDLs from multiple states. As a result, DOT's database includes drivers with valid, suspended, revoked, or lapsed licenses.

¹⁰The states were chosen primarily based on size and availability of data.

Our analysis of DOT data on commercial carriers found about 7,900 individuals who registered as transportation businesses¹¹ and also received SSA disability benefits. The extent to which these business registrants are obtaining disability benefits fraudulently, improperly, or both is not known because each case must be investigated separately for such a determination to be reached. These companies may have gone out of business and not reported their closure to DOT, which would explain their registration. In addition, DI beneficiaries may have a passive interest in the business, which would not affect their eligibility for benefits. However, we believe that the registration of a business is an indicator that the individual could be actively engaged in the management of the company and gainfully employed, potentially disqualifying him or her from receiving either DI or SSI benefits. It also suggests that the individual's assets may exceed the SSI maximum for eligibility.

According to SSA officials, SSA currently does not obtain CDL or transportation businesses registrant records from DOT. SSA officials stated that these records do not have specific income records associated with them.

Examples of Individuals Fraudulently and/or Improperly Receiving SSA Disability Benefits

Based on our overall analysis above, we selected 20 nonrepresentative examples of federal employees, commercial drivers, and registrants of commercial vehicle companies who received disability payments fraudulently and/or improperly. The 20 cases were primarily selected based on our analysis of SSA electronic and paper files for the higher overpayment amounts, the types of employment, and the locations of employment, and thus they cannot be projected to other federal employees, commercial drivers, or commercial vehicle owners who received SSA disability payments. In each case, SSA's internal controls did not prevent improper and fraudulent payments, and as a result, tens of thousands of dollars of overpayments were made to individuals for 18 of these 20 cases.

¹¹Each business is a registered motor carrier in DOT's Motor Carrier Management Information System with an active DOT number. For private motor carriers, there is no cost associated with maintaining an active listing.

For the 20 cases, our investigations found the following:

- For five cases, we believe that there is sufficient evidence that the beneficiaries committed fraud to obtain or continue receiving Social Security disability payments by withholding employment information. Our investigations also found that 11 other individuals potentially committed fraud because these individuals likely withheld required employment information from SSA.
- For 10 cases, SSA improperly increased the benefit amounts of the disability payments because the individuals had increases in the reported wages on which the disability benefit payments are based. SSA's Automated Earnings Reappraisal Operation (AERO), which screens changes in an individual's earnings record, is not used to identify individuals who return to work and alert SSA staff to review these individuals' records for possible suspension of disability payments.¹²
- Several individuals from our cases were placed in long-term, interest-free repayment plans for improperly accepting disability overpayments, even though SSA can charge interest. One individual's \$33,000 repayment plan was in \$20 monthly installments—resulting in a repayment period of 130 years.
- For 10 cases, the individuals were continuing to receive disability benefits as of October 2009.

For 18 of these 20 cases, the individuals also received \$250 stimulus checks as part of the American Recovery and Reinvestment Act of 2009 (Recovery Act) while they were improperly receiving SSA disability payments. According to SSA officials, most of these individuals were entitled to and would have received the \$250 stimulus checks even if SSA had properly suspended the disability payments to them. Specifically, SSA officials stated that beneficiaries covered under the DI program would have been covered under an extended period of eligibility (EPE),¹³ which is a 36-month period in which SSA does not pay any benefit amounts (i.e., payments are suspended) if the beneficiary has earnings above the

¹²AERO is a computer operation that reexamines an individual's earnings record to determine whether the beneficiary is due a recomputation to include earnings not previously considered in the monthly disability amount. If an increase is due, AERO processes a benefit change and notifies the beneficiary. If no increase is due, AERO does not send a notice. AERO is run twice for each earnings year, usually in late October and late March.

¹³After the 9-month trial work period, SSA beneficiaries are covered under an EPE. This is a 36-month period in which SSA does not pay any benefit amounts if the beneficiary has earnings above the SSA earnings threshold for the DI program. If earnings are under the substantial gainful activity threshold, the full benefit is paid.

substantial gainful activity (SGA)¹⁴ threshold. According to SSA officials, all working DI beneficiaries covered by an EPE received the \$250 stimulus check.

The Recovery Act states that these stimulus benefit payments should be provided to individuals who are entitled to DI benefit payments or are eligible for SSI cash benefits.¹⁵ SSA stated that it did not seek a formal legal determination as to whether individuals who had their payments suspended because of employment should receive these stimulus payments. In total, SSA paid about \$10.5 million in stimulus payments to approximately 42,000 individuals who were covered by an EPE.¹⁶ However, we believe that a question exists as to whether these payments were proper and believe that SSA should have at least sought a formal legal opinion before making the payments.

