



August 2013

DISABILITY INSURANCE

Work Activity
Indicates Certain
Social Security
Disability Insurance
Payments Were
Potentially Improper

GAO Highlights

Highlights of [GAO-13-635](#), a report to congressional requesters

Why GAO Did This Study

SSA's DI program is the nation's largest cash assistance program for workers with disabilities. Though program rules allow limited work activity, some work activity indicates beneficiaries are not disabled and therefore not entitled to DI benefits. Consequently, SSA might overpay beneficiaries if the agency does not detect disqualifying work activity and suspend benefits appropriately.

GAO was asked to study potential DI overpayments. GAO examined the extent to which (1) the NDNH indicates that individuals received potential DI overpayments; and (2) SSA's enforcement operation detects potentially disqualifying work activity during the waiting period. GAO drew random, generalizable samples of individuals from those whose earnings on the NDNH were beyond program limits and compared wages from their employers to DI program data to identify potential overpayments. To illustrate the circumstances in which SSA made potential DI overpayments, GAO reviewed case files for a nongeneralizable selection of six individuals—three who worked during their waiting period, and three who received potential overpayments for at least 3 years.

What GAO Recommends

GAO recommends that SSA assess the costs and feasibility of establishing a mechanism to detect potentially disqualifying earnings during all months of the waiting period and implement the mechanism as appropriate. SSA concurred, but raised concerns about GAO's estimates. GAO believes its estimates are valid as discussed in this report.

View [GAO-13-635](#). For more information, contact Steve Lord at (202) 512-6722 or lords@gao.gov.

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Work Activity Indicates Certain Social Security Disability Insurance Payments Were Potentially Improper

What GAO Found

On the basis of analyzing Social Security Administration (SSA) data on individuals who were Disability Insurance (DI) beneficiaries as of December 2010 and earnings data from the National Directory of New Hires (NDNH), GAO estimates that SSA made \$1.29 billion in potential cash benefit overpayments to about 36,000 individuals as of January 2013. The exact number of individuals who received improper disability payments and the exact amount of improper payments made to those individuals cannot be determined without detailed case investigations by SSA. These DI beneficiaries represent an estimated 0.4 percent of all primary DI beneficiaries as of December 2010. Using a different methodology that includes additional causes of overpayments not considered in GAO's analysis, SSA estimated its DI overpayments in fiscal year 2011 were \$1.62 billion, or 1.27 percent of all DI benefits in that fiscal year. GAO estimated DI program overpayments on the basis of work activity performed by two populations of individuals. The first population received potential overpayments due to work activity during the DI program's mandatory 5-month waiting period—a statutory program requirement to help ensure that SSA does not pay benefits to individuals who do not have long-term disabilities. Prior to receiving benefits, individuals must complete a 5-month waiting period, in which the individual cannot exceed a certain level of earnings, known as substantial gainful activity, during any month in order to be eligible for DI benefits. Earnings that exceed program limits during the waiting period indicate that individuals might not have long-term disabilities. The second population received potential overpayments due to work activity beyond the program's trial work period—the trial work period consists of up to 9 months in which a DI beneficiary may return to work without affecting her or his benefits. However, beneficiaries whose earnings consistently exceed program limits after completing a trial work period are generally no longer entitled to benefits.

SSA uses its enforcement operation to generate alerts for potentially disqualifying earnings, but the agency's enforcement operation does not generate alerts for earnings that occur in all months of the waiting period, which allows potentially disqualifying work activity to remain undetected. Specifically, GAO found that SSA's enforcement operation will not generate an alert for earnings during the waiting period if the earnings occur in a year when the beneficiary does not receive a benefit payment. For example, in two of the nongeneralizable case studies GAO reviewed, SSA's enforcement operation did not generate an alert for potentially disqualifying work activity during the waiting period because these individuals' waiting periods occurred in the year prior to their first benefit payment. GAO obtained earnings records from these individuals' employers that show they worked continually both during and after their waiting periods at a level of work that would normally result in a denial of benefits. GAO also reviewed information for individuals who worked beyond their trial work period and found that SSA had identified and established overpayments for these individuals. SSA officials stated that modifying its enforcement operation could be costly, but the agency has not assessed the costs of doing so. To the extent that it is cost-effective and feasible, establishing a mechanism to detect earnings during all months of the waiting period would strengthen SSA's enforcement operation.

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Abbreviations

AERO	Automatic Earnings Reappraisal Operation
CDR	continuing disability review
DI	Disability Insurance
enforcement operation	Continuing Disability Review Enforcement Operation
MBR	Master Beneficiary Record
NDNH	National Directory of New Hires
OCSE	Office of Child Support Enforcement
POMS	Program Operations Manual System
SGA	substantial gainful activity
SSA	Social Security Administration
SSI	Supplemental Security Income
SSN	Social Security Number
TWP	trial work period

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August 15, 2013

The Honorable Thomas R. Carper
Chairman
The Honorable Tom Coburn
Ranking Member
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable Carl Levin
Chairman
Permanent Subcommittee on Investigations
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable Claire McCaskill
Chairman
Subcommittee on Financial and Contracting Oversight
Committee on Homeland Security and Governmental Affairs
United States Senate

The Social Security Administration's (SSA) Disability Insurance (DI) program is the nation's largest cash assistance program for workers with disabilities. In fiscal year 2011, more than 10 million DI beneficiaries received cash benefits exceeding \$128 billion, and the program is poised to grow further as the baby-boom generation ages.¹ Total government spending on DI beneficiaries is substantially higher when including the costs of Medicare benefits, which cost about \$80 billion in 2011 for DI beneficiaries. SSA administers the DI program and is responsible for establishing national standards for disability determinations, reviewing DI applications to verify work history and income rules, and periodically evaluating beneficiary impairments to determine whether beneficiaries remain entitled to benefits, among other things. SSA's process for approving benefits is complex and involves an evaluation of, among other factors, medical evidence establishing a disabling condition, the availability of possibly suitable employment, and the severity and length

¹The more than 10 million beneficiaries we refer to here include about 0.2 million spouses and about 1.9 million dependent children.

of disability. Cash benefits are payable monthly, as long as the worker remains eligible for benefits, until the worker reaches full retirement age or dies. DI benefits are financed by payroll taxes paid into the Federal Disability Insurance Trust Fund by covered workers and their employers, on the basis of each worker's earnings history. The Social Security Board of Trustees projects that the DI trust fund will be exhausted in 2016 and notes that changes designed to improve the financial status of the DI program are needed soon.²

Individuals must meet certain statutory program requirements to receive DI benefits, including the completion of a 5-month waiting period prior to receiving benefits.³ According to SSA, the 5-month waiting period ensures that SSA does not pay benefits to persons who do not have long-term disabilities because this period is long enough to permit most temporary disabilities to be corrected or for individuals to show definite signs of probable recovery. During this 5-month waiting period, the individual cannot have earnings that exceed about \$1,000 per month—a level of earnings called substantial gainful activity (SGA).⁴ If an individual has substantial earnings from work during any month of the waiting period, the individual is considered not disabled and therefore ineligible for DI benefits, and any payments that SSA makes to these beneficiaries could be improper.⁵ Once approved for benefits, DI beneficiaries may return to work for a limited amount of time without affecting their benefits. However, beneficiaries who consistently have earnings above SGA after completing a trial work period, which may be up to 9 consecutive or

²See Social Security Administration and Medicare Boards of Trustees, *Status of the Social Security and Medicare Programs: A Summary of the 2012 Annual Reports*, accessed April 2013, <http://www.ssa.gov/oact/trsum/>.

³42 U.S.C. § 423(a)(1) and (c)(2).

⁴20 C.F.R. §§ 404.1571 and 404.1574(b)(2). The SGA level was \$1,000 per month in 2010 for beneficiaries with disabilities and \$1,640 per month for blind beneficiaries. While the SGA amount for statutorily blind individuals has remained the same for fiscal years 2009 through 2011, the SGA amount for nonblind individuals in 2009 was \$980, and for 2010 and 2011 was \$1,000. See 75 Fed. Reg. 65696 (Oct. 26, 2010); 74 Fed. Reg. 55614 (Oct. 28, 2009); and 73 Fed. Reg. 64651 (Oct. 30, 2008).

⁵Throughout this report, we use the terms “substantial earnings from work” and “substantial earnings” to refer to SGA. According to SSA guidance, an unsuccessful work attempt during the waiting period will not preclude a finding of disability. For more information on what SSA considers an unsuccessful work attempt, see Social Security Administration, Program Operations Manual System (POMS), section DI 24005.001, accessed April 2013, <https://secure.ssa.gov/poms.nsf/lnx/0424005001>.

nonconsecutive months, are generally no longer entitled to benefits, and any benefit payments they receive after a subsequent 3-month grace period could be improper. Medical and work-related overpayments detected by SSA in the DI program grew from about \$860 million in fiscal year 2001 to about \$1.4 billion in fiscal year 2010.⁶ The true extent of overpayments is currently unknown, but our prior work suggests that most overpayments are related to beneficiaries who worked while receiving benefits.⁷

This is the second in a series of reports that respond to your request that we examine employment-related databases to determine whether individuals are receiving SSA disability payments that were potentially improper. Our first report addressed overlapping disability and unemployment benefits.⁸ This report: (1) estimates the extent to which individuals received DI benefit payments that were potentially improper due to work activity performed during the 5-month waiting period or beyond the 9-month trial work period; and (2) assesses the extent to which SSA's enforcement operation detects potentially disqualifying work activity during the waiting period. The exact number of individuals who received improper disability payments and the exact amount of improper payments made to those individuals cannot be determined without detailed case investigations by SSA. Thus, we refer to "benefit payments that were potentially improper" and "potential overpayments" throughout this report. As part of this work, we also provide examples of beneficiaries with work activity during the waiting period or beyond the trial work period to help illustrate the circumstances under which SSA made DI payments that were potentially improper to beneficiaries. We plan to assess the extent to which the National Directory of New Hires (NDNH) indicates potential overpayments in SSA's Supplemental Security Income (SSI) program in future work, which will be available this year.

To determine the extent to which individuals received DI payments that were potentially improper due to work activity, we compared NDNH quarterly wage data with DI beneficiary files from the Master Beneficiary

⁶For additional information on DI overpayments detected by SSA, see app. I.

⁷GAO, *Disability Insurance: SSA Can Improve Efforts to Detect, Prevent, and Recover Overpayments*, [GAO-11-724](#) (Washington, D.C.: July 27, 2011).

⁸GAO, *Income Security: Overlapping Disability and Unemployment Benefits Should be Evaluated for Potential Savings*, [GAO-12-764](#) (Washington, D.C.: July 31, 2012).

Record (MBR) in order to identify individuals who were DI beneficiaries in December 2010 and who received potential overpayments due to work activity during the mandatory 5-month waiting period or beyond the trial work period.⁹ Because of timing differences in the NDNH and MBR data, we were not able to capture all earnings that may have resulted in improper payments to these individuals. As such, our analysis of DI beneficiaries whose work activity resulted in payments that were potentially improper is likely understated. The timing of the NDNH and MBR data we received is described in detail in appendix II. To identify potential overpayments and to develop data for estimates of potential overpayments in each population, we drew a random, generalizable sample of individuals from each of the populations described above and compared wage information from their employers to DI program information from SSA. We drew samples of 133 and 130 individuals, and received completed requests from employers for 98 individuals for each sample.¹⁰ Because our analysis of overpayments is limited to earnings data from the NDNH and DI payments from SSA, overpayments for each sample are estimated.¹¹

We also developed detailed case-file information for a nongeneralizable selection of six individuals from our two statistical samples to illustrate the circumstances under which SSA made DI payments that were potentially

⁹The MBR is an electronic record of all DI beneficiaries and contains information on beneficiaries' entitlement status and benefit payments, among other information. The NDNH database contains quarterly wage data on individual employees, among other information.

¹⁰We sorted the two lists of cases randomly and initially sampled 100 from each population. Due to nonresponse, we selected supplemental samples until we achieved a sufficiently large sample size. The ultimate sample size depended on the particular response rates for each subpopulation.

¹¹It is impossible to determine from earnings data alone the extent to which SSA made improper disability benefit payments to these individuals. To adequately assess an individual's work status, a detailed evaluation of all the facts and circumstances should be conducted for all cases. This evaluation may include contacting the beneficiary and the beneficiary's physician to gather information on certain impairment-related work expenses, such as transportation costs and attendant care services, which are not considered in our analysis. On the basis of an evaluation of all facts and circumstances surrounding a case, SSA can determine if the individual is entitled to continue to receive disability payments or have such payments suspended. SSA had identified and established overpayments for some of the individuals we reviewed at the time of our audit. However, SSA had not identified potentially disqualifying work activity for other individuals we reviewed at the time of our audit.

improper. From the sample of individuals who received payments that were potentially improper due to work activity during the 5-month waiting period, we randomly selected three beneficiaries from those who had substantial earnings during the waiting period and continued to have substantial earnings after their waiting period.¹² From the sample of individuals who received payments that were potentially improper due to work activity beyond the trial work period, we randomly selected three beneficiaries from those who received potential overpayments for at least 36 months (3 years). Because we selected a small number of individuals for further review, these examples cannot be generalized to the population of individuals receiving potential DI benefit overpayments. We also examined SSA's mechanisms to detect potentially disqualifying work activity and compared them with *Standards for Internal Control in the Federal Government*.¹³ A detailed description of our scope and methodology is included in appendix II.

To determine the reliability of the SSA disability records and NDNH quarterly wage records, we reviewed documentation related to these databases and interviewed officials responsible for compiling and maintaining relevant DI and NDNH data. In addition, we performed electronic testing to determine the validity of specific data elements in the databases that we used to perform our work. We also reviewed detailed wage data from employers and DI program data from SSA for the statistical samples of individuals selected as described above to confirm that quarterly wage data from the NDNH indicated that payments from the DI program were potentially improper. On the basis of our discussions with agency officials, our review of related documentation, and our own testing, we concluded that the data elements used for this report were sufficiently reliable for our purposes.

We conducted this performance audit from April 2012 to July 2013 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain

¹²Specifically, these three beneficiaries were randomly selected from those in our sample with SGA-level earnings during the waiting period and additional SGA earnings after the waiting period that were earned within 1 year of their alleged disability-onset date. According to SSA regulations, this level of work activity would normally result in a denial of disability benefits.

¹³GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: November 1999).

sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

The DI program was established in 1956 to provide monthly cash benefits to individuals unable to work because of severe long-term disability.¹⁴ Cash benefits are payable monthly, as long as the worker remains eligible for benefits, until the worker reaches full retirement age or dies. In fiscal year 2011, more than 10 million beneficiaries received DI benefits exceeding \$128 billion, and the program's average monthly benefit was about \$926.

An individual is eligible to receive DI benefits if she or he has a medically determinable physical or mental impairment that (1) has lasted (or is expected to last) at least 1 year or is expected to result in death and (2) prevents the individual from engaging in substantial gainful activity, defined as work activity that involves significant physical or mental activities performed for pay or profit.¹⁵ For individuals whose impairment is anything other than blindness, earnings averaging over \$1,000 a month for calendar year 2011 generally demonstrate substantial earnings from work. For blind individuals, earnings averaging over \$1,640 a month for the year 2011 generally demonstrate substantial earnings for DI. The amount of earnings that generally demonstrates SGA can vary from year to year.¹⁶ For example, the SGA amount for individuals with disabilities other than blindness was \$1,010 a month in 2012. Individuals with disabilities must also have a specified number of recent work credits under the Social Security program at the onset of medical impairment.¹⁷ In some circumstances, dependents of disability beneficiaries can qualify for benefits as well. Thus, a dependent may qualify on the basis of the work record of a deceased spouse or the work record of a parent who is

¹⁴Social Security Amendments of 1956, Pub. L. No. 84-880, § 103, 70 Stat. 807, 815-24.

¹⁵42 U.S.C. § 423 and 20 C.F.R. § 404.1572.

¹⁶SGA amounts generally change with changes in the national average wage index. For more information on earnings that demonstrate SGA from 2001 to 2012, see app. III.

¹⁷Specifically, eligible individuals must have worked 5 out of the last 10 years or 20 quarters out of the last 40 quarters. 42 U.S.C. § 423(c)(1); 20 C.F.R. §§ 404.130, 404.132.

deceased, retired, or considered eligible for disability benefits, meaning one disability beneficiary can generate multiple monthly disability payments for dependents.

To help ensure that SSA does not pay benefits to persons who do not have long-term disabilities, a DI program statute requires individuals to serve a 5-month waiting period prior to receiving DI benefits.¹⁸ The waiting period begins in the first full month in which the individual has been under a disability and continues for the next 4 consecutive months.¹⁹ During this waiting period, individuals must have a medically determinable impairment that prevents the individual from earning SGA-level wages throughout a period of 5 consecutive calendar months. As shown in figure 1, if an individual has substantial earnings from work during any month of the waiting period, the individual is considered to be not disabled and therefore ineligible for DI benefits, and any DI payments SSA makes are potentially improper.

¹⁸42 U.S.C. § 423(a)(1) and (c)(2). According to SSA, the 5-month waiting period ensures that SSA does not pay benefits to persons who do not have long-term disabilities because this period is long enough to permit most temporary disabilities to be corrected or for individuals to show definite signs of probable recovery.

¹⁹The first month counted as part of the waiting period can be no more than 17 months before the month of application, and benefits can be applied retroactively for up to 12 months. The waiting period does not apply to individuals who have been previous recipients of DI benefits in the 5 years prior to any current disability.

Figure 1: Substantial Earnings in the Waiting Period May Result in Disability Insurance (DI) Overpayments

To help prevent paying benefits to individuals without long-term disabilities, individuals are required to serve a 5-month waiting period, during which they cannot have earnings above about \$1,000 per month, a level called substantial gainful activity (SGA).



Source: GAO representation based on Social Security Administration (SSA) policies.

Note: Monthly SGA-level earnings for nonblind beneficiaries in 2008-2012 were \$940, \$980, \$1000, \$1000, and \$1010, respectively.

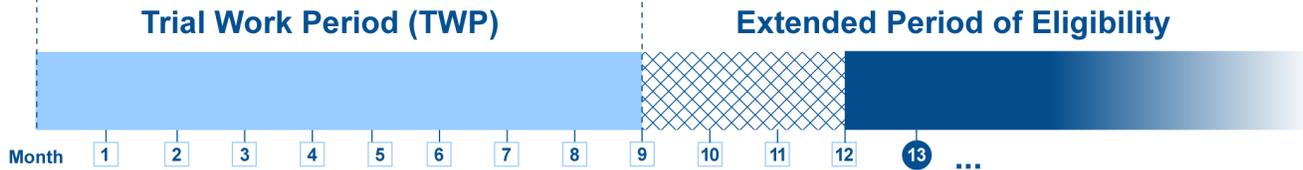
After the 5-month waiting period, statutes and SSA regulations allow DI beneficiaries to return to work for a limited time without affecting their benefits. Specifically, during the trial work period, beneficiaries test their ability to work in as many as 9 months, not necessarily consecutive, while receiving benefits, no matter how high their earnings. After completing the trial work period, the extended period of eligibility begins. According to SSA regulations, the first time a beneficiary works above the SGA level in the extended period of eligibility, SSA will decide that the beneficiary no longer meets the requirements for disability due to work and that the disability ceased. However, SSA will continue to pay benefits for the month the disability ceased and the following 2 months, which SSA calls the grace period. Additionally, SSA pays benefits to beneficiaries in any month in which earnings are below SGA during the first 36 months of the

extended period of eligibility, the reentitlement period. Eligibility for benefits will not completely terminate until the beneficiary has substantial earnings after the 36-month reentitlement period of the extended period of eligibility. As shown in figure 2, SSA might make improper DI payments if it does not suspend payments to beneficiaries who have substantial earnings in a month beyond the trial work period and grace period.

Figure 2: Substantial Earnings beyond the Trial Work Period and Grace Period Make Benefits Potentially Improper

SSA might make improper payments if it does not suspend benefits to individuals who have completed a 9-month trial work period, a 3-month grace period, and continue to have earnings above about \$1,000 per month, a level called substantial gainful activity (SGA).

Eligible for Benefits



- TWP**
 A 9-month (consecutive or nonconsecutive) period during which SSA pays benefits while the individual works, no matter how high their earnings.

- 3-month grace period**
 A 3-month period in which a beneficiary can have earnings above SGA without losing disability benefits.

- Potential improper payments**
 Benefit payments to beneficiaries who have earnings above SGA during the extended period of eligibility months beyond the grace period are potentially improper.

Source: GAO representation based on statutes and Social Security Administration (SSA) regulations.

The number of DI beneficiaries who return to work is unknown, and estimates of the extent to which DI beneficiaries work vary. For example, SSA reported that less than 1 percent of primary DI beneficiaries had benefits suspended because of substantial work in calendar year 2010.²⁰ However, a longitudinal study published by SSA in 2011 shows that 6.5 percent of DI beneficiaries whose first benefit payment was in 1996 went on to have their benefits suspended for work in at least 1 month of the 10 years for which the study tracked work activity.²¹

To determine if beneficiaries are working above the SGA level, SSA conducts work-related continuing disability reviews (CDR).²² While work CDRs can be prompted by several events, most are generated by SSA's enforcement operation.²³ This process involves periodic data matches between SSA's MBR database and Internal Revenue Service earnings data. The enforcement operation generates alerts for cases that exceed specified earnings thresholds,²⁴ which are then forwarded to SSA's processing centers and field offices for additional development by staff.²⁵ Additional events that may trigger a work CDR include reports from state vocational-rehabilitation agencies, reports from other federal agencies, and anonymous tips. Finally, DI beneficiaries are required to report

²⁰Social Security Administration, *Annual Statistical Report on the Social Security Disability Insurance Program, 2010*, SSA Publication no. 13-11827 (August 2011).

²¹Su Liu and David C. Stapleton, "Longitudinal Statistics on Work Activity and Use of Employment Supports for New Social Security Disability Insurance Beneficiaries," *Social Security Bulletin*, 71 no. 3 (2011).

²²20 C.F.R. §§ 404.1589 – 1590.

²³We use the term "work CDRs" to describe "full" work CDRs in which a case is fully developed and staff fill out specific forms to receive work credit for completing a work CDR, as well as instances in which SSA staff perform limited development of beneficiary earnings because they determine that a full work CDR is not necessary (an activity that SSA refers to as a "work CDR action"). SSA also conducts medical CDRs to periodically assess beneficiaries' continuing medical eligibility for benefits.

²⁴SSA generally uses six times the monthly SGA amount, or \$6,000 in 2010, as the annual earnings cutoff.

²⁵In fiscal year 2010, the enforcement operation identified approximately 2 million records of which more than 531,000 were sent to SSA's processing centers and field offices for review. The remaining records did not meet SSA's criteria for conducting an enforcement work CDR. For more information on the results of the enforcement operation for fiscal years 2008 to 2010, see [GAO-11-724](#).

increases to their earnings to SSA and may do so by visiting an SSA field office or calling the agency's toll-free number.

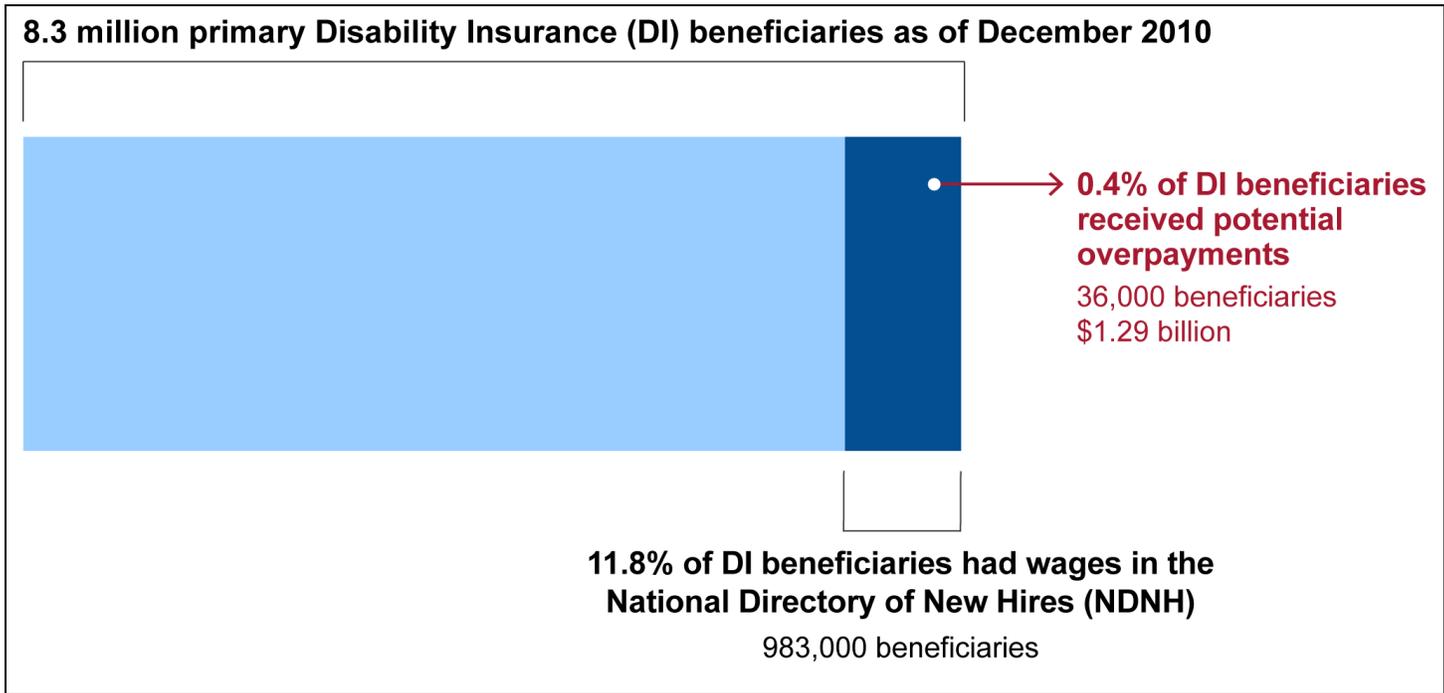
SSA Made \$1.29 Billion in Benefit Payments That Were Potentially Improper as of January 2013, Mostly as a Result of Work Activity during the 5-Month Waiting Period

SSA Made \$1.29 Billion in DI Benefit Payments That Were Potentially Improper

On the basis of our analysis of SSA data on individuals who were DI beneficiaries as of December 2010 and earnings data from the NDNH, we estimate that SSA made \$1.29 billion in DI benefit payments that were potentially improper to about 36,000 individuals as of January 2013. Our estimate for the amount of payments that were potentially improper has a margin of error of plus or minus \$352 million, meaning the actual amount of payments that were potentially improper could be as low as \$936 million and as high as \$1.64 billion with a 95 percent level of confidence.²⁶ Our estimate for the number of individuals has a margin of error of plus or minus 7,000 individuals, meaning the actual number of individuals to whom SSA made payments that were potentially improper could be as low as 29,000 and as high as 43,000 with a 95 percent level of confidence. As shown in figure 3, the estimated 36,000 DI beneficiaries receiving potential overpayments represent about 0.4 percent of all primary DI beneficiaries at that time. Our analysis identifies individuals who received DI benefits that were potentially improper due to work activity performed (1) during the 5-month waiting period, or (2) beyond the 9-month trial work period and the grace period.

²⁶The numbers may not add due to rounding. Using a different methodology that includes additional causes of overpayments not considered in our analysis, SSA estimated its DI overpayments in fiscal year 2011 were \$1.62 billion, or 1.27% of all DI benefits in that fiscal year.

Figure 3: Disability Insurance (DI) Beneficiaries Estimated to Have Received Potential Overpayments



Source: GAO analysis of data from SSA and the NDNH.

Note: The number of beneficiaries and the amount of potential overpayments are estimates. GAO's estimate for the number of beneficiaries has a margin of error of 7,000 beneficiaries, and the estimate for the amount of payments that were potentially improper has a margin of error of \$352 million, both with a 95 percent level of confidence.

It is important to note that it is not possible to determine from data analysis alone the extent to which SSA made improper disability benefit payments to these individuals. To adequately assess an individual's work status, a detailed evaluation of all the facts and circumstances must be conducted for each beneficiary. This evaluation would include contacting the beneficiary and the beneficiary's employer to gather information on certain impairment-related work expenses, such as transportation costs and attendant care services, which are not considered in our analysis. On the basis of this additional information, SSA can determine whether the individual is entitled to continue to receive disability benefits or have such payments suspended. As described below, SSA had identified and established overpayments for some of the individuals we reviewed at the time of our audit. However, SSA had not identified potentially disqualifying work activity for other individuals we reviewed at the time of our audit.

Work Activity during the Waiting Period Indicates SSA Made \$920 Million in Benefit Payments That Were Potentially Improper

We estimate that SSA made payments that were potentially improper to about 21,000 individuals who were DI beneficiaries in 2010 and who had substantial earnings from work during the 5-month waiting period, resulting in potential overpayments of \$920 million as of January 2013.²⁷ Our estimate for the amount of payments that were potentially improper due to work activity during the waiting period has a margin of error of plus or minus \$348 million, meaning the actual amount of payments that were potentially improper due to work activity during the waiting period could be as low as \$571 million and as high as \$1.27 billion with a 95 percent level of confidence.²⁸ Our estimate for the number of individuals has a margin of error of plus or minus 7,000 individuals, meaning the actual number of individuals to whom SSA made payments that were potentially improper could be as low as 14,000 and as high as 28,000 with a 95 percent level of confidence. The exact number of individuals who received improper disability payments and the exact amount of improper payments made to those individuals cannot be determined without detailed case investigations by SSA. See appendix II for more information on the statistical estimations of overpayments for these populations.

In addition to our statistical sample, we reviewed detailed DI case-file information for a random selection of three beneficiaries from our sample who had substantial earnings during the waiting period and continued to have substantial earnings from work after the waiting period.²⁹ Although SSA regulations indicate that this level of work activity should result in a denial of a disability claim, all three individuals were approved for benefits. SSA officials told us they plan to conduct follow-up work on these cases based on the information we provided during this review. Because we selected a small number of individuals for further review,

²⁷These individuals were DI beneficiaries in 2010, but the onset of their disabilities and their subsequent 5-month waiting periods were not necessarily in 2010. For example, the waiting periods for the three beneficiaries we randomly selected for further review occurred in 2009.

²⁸The numbers may not add due to rounding.

²⁹Specifically, these three beneficiaries were randomly selected from those in our sample with SGA-level earnings during the waiting period and additional SGA-level earnings after the waiting period that were earned within 1 year of their alleged disability onset date. According to SSA policy, when a beneficiary returns to work less than 1 year after onset it may indicate the 12-month duration requirement for disability was not met and thus the beneficiary's disability claim must be denied.

these examples cannot be projected to the population of individuals receiving potential DI benefit overpayments.

As mentioned earlier, individuals are required to serve a 5-month waiting period prior to receiving DI benefits to ensure that SSA does not pay benefits to persons who do not have long-term disabilities.³⁰ Specifically, substantial earnings from work during the 5-month waiting period may indicate that individuals are not considered disabled and therefore are not entitled to DI benefits. Thus, if SSA discovers substantial earnings from work during the waiting period prior to adjudicating the disability claim, SSA will deny the disability claim. SSA may also reopen previously awarded disability claims by revising the decision to a denial of benefits after providing due process rights. Additionally, SSA's policies allow it the option of considering a later disability-onset date rather than denying the disability claim if it discovers the SGA-level work activity after the SGA subsequently stops. According to SSA guidance, an unsuccessful work attempt during the waiting period will not preclude a finding of disability.³¹

³⁰42 U.S.C. § 423(a)(1) and (c)(2).

³¹For more information on what SSA considers an "unsuccessful work attempt," see SSA, POMS section DI 24005.001.

Waiting Period Example 1: Beneficiary Did Not Report All Earnings, SSA's Enforcement Operation Did Not Generate Alert, and SSA Applied Trial Work Period Rather than Waiting Period Program Rules—Potential Overpayment of \$90,000

The beneficiary filed for benefits in November 2009 while he had substantial earnings from working as a physician. He had substantial earnings from work in all 5 months of the waiting period, as much as \$22,000 monthly, and continued to have substantial earnings from work in the month he started receiving benefits.

As mentioned, SSA's policies allow it the option of considering a later disability-onset date rather than denying the disability claim when it discovers SGA-level earnings during the waiting period. According to this SSA guidance, work activity of 6 months or less can be considered an "unsuccessful work attempt" during the waiting period, and will not preclude a finding of disability. During his initial claims interview, the beneficiary told SSA that he worked for only 2 months during the waiting period, a period short enough to be considered an unsuccessful work attempt.

However, SSA did not verify the beneficiary's wages with his employer and approved the individual for benefits beginning in January 2010. In contrast, the wages we confirmed with the beneficiary's employer indicate that the beneficiary had earnings continuously above the SGA level for every month of the year that he applied for and was approved for benefits, including all 5 months of the waiting period. Further, because these earnings were continuously above the SGA level for more than 6 months, SSA policy indicates that his work activity cannot be considered an unsuccessful work attempt. As such, this individual's work activity indicates that he was not disabled, and therefore was ineligible for benefits.

Additionally, SSA's enforcement operation did not generate an alert for his work activity during the waiting-period months in 2009 because his first benefit payment was in January 2010. According to SSA officials, the enforcement operation will only generate an earnings alert for a year in which a beneficiary receives a payment. In this example, because DI benefit payments began in 2010, and the waiting period was during the year prior to the first payment, no earnings alert was generated.

In 2011, SSA initiated a work-related continuing disability review (CDR) as a result of an earnings alert for work activity after the waiting period. As mentioned, SSA conducts CDRs to determine if beneficiaries are working above the SGA level. However, during the CDR, SSA program staff did not request and verify wages from the beneficiary's employer, nor did staff apply program rules regarding work activity during the waiting period. Instead, the CDR considered the work activity under the trial work period rules and determined that benefits should continue. Because the beneficiary's impairment did not prevent him from earning SGA-level wages during the waiting period and his SGA continued after the waiting period, SSA policies indicate that SSA should have denied the individual benefits when his case was adjudicated, or reopened the determination after adjudication and revised the claim to a denial of benefits, which would have resulted in an overpayment of all benefits previously paid. As such, we estimate that SSA made \$90,000 in cash benefit payments that were potentially improper to this individual over a period more than 3 years. As of May 2013, SSA had not detected or assessed any overpayments for the beneficiary and continued to pay monthly DI benefits of about \$2,500. SSA officials told us they plan to conduct follow-up work on this case on the basis of the information we provided.

Waiting Period Example 2: Beneficiary Did Not Report Earnings and SSA's Enforcement Operation Did Not Generate Alert—Potential Overpayment of \$21,000

The beneficiary began work in August 2009 and continued to work through January 2010, the month that SSA began making DI benefit payments due to mental disorders. The beneficiary had substantial earnings from work during 3 months of her waiting period and continued to have SGA-level earnings during the month she started receiving benefits, but she did not report any wages to SSA as required by program regulations. No enforcement operation earnings alert was generated for her work activity during the waiting period because her waiting period occurred in 2009, but her first benefit payment was not until January 2010. Additionally, no enforcement operation earnings alert was generated for her earnings in 2010 because, SSA officials told us, her earnings were too low to generate an alert.³² SSA had not assessed any overpayments for the beneficiary and continued to pay monthly DI benefits as of May 2013. We identified about \$21,000 in benefit payments that were potentially improper through our analysis of the beneficiary's wage records. SSA officials told us they plan to conduct follow-up work on this case.

Waiting Period Example 3: SSA Did Not Follow Its Program Rules—Potential Overpayment of \$25,000

The beneficiary began working in October 2004 and remained employed through at least June 2012. SSA approved the beneficiary for DI benefits starting in December 2009 for a malignant tumor. The beneficiary had substantial earnings from work during her waiting period as well as SGA-level earnings in 9 months of the first 12 months that SSA determined her impairment prevented her from having substantial earnings from work. When the beneficiary eventually self-reported earnings in 2011, SSA initiated a CDR that discovered substantial earnings from work during the waiting period. However, SSA staff did not consider this work in accordance with its own policies, and the CDR resulted in a determination that DI benefits should continue. Specifically, according to SSA, the discovery of SGA-level wages during the waiting period should have prompted SSA staff to initiate processes for determining whether benefits should have originally been denied or if the onset date should be changed to the date the SGA-level work stopped, but the SSA staff did not do so. On the basis of this individual's substantial earnings from work during the waiting period, the revised disability determination may have resulted in a revised disability denial or revised date of disability onset. SSA ceased providing DI benefits to the beneficiary in April 2013 when the beneficiary died. Although SSA never assessed overpayments for the beneficiary, we identified about \$25,000 in cash benefit payments that were potentially improper through our analysis of the beneficiary's wage records. Because the beneficiary died, her estate, or the beneficiaries of her estate, would be responsible for repaying the overpayment. SSA officials told us they plan to conduct follow-up work on this case.

³²Generally, SSA's enforcement operation does not generate alerts for annual earnings under six times the monthly SGA amount, or \$6,000 in 2010.

Work Activity beyond the Trial Work Period Indicates SSA Made \$368 Million in Benefit Payments That Were Potentially Improper

We estimate that SSA made potential overpayments to 15,500 individuals who were DI beneficiaries in 2010 and who worked beyond their trial work period, resulting in potential overpayments of \$368 million as of January 2013.³³ Our estimate for the amount of payments that were potentially improper due to work activity beyond the trial work period has a margin of error of plus or minus \$62 million, meaning the actual amount of payments that were potentially improper due to work activity beyond the trial work period could be as low as \$306 million and as high as \$430 million, with a 95 percent level of confidence. Our estimate for the number of individuals has a margin of error of plus or minus 1,500 individuals, meaning the actual number of individuals to whom SSA made payments that were potentially improper could be as low as 14,000 and as high as 17,000, with a 95 percent level of confidence. The exact number of individuals who received improper SSA disability payments cannot be determined without detailed case investigations by SSA. See appendix II for more information on the statistical estimations of overpayments for these populations.

In addition to our statistical sample, we reviewed detailed DI case-file information for a nongeneralizable selection of three beneficiaries from among those in our sample that we identified to have potential overpayments for at least 36 months (3 years) due to work activity beyond their trial work period. Our case file reviews for these three beneficiaries confirmed instances in which SSA made overpayments to beneficiaries with substantial earnings from work, as discussed later in this report. SSA officials told us they plan to conduct follow-up work on these cases on the basis of the information we provided during this review. Because we selected a small number of individuals for further review, these examples cannot be projected to the population of individuals receiving potential DI benefit overpayments.

As previously discussed, federal statutes and SSA regulations allow DI beneficiaries to work for a limited time without affecting their benefits. However, after completing the 9-month trial work period and entering the reentitlement period, beneficiaries who have substantial earnings from work beyond the 3-month grace period are generally no longer entitled to

³³These individuals were beneficiaries in 2010, but their trial work periods did not necessarily begin and end in 2010. For example, the trial work periods for the three beneficiaries we randomly selected for further review occurred in various years, as described below.

benefits. If SSA does not stop their benefits in a timely manner, SSA may overpay beneficiaries who are not entitled to benefits due to their work activity.

Trial Work Period Example 1: No Increased Scrutiny for Known Rule Violator—Overpayment of \$57,000

The individual filed for DI benefits on the basis of personality disorders and affective disorders in July 2006, and SSA approved his claim the following day. The day after he was approved for benefits, the beneficiary began working. At no point did the beneficiary report the new wages from his employment, as required by SSA regulations. SSA's enforcement operation generated earnings alerts each year from 2008-2011, but SSA did not initiate a CDR until April 2011. Agency officials told us that SSA does not have any policies that dictate time limits for initiating a CDR on the basis of an earnings alert, nor stipulating that a CDR must be initiated if earnings alerts are generated for several consecutive years. As a result of the CDR in 2011, SSA suspended the beneficiary's DI benefits in December 2011 and subsequently assessed an overpayment of more than \$57,000 due to his work activity. SSA officials were unable to explain why a CDR was not performed until 2011, though they stated that limited resources and competing workloads may be factors that contributed to the timeliness with which the CDRs were initiated.

A month after SSA assessed the overpayment, while he continued to have substantial earnings from working for the same employer, the beneficiary applied to have his benefits reinstated, and fraudulently affirmed that he did not have substantial earnings from work. We found no evidence in SSA's files that SSA had contacted the beneficiary's employer to confirm his statement before approving his benefits. Thus, even though SSA had information documenting that the individual did not report earnings before, the agency approved the application and continued to pay DI benefits as of May 2013. Because the individual had SGA-level wages for the entire year prior to his application for reinstatement and for at least 2 months after SSA approved him for reinstated benefits, the cash benefit payments SSA made after reinstating this individual were potentially improper, though SSA had not established an overpayment for this work activity as of April 2013. To recover the prior outstanding overpayment, SSA is withholding \$75 per month from the current monthly DI benefits that SSA may be improperly paying to the beneficiary. At \$75 per month, it would take 63 years for SSA to recover the \$57,000 overpayment, at which time the beneficiary would be well over 100 years old.³⁴ SSA officials told us they plan to conduct follow-up work on this case on the basis of the information we provided.

³⁴We previously reported that the recovery of DI overpayment can take decades. See [GAO-11-724](#).

Trial Work Period Example 2: Earnings Alerts Did Not Result in Review for 5 Years—Overpayment of \$74,000

SSA approved the beneficiary for DI benefits in April 1998 for mental disorders. The beneficiary began working in October 2005 and remained employed as of August 2012. After he reported his earnings in October 2005, SSA completed a CDR and found that the beneficiary was within his trial work period. From 2007 to 2011, SSA's enforcement operation generated earnings alerts for the beneficiary. Despite knowing the beneficiary began working in 2005 and receiving 5 additional years of earnings alerts, SSA did not perform another CDR until December 2011. SSA officials were unable to explain why a second CDR was not performed for more than 5 years when it had previously identified that the beneficiary had partially completed a trial work period. However, SSA officials told us that resource constraints may have delayed this CDR. As a result of the 2011 CDR, SSA assessed over \$56,000 in overpayments and ceased providing benefits to the beneficiary in June 2012. SSA also assessed a total of over \$18,000 in additional overpayments for the beneficiary's two child dependents. SSA approved a repayment plan of \$200 per month for the \$74,000 in overpayments. SSA officials told us they plan to conduct follow-up work on this case.

Trial Work Period Example 3: Known Work Activity Not Monitored—Overpayment of \$25,000

SSA approved the beneficiary for DI benefits starting in June 2005 for mental disorders. The beneficiary began working in November 2007 and remained employed through at least August 2012. In May 2008, he provided SSA pay stubs for 2 months of earnings, which showed that he was not earning substantial wages. SSA's enforcement operation generated earnings alerts in 2008 and 2009, and SSA completed a CDR in 2010 in which the agency determined that benefits should continue because he had not yet completed his trial work period. In the month following the completion of the CDR, SSA contacted the beneficiary to inform him that he had completed his trial work period. Despite knowing that the beneficiary had completed his trial work period, SSA did not complete a subsequent CDR for more than 2 years. SSA officials told us that resource constraints may have contributed to the delay in initiating a subsequent CDR. As a result of the CDR performed 2 years later, SSA assessed overpayments of \$25,000 due to work activity and stopped paying benefits. As of April 2013, the beneficiary had not made any payments toward his overpayment debt. SSA officials told us they plan to conduct follow-up work on this case.

SSA Is Assessing Opportunities to Better Identify Potential Improper Payments, but Existing Controls Allow Potentially Disqualifying Work Activity to Remain Undetected

SSA Is Assessing Opportunities to Improve the Timeliness of DI Program-Integrity Efforts, but It Is Too Early to Assess What Effect These Initiatives May Have on DI Overpayments

We identified instances in which the timeliness of SSA's process for identifying disqualifying work activity allowed DI overpayments to remain undetected and accrue; however, SSA is assessing opportunities to obtain more-timely earnings information and improve its work CDR process. Specifically, in the course of this review, we identified instances in which SSA did not obtain timely earnings information and did not act promptly when it did receive earnings alerts, which led to significant cash benefit overpayments. This is consistent with our prior work that found DI overpayments for beneficiaries who return to work may accrue over time because SSA lacks timely data on beneficiaries' earnings and does not act promptly when it receives earnings alerts from its enforcement operation.³⁵ During this review, SSA officials told us that limited resources and competing workloads may have constrained the agency's ability to act promptly when it received earnings alerts or self-reported earnings for beneficiaries from our nongeneralizable examples described above. We also reported in April 2013 that budget decisions and the way SSA prioritizes competing demands, such as processing initial claims, contribute to challenges SSA faces in maintaining the integrity of the disability program.³⁶

³⁵[GAO-11-724](#).

³⁶See GAO, *Social Security Administration: Preliminary Observations on Key Management Challenges*, [GAO-13-545T](#) (Washington, D.C.: Apr. 26, 2013).

In 2004, we reported that SSA's lack of timely earnings data on beneficiaries' earnings and work activity impeded its ability to prevent and detect earnings-related overpayments. To enhance SSA's ability to detect and prevent overpayments in the DI program, we recommended that SSA use more-timely earnings information in the NDNH in conducting program-integrity operations.³⁷ Although SSA uses the NDNH to perform oversight of the SSI program, it does not use the NDNH to conduct oversight of the DI program. In 2009, SSA conducted a cost-effectiveness study on use of the NDNH, which estimated its return on investment would be about \$1.40 for every \$1 spent, or a 40 percent rate of return; however, SSA concluded in its 2009 study that this expected return on investment was low, and noted that a match with the NDNH would generate a large number of CDR alerts needing development that were not of high quality. In July 2011, we reported that due to overly pessimistic assumptions in SSA's cost-effectiveness study, it is likely that the actual savings that result from SSA's use of the NDNH could be much higher.³⁸ Further, it is not clear whether this cost-benefit analysis accounted for improper payments that would be prevented by identifying work activity during the 5-month waiting period. Thus, the real return on investment could be understated. SSA agreed with our assessment and in January 2013 said that it is currently reevaluating the cost-effectiveness of using the NDNH for DI program-integrity initiatives and expects the cost-benefit analysis to be completed in the fourth quarter of fiscal year 2013.

SSA officials also stated that the agency has made improvements to its CDR process, but we were unable to determine how they might reduce improper payments due to beneficiaries' work activity because these initiatives were still being tested at the time of our review. For example, in 2010 SSA began a pilot to use what the agency refers to as a predictive model to prioritize enforcement operation earnings alerts, working cases likely to incur large work-related overpayments first. SSA officials told us the agency is planning to implement the model nationally in June 2013. Additionally, in response to a recommendation we made in a prior report, in 2012 SSA began testing a new process to use its model to identify and

³⁷GAO, *Disability Insurance: SSA Should Strengthen Its Efforts to Detect and Prevent Overpayments*, [GAO-04-929](#) (Washington, D.C.: Sept. 10, 2004).

³⁸[GAO-11-724](#).

delay benefit increases for beneficiaries with pending work CDRs.³⁹ Because these initiatives were still being tested at the time of our review, we were unable to determine how they might reduce improper payments due to beneficiaries' work activity. As such, it is too early to assess what effect these initiatives may have on the prevalence and size of DI overpayments.

SSA Can Improve Its Ability to Detect Potentially Disqualifying Work Activity

We found that a limitation of SSA's enforcement operation⁴⁰ allows individuals with substantial earnings from work during the waiting period to be approved for DI benefits and allows resulting DI benefit payments that were potentially improper to remain undetected by SSA.⁴¹ Specifically, we found that SSA's enforcement operation will not generate an alert for earnings during the waiting period if the earnings occur in a year when the beneficiary does not receive a benefit payment. For example, if a beneficiary receives her or his first benefit payment in January 2013, the enforcement operation will not generate an earnings alert for wages earned during the waiting-period months occurring in the prior year, which would be from August to December 2012. As a result, for any beneficiary whose first month of entitlement is January to May, the

³⁹In a 2010 report, we recommended that SSA evaluate the feasibility of incorporating the twice-annual Automatic Earnings Reappraisal Operation (AERO) process in the agency's work CDR process. The AERO process provides a systematic recomputation of benefits for DI beneficiaries who continue to work after entitlement. As such, the AERO process may result in the release of higher benefits that SSA later determines are not payable as a result of a work CDR. As of April 2013, SSA does not use AERO to identify beneficiaries who work. GAO, *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).

⁴⁰As mentioned, SSA's enforcement operation generates alerts for cases that exceed specified earnings thresholds. The enforcement operation alerts are then forwarded to processing centers for additional development by SSA staff in work CDRs. Work CDRs determine if beneficiaries are working above the SGA level.

⁴¹In our case studies, we also found that SSA's reliance on beneficiaries to self-report increases in earnings inhibited its detection of potential DI overpayments due to work activity during the waiting period. Specifically, two of the three beneficiaries we examined did not report changes to their work activity during the waiting period, as required by SSA regulations. The third beneficiary we examined eventually reported her increased earnings to SSA, but SSA did not review these earnings in accordance with its own policies, and as a result, did not detect and establish an overpayment for this work activity. However, because we identified these deficiencies in our three nongeneralizable examples, and we were unable to establish the extent that these weaknesses are systemic, we are not making recommendations related to these issues.

enforcement operation does not generate an earnings alert for at least 1 month of the waiting period. In two of the three examples we randomly selected from our sample of beneficiaries with work activity during the waiting period, SSA's enforcement operation did not generate alerts for SGA-level earnings during the waiting period because their waiting periods occurred in the year prior to their first benefit payment. These individuals were approved for benefits despite disqualifying work activity, and SSA had not detected any overpayments for these individuals at the time of our audit. For the third beneficiary we reviewed, SSA's enforcement operation generated an alert for earnings during the waiting period because the individual also received benefit payments in that year. However, this alert was generated more than 1 year after the work activity during the waiting period occurred, and in the resulting work CDR, SSA did not apply its own waiting period program rules to the work activity. Specifically, SSA approved the individual for benefits despite disqualifying work activity and did not detect and establish overpayments for this work activity when it later became aware of the work activity.

Standards for Internal Control in the Federal Government states that internal controls should generally be designed to assure that ongoing monitoring occurs in the course of normal operations.⁴² SSA officials acknowledged that the systemic limitation to their enforcement operation allows potentially disqualifying work activity to remain undetected, but SSA expressed concern that modifying its existing enforcement operation may be costly. However, SSA has not assessed either the costs of such a modification or the additional program savings it might realize should such a change be implemented. Such an analysis would assist SSA in making an informed decision regarding the costs and benefits of modifying its existing enforcement operation. To the extent that such an analysis determines modifying its existing enforcement operation is cost effective and feasible, establishing a mechanism to identify work activity performed during all months of the waiting period, including those that occur in a year when beneficiaries were not paid, may help provide SSA greater assurance that DI beneficiaries are eligible to receive benefits.

⁴²[GAO/AIMD-00-21.3.1.](#)

Conclusions

The DI program provides an important safety net for disabled beneficiaries. However, during a time of growing concerns about the solvency of the DI trust fund, it is important that SSA take every opportunity to ensure that only eligible beneficiaries receive payments under this program and that additional actions are taken to improve the financial status of the program. Without reliable and timely earnings information on the work activity of individuals applying for DI benefits, SSA risks making overpayments to individuals whose work activity indicates they are not disabled and therefore ineligible for disability benefits. While we cannot generalize the examples we found, SSA's inability to identify work activity during the waiting period may result in overpayments to beneficiaries who are ineligible for benefits. Assessing the costs and savings associated with establishing a mechanism to identify work activity during all months of the waiting period would help SSA to determine whether establishing such a mechanism would be cost-effective and feasible. To the extent that it is determined to be cost-effective and feasible, implementing a mechanism to identify work activity performed during all months of the waiting period, including those that occur in a year when benefits were not paid, may help provide SSA greater assurance that DI beneficiaries are eligible to receive benefits.

Recommendation for Executive Action

To improve SSA's ability to detect and prevent potential DI cash benefit overpayments due to work activity during the 5-month waiting period, we recommend that the Commissioner of Social Security take the following action:

- assess the costs and feasibility of establishing a mechanism to detect potentially disqualifying earnings during all months of the waiting period, including those months of earnings that the agency's enforcement operation does not currently detect and implement this mechanism, to the extent that an analysis determines it is cost-effective and feasible.

Agency Comments and Our Evaluation

We provided a draft of this report to the Office of the Commissioner of SSA. In its written comments, SSA concurred with our recommendation and stated that it would conduct the recommended analysis. In addition, SSA expressed some concerns about our methodology for estimating potential improper payments due to beneficiaries' work activity, which are summarized below. The agency also provided general and technical comments, which have been incorporated into the report, as appropriate. SSA's comments are reproduced in full in appendix IV.

In commenting on our recommendation to assess the costs and feasibility of establishing a mechanism to detect potentially disqualifying earnings during all months of the waiting period and to implement the mechanism, to the extent that it is cost-effective and feasible, SSA requested the data we gathered as part of this study to help the agency assess the costs and feasibility of establishing such a mechanism. At SSA's request, we will provide SSA the population of individuals with earnings during the 5-month waiting period that we identified from our match of 2010 NDNH earnings data and SSA's 2010 DI program data. During the course of this audit, we also provided SSA with the SSNs of the individuals in our two random samples. These data would allow SSA to perform the recommended analysis using the NDNH wage data, which we obtained from SSA. We note that SSA's assessment would benefit from using the most-recently available wage data, such as 2013 data that are directly available to SSA from the NDNH.

In addition to this data request, SSA raised several concerns about our methodology and asserted that our inability to replicate the process it uses to make SGA determinations may lead to substantial overstatement of our estimate of potentially improper payments. First, SSA noted that our review does not consider program features, such as unsuccessful work attempts and Impairment Related Work Expenses (IRWE), or whether the work involved subsidies or special conditions. As mentioned in the report, SSA's process for determining SGA and its policies for determining whether individuals remain entitled to benefits despite potentially disqualifying work activity involve a consideration of all the facts and circumstances surrounding a case, including medical data that doctors and hospitals are not required to share with GAO for purposes of this audit. As such, our objective was to estimate the extent to which individuals received DI benefit payments that were potentially improper due to their work activity. To do this, we used wage data to identify two populations of individuals with earnings beyond program limits; we then drew a random, generalizable sample of individuals from each population and compared wage information from their employers to DI program information from SSA to develop estimates of potential overpayments in

each population. Because our analysis of potential overpayments is limited to earnings data from the NDNH and DI payments from SSA, potential overpayments for each sample are estimated. Thus, we continue to believe that the methodology we applied using the data we were able to access led us to valid estimates of potentially improper payments due to beneficiaries' work activity.

Second, SSA noted that we assume that every payment made after the 5-month waiting period is likely to be an improper payment instead of reestablishing the disability onset date, as its policy allows in some instances. However, our method of calculating potential overpayments is consistent with current DI program policies and interviews with SSA officials who stated that individuals who perform substantial gainful activity during the waiting period are not disabled and therefore not entitled to benefits; thus, all DI payments made to those individuals are potentially improper payments. Further, determining which individuals in our samples, if any, should have their onset date reestablished despite disqualifying work activity in the waiting period was not reasonably possible because making such a determination would involve a consideration of medical data that doctors and hospitals were not required to share with GAO for purposes of this audit.

Third, SSA stated that payment for medical leave may have been included in some of the payroll data we used for our analysis and suggested that this may have led to a substantial overstatement of estimated improper payments. However, our calculation of earned income excludes material payments for medical leave, as described in detail in appendix II. Thus, we do not expect that these payments or the other concerns SSA raises in its letter led to a substantial overstatement of potential overpayments, as SSA suggested.

Finally, SSA noted that improving payment accuracy is critical to preserving the public's trust in the DI program and that available resources may affect SSA's ability to increase its payment accuracy. We recognize SSA's ongoing efforts to improve the program and that federal resources are currently constrained. However, without making changes to its existing processes for identifying beneficiaries' work activity, to the extent that the benefits exceed the costs, SSA may remain unable to detect work activity in a timely manner, and SSA may continue to make improper payments to individuals whose work activity indicates they are not entitled to benefits.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to the Commissioner of Social Security and other interested parties. In addition, the report will be available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have questions about this report, please contact me at (202) 512-6722 or lords@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report.

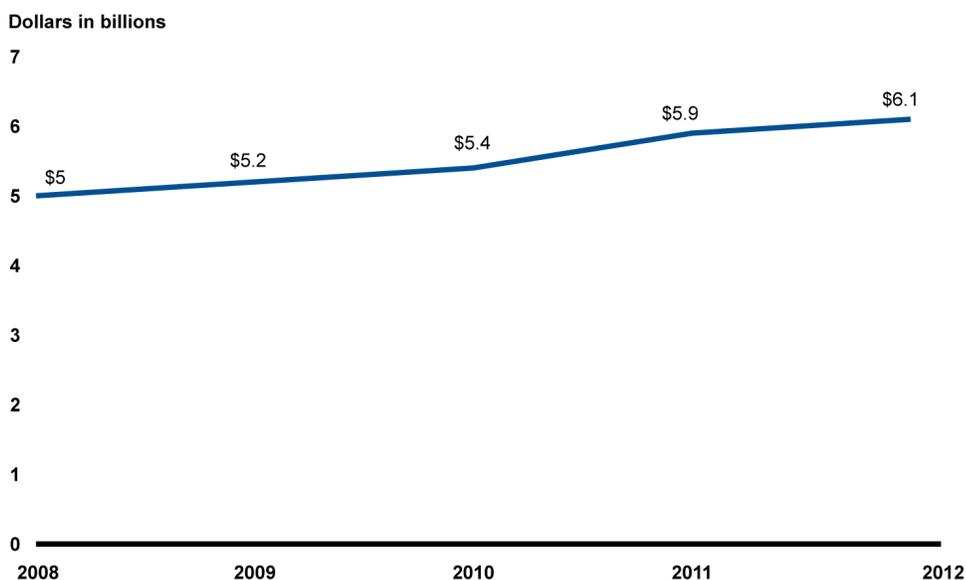
A handwritten signature in black ink that reads "Stephen Lord". The signature is written in a cursive style with a large initial 'S' and a distinct 'L'.

Stephen M. Lord
Director, Forensic Audits and Investigative Service

Appendix I: Debt Owed to SSA from Overpayment of DI Benefits Is Increasing

As shown in figure 4 below, in fiscal year 2010, the total amount owed to the Social Security Administration (SSA) for Disability Insurance (DI) overpayments was \$5.4 billion. This debt has increased through fiscal year 2012, as individuals owed over \$6 billion in overpayments of DI benefits.

Figure 4: Balance of Disability Insurance (DI) Overpayment Debt Detected by the Social Security Administration (SSA), Fiscal Years 2008-2012



Source: Social Security Administration.

Appendix II: Objectives, Scope, and Methodology

This report (1) estimates the extent to which individuals received disability insurance (DI) benefit payments that were potentially improper due to work activity performed during the 5-month waiting period or beyond the 9-month trial work period; and (2) assesses the extent to which the Social Security Administration's (SSA) enforcement operation detects potentially disqualifying work activity during the waiting period. The exact number of individuals who received improper disability payments and the exact amount of improper payments made to those individuals cannot be determined without detailed case investigations by SSA. Thus, we refer to "benefit payments that were potentially improper" and "potential overpayments" throughout this report. As part of this work, we also provide examples of beneficiaries with work activity during the waiting period or beyond the trial work period to help illustrate the circumstances under which SSA made DI payments that were potentially improper to beneficiaries. We plan to assess the extent to which the National Directory of New Hires (NDNH) indicates potential overpayments in SSA's Supplemental Security Income (SSI) program in future work, which will be available this year.

To determine the extent to which the NDNH provides evidence that individuals received DI benefit payments that were potentially improper due to work activity, we matched the NDNH quarterly wage data with our extract of SSA's Master Beneficiary Record (MBR) as of December 2010. To ensure the best quality matches, we matched only against Social Security Numbers (SSN) that the NDNH categorizes as "verified" through the SSA's Enumeration Verification System process.¹ Thus, we did not match against SSNs that the NDNH categorizes as "unverified" or "non-verifiable." The match process identified two populations with potential overpayments due to work activity. The first population consisted of individuals who received potential overpayments due to substantial gainful activity (SGA) level earnings during the 5-month waiting period. The details of this match are described in the section below titled "Wait Period Overpayments." The second overpayment population consisted of individuals who received potential overpayments due to SGA-level

¹The NDNH system posts quarterly wage records that, among other tests, can be verified through SSA's Enumeration Verification System, which verifies identity information, such as the name, date of birth, and SSN.

earnings beyond the trial work period.² The details of this match are described in the section below titled “Trial Work Period Overpayments.”

The NDNH Database

Sections 452(a)(9) and 453(a)(1) of the Social Security Act required the Secretary of Health and Human Services to establish and maintain the Federal Parent Locator Service, which includes the NDNH database.³ The NDNH database contains employment data on newly hired employees (W4), quarterly wage (QW) data on individual employees, and unemployment insurance (UI) data. The federal Office of Child Support Enforcement (OCSE) matches case information from state child support enforcement agencies against the NDNH and returns information on the case to the appropriate state or states. NDNH data are deleted after 24 months, as required by Section 453(i) of the Social Security Act. The data reported to OCSE for the NDNH come from several sources. Employers report W4 data to the State Directories of New Hires, which then report them to OCSE. UI data originate with the State Workforce Agencies, which then send data to the State Directories of New Hires, which send data to OCSE. The quarterly wage data are reported by employers to the State Workforce Agencies for their state, which in turn reports them to the State Directories of New Hires (sometimes colocated with the State Workforce Agencies), which then reports the information to OCSE. Federal agency W4 and QW data are reported directly to OCSE.

Limitations to Using NDNH Data to Determine SGA

The timing and nature of NDNH earnings data we received present limitations to the data’s capacity to identify SGA in accordance with SSA’s complex program rules. First, the quarterly wage amounts on the NDNH represent 3 months of earnings; however, the statute for evaluating SGA-level earnings requires SSA to use monthly earnings amounts. To facilitate our analysis, we calculated monthly earnings for each month in a quarter by dividing the quarterly wage amount in the NDNH by 3. For example, if the NDNH reported quarterly earnings of \$3,000 in the first quarter of 2010, we calculated the monthly earnings to be \$1,000 for

²The number of individuals appearing in both populations was 297.

³The Federal Parent Locator Service is a computerized national location network that provides address and SSN information to state and local child-support agencies for the purpose of locating parents to establish or enforce child support orders and to assist authorized persons in resolving parental kidnapping and child-custody cases.

January, February, and March of 2010. This monthly computed earnings amount could differ from the actual monthly earnings. For instance, using the previous example, the actual monthly earnings in January 2010 could be \$3,000, and actual earnings in February or March could be \$0. Second, when SSA evaluates earnings to determine SGA for DI beneficiaries, SSA counts earnings when they are earned, not paid; however, amounts of earnings on the NDNH for a particular quarter could be paid in that quarter, but earned in prior quarters. In addition to these timing limitations, the NDNH quarterly earnings data may contain payments not related to work activity, such as paid time off, long-term disability payments, or posttermination compensation; however, SSA's assessment of SGA generally involves doing significant physical or mental activities, rather than receiving payments not related to work.

To account for these limitations, we drew a simple random sample from each of the potential overpayment populations and contacted the employers that reported the earnings to determine the exact timing, amount, and nature of the earnings for the beneficiaries in our sample.⁴ With these simple random samples, each member of the study populations had a nonzero probability of being included, and that probability could be computed for any member. Each sample element was subsequently weighted in the analysis to account statistically for all the members of the population, including those who were not selected. Additional details on our sample work are described in the "Wait Period Overpayments" and "Trial Work Period Overpayments" sections below.

As mentioned, it is impossible to determine from reported earnings alone the extent to which SSA made improper disability benefit payments to these individuals. To adequately assess an individual's work status, a detailed evaluation of all the facts and circumstances should be conducted for all cases. This evaluation may necessitate contacting the beneficiary, the beneficiary's employer, and the beneficiaries' physician to evaluate the nature of the work performed. This evaluation may also consider certain impairment-related work expenses, which were not considered in our analysis.⁵ On the basis of this comprehensive

⁴To identify the employers, we used the federal and state employer identification number on the corresponding NDNH record.

⁵Impairment-related work expenses include items such as transportation costs and attendant care services.

evaluation of all facts and circumstances surrounding a case, SSA can determine whether the individual is entitled to continue to receive disability payments or have such payments suspended.

Wait Period Overpayments

Our analysis of the NDNH match file identified individuals who were in current pay status in the DI program as of December 2010 and had computed monthly earnings that exceeded the corresponding monthly SGA threshold for any of the 5 months prior to the individual's DI date of entitlement to disability.⁶ We included individuals who received potential overpayments due to work activity during the waiting period on the basis of the following criteria:

1. monthly computed earnings were greater than the corresponding SGA threshold during any month of the individual's 5-month waiting period,⁷ and
2. DI payment records on the MBR showed that DI benefits were paid to the individual during any of the 36 months for which we had DI payment data from the MBR.⁸

Thus, to be included in our Wait Period overpayment population, individuals had to be in current pay status as of December 2010 and have at least 1 month of potential overpayments as defined by the criteria above. Our analysis determined there were 83,179 individuals meeting these potential-overpayment criteria. Because SGA-level earnings during the waiting period would result in a denial of eligibility for DI benefits, we considered all the benefits paid to the individual as potential overpayments.

⁶The date of entitlement is the first month for which a beneficiary is entitled to DI benefit payments and is the first full calendar month after the 5-month waiting period. As mentioned, we calculated monthly computed earnings by dividing the NDNH quarterly earnings by 3.

⁷Our analysis accounts for the higher SGA amounts for individuals whose disability is blindness. The monthly earnings amounts that demonstrate SGA are described in greater detail in app. III.

⁸This analysis used DI payment data from the MBR covering the 36 months from November 2007 through October 2010.

Next, we drew a simple random sample of 133 individuals from the Wait Period overpayment population and contacted the employers to verify the timing and nature of the wages paid to the individuals. We received completed requests from employers for 98 individuals for a response rate of 75 percent.⁹ Nonresponses included sample items whose employers we could not locate, employers who were no longer in business, and employers who refused to cooperate with our requests. We asked employers who provided earnings data to identify payments that were not related to work activity, such as paid time off, extended sick leave, or posttermination compensation. Many employers provided payroll reports indicating hours and payments by payment category, such as total payments for hours in regular work, hours in overtime work, and hours of vacation time.

Using the earnings data employers provided, we calculated monthly earned income for each sample item and identified whether the beneficiaries' monthly earned income exceeded SGA during any of the 5 months of their waiting period. Because employers use different payroll cycles and provided different levels of detail in their responses, we adhered to the following guidelines to standardize our calculation of monthly earned income:

1. In consideration of SSA guidance regarding the timing of payments, we calculated monthly earned income according to the period in which payments were earned rather than when they were paid. However, if an employer's payroll reports indicated only the dates when payments were issued, we calculated monthly earned income according to those dates.
2. In consideration of SSA guidance regarding the nature of payments, our calculation of monthly earned income excludes payments not related to work activity, such as payments for paid time off, vacation pay, and extended sick leave, if those payments covered the entire pay period, as defined by the employer. Thus, payments not related to

⁹The method we used to calculate the response rate, The American Association for Public Opinion Research Response Rate 3, uses a calculation that includes an estimate of the proportion of the sample that is eligible to complete the survey among those whose eligibility for the survey is unknown. The estimate is derived using a formula that includes the number of respondents interviewed, the number of respondents known to be eligible that were not interviewed, and the number of respondents contacted that were determined to be ineligible.

work activity that were episodic, such as sick pay or vacation pay received during a pay period when the individual also performed work, are included in our calculation of monthly earned income.

We then obtained additional DI program data on the MBR to estimate total program overpayments to-date for our sample items.¹⁰ Because we followed a probability procedure based on random selections, our sample is only one of a large number of samples that we might have drawn. Since each sample could have provided different estimates, we express our confidence in the precision of our particular sample's results as a 95 percent confidence interval.

Wait Period Overpayment Examples

To provide examples of the circumstances under which SSA made potential overpayments to individuals with work activity during the 5-month waiting period, we randomly selected three beneficiaries from our waiting period sample who were among those that met the following criteria:

1. the individual's employer reported that the individual received SGA-level earnings during the 5-month waiting period, and
2. the individual's employer reported additional SGA-level earnings that were earned after the waiting period and within 1 year of their date of disability onset.

According to statutes and SSA regulations, when individuals have SGA-level work activity during the waiting period, this normally means they will be considered not disabled and therefore not eligible for benefits. For these three individuals, we obtained detailed DI case-file information from SSA to determine the facts and circumstances surrounding their potential overpayments. Because we selected a small number of individuals for further investigation, the results cannot be projected to the population of individuals receiving DI overpayments due to SGA in the 5-month waiting period.

¹⁰We received an additional extract of MBR data as of January 2013 for the individuals in our sample.

Trial Work Period Overpayments

Our analysis of the NDNH match file identified individuals who were in current pay status in the DI program as of December 2010 and who had SGA-level earnings after the completion of their trial work period (TWP) and 3 grace period months. We determined a month to be a TWP month if the monthly computed earnings after the date of entitlement was greater than the TWP threshold.¹¹ After we identified 9 TWP months, we identified 3 grace period months where monthly computed earnings were greater than the corresponding SGA threshold. Next, we identified potential overpayment months that met the following criteria:

1. monthly computed earnings after the 3 month grace period were greater than the corresponding SGA threshold,¹² and
2. DI payment records on the MBR showed that DI benefits were both due and paid for that month.¹³

Thus, to be included in our TWP overpayment population, beneficiaries had to be in current pay status as of December 2010 and have at least 1 month of potential overpayments as defined by the criteria above. Our analysis determined there were 19,208 individuals that met these overpayment criteria.

Our TWP overpayment population understates the number of individuals with potential overpayments beyond their trial work period for several reasons. First, because we were given limited access to the NDNH, our analysis is generally limited to the 15-month period from July 2009 to September 2010, which is the period for which we were able to capture both DI payment records on the MBR and earnings data on the NDNH. As a result, any individuals with material work activity outside these 15

¹¹In accordance with 20 CFR § 404.1592(e), the TWP