Table 1 highlights 5 of the 20 individuals we investigated. We referred all 20 cases to SSA management for collection action. The SSA Office of Inspector General has been informed of the 5 cases in which we believe the individuals committed fraud. We also referred 1 case involving an SSA employee to the SSA Office of Inspector General for investigation.

Table 1: Summary Information on Federal Employees and Commercial Vehicle Company Owners Who Improperly or Fraudulently Received SSA Disability Benefits While Working

Case no.	Details
1	<ul style="list-style-type: none">• Our investigation found that the beneficiary committed fraud in obtaining SSA disability payments.• The beneficiary was a Transportation Security Administration screener who worked in California. The estimated overpayment was about \$108,000.• SSA approved DI payments starting in 1995 for mood and anxiety disorders.• The beneficiary began full-time federal employment in 2003. From 2003 through 2008, her annual earnings were from \$36,000 to \$50,000.• SSA requested a Work Activity Report from the beneficiary in April 2005, but the beneficiary did not provide it.• In November 2005, SSA notified the beneficiary that based on wages earned in 2004 her benefits would be increased.

¹⁴SGA is defined as work activity that involves significant physical or mental activities performed for pay or profit. SSA has established earnings guidelines as a basis for determining whether an individual is engaged in SGA.

¹⁵Pub. L. No. 111-5 § 2201 (Feb. 17, 2009).

¹⁶According to SSA officials, the “Making Work Pay” tax credit is reduced by the amount of any stimulus payments. The extent to which these individuals reduced their “Making Work Pay” tax credit for these stimulus benefit payments is not known.

Case no.	Details
	<ul style="list-style-type: none"> • SSA's case file indicates that in July 2006 the beneficiary called SSA and stated that she did not want SSA to contact her employer for work review and that she would submit a Work Activity Report as soon as possible. SSA records do not indicate that the beneficiary provided this report. • In November 2006, SSA notified the beneficiary that based on wages earned in 2005 her benefits would be increased. • In November 2007, SSA notified the beneficiary that based on wages earned in 2006 her benefits would be increased. • As of October 2009, SSA continued to pay the beneficiary a monthly benefit. The beneficiary also received a \$250 economic stimulus payment. • The beneficiary stated that she is working full-time and receiving disability benefits. • According to SSA officials, SSA has subsequently suspended the beneficiary's disability benefit payments for failure to cooperate in a medical disability review in the latter part of 2009. • The beneficiary resides in a house that is currently listed for sale at about \$1,800,000.
2	<ul style="list-style-type: none"> • Our investigation found that the beneficiary committed fraud in obtaining SSA disability payments. • The beneficiary was a home improvement contractor located in Maryland. The estimated overpayment could not be determined. • SSA approved DI payments starting in 1998 for back disorders and vascular disease. • The beneficiary owns an active construction business registered with DOT. • The beneficiary stated that his home improvement business includes drywall, roofing, carpeting, siding, decks, kitchens, and any other home improvement work. We found evidence of fraud by the beneficiary, who stated that he puts everything in his wife's name because he is on disability for heart problems. • The beneficiary stated that he always has at least two jobs going on at a time and that he has three trucks. • Our investigators observed the beneficiary driving a pickup truck with ladders attached to the roof. The Maryland Home Improvement Contractor license displayed on the side of another truck on the property is listed under the wife's name. • In April 2006, SSA notified the beneficiary that the State of Maryland will pay the Medicare medical insurance premium beginning in February 2006. • In June 2009, SSA notified the beneficiary that the agency had received his application for help with Medicare prescription drug plan costs. The application asked "Have you worked in 2008 or 2009?" SSA records indicate that the beneficiary answered "No." Later in the month, SSA notified the beneficiary that he is automatically eligible for extra help with Medicare prescription drug plan costs because he receives DI, Medicaid, or participates in the Medicare Savings Program. • As of October 2009, SSA continued to pay the beneficiary a monthly benefit of \$1,072. SSA also sent the beneficiary the \$250 economic stimulus payment. • According to SSA officials, no work continuing disability review has been conducted for this beneficiary and no earnings information exists in his records.
3	<ul style="list-style-type: none"> • Our investigation found that the beneficiary committed fraud in obtaining SSA disability payments. • The beneficiary was a laundry worker for the Department of Veterans Affairs who worked in West Virginia. The estimated overpayment was about \$39,000. • The beneficiary began work as a textile care production worker, earning around \$35,000 per year in April 2007. • The position description for the job states that continuous standing, walking, stretching, stooping, bending, and arduous labor are required in the position. The shift supervisor stated that the beneficiary performs all the regular functions of the job and that no special accommodations have been arranged for his work. • SSA approved DI payments starting in August 2007 for back disorders and mood disorders. At the time of SSA approval for DI, the beneficiary was working full-time at the Department of Veterans Affairs; thus the beneficiary was never entitled to any disability payments. • In November 2008, SSA notified the beneficiary that based on wages earned in 2007 his benefits would be

Case no.	Details
	<p>increased.</p> <ul style="list-style-type: none"> • In July 2009, SSA notified the beneficiary that he was entitled to Medicare hospital and medical insurance beginning in August 2009. • The beneficiary stated that SSA said he could work even though he was on disability. The beneficiary stated that he did not know that he was supposed to report to SSA when he began working. • As of October 2009, SSA continued to send the beneficiary a monthly benefit payment of \$1,236. SSA also sent the beneficiary a \$250 economic stimulus payment. • SSA officials stated that the recipient returned to work prior to his eligibility start date and was therefore not eligible for any SSA disability benefits.
4	<ul style="list-style-type: none"> • Our investigation found that the beneficiary potentially committed fraud in obtaining SSA disability payments. • The beneficiary was a legal assistant for SSA who worked in Arizona. The estimated overpayment was about \$11,000. • SSA approved DI payments starting in 2003 for affective/mood disorders and osteoarthritis. • The beneficiary began working for SSA in the third quarter of 2007. • According to SSA records, the beneficiary did not contact the agency as required. • In November 2008, SSA notified the beneficiary that based on wages earned in 2007 her benefits would be increased. • The SSA Office of Inspector General opened an investigation of the employee after we informed the agency of her employment status. • According to SSA officials, SSA disability programs do not have access to SSA's payroll records to determine whether their employees are receiving disability payments and thus should be evaluated for eligibility. • SSA sent the beneficiary a \$250 economic stimulus payment. • SSA officials stated that a work continuing disability review for the recipient is pending.
5	<ul style="list-style-type: none"> • Our investigation found that the beneficiary committed fraud in obtaining SSA disability payments. • The beneficiary was a mail clerk for the U.S. Postal Service who worked in Pennsylvania. The estimated overpayment was about \$19,000. • SSA approved DI payments starting in 2006 for a brain tumor. • The beneficiary stated that she returned to work in 2007. • The beneficiary stated that around July 2009 she received a statement from SSA that the agency had found out about her working and that her benefits were to be terminated. SSA stated that she would have to repay about \$19,000 in benefits. • The beneficiary stated that she agreed to repay \$100 per month by check and that she will likely die before paying back the full debt. • We found evidence of fraud when the beneficiary stated that she knew she was supposed to notify SSA of her work but that she did not because she needed the money. • SSA sent the beneficiary a \$250 economic stimulus payment.

Source: GAO.

Recommendations for Executive Action

In our report, we recommend that the Commissioner of Social Security take the following two actions to improve the agency's processes:

- Evaluate the feasibility (including consideration of any costs and operational and system modifications) of incorporating the AERO process to identify individuals who have returned to work.
- Evaluate the feasibility of periodically matching SSA disability beneficiaries and recipients to federal payroll data. Such matches would provide SSA with more timely data to help SSA systematically and more effectively identify federal employees who are likely to incur overpayments.

In written comments on the draft of the report, SSA agreed with our recommendations, saying that it will evaluate using the AERO process and review the efficacy of matching federal salary payment records with SSA disability files of DI beneficiaries and SSI recipients. SSA stated that their existing processes already identified certain cases as overpayments. SSA does have a process in place that likely identifies some abuses that are occurring; our report identifies 6 cases where SSA identified the disability overpayment and sent notification letters to the individuals indicating that they would have to repay the debts. However we do not believe that identifying fraudulent or improper payments after dollars have been disbursed is an effective internal control. Our work across the government has shown that once fraudulent or improper payments are made, the government is likely to only recover pennies on the dollar. Preventive controls are the most efficient and effective. SSA also expressed concern that the overall message of our report is misleading and in some cases factually incorrect. We believe our report accurately describes the cases and our methodology.

Mr. Chairman, this concludes my statement. I would be pleased to answer any questions that you or other members of the subcommittee may have at this time.

Contacts

For further information regarding this testimony, please contact Gregory D. Kutz at (202) 512-6722 or kutzg@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement.

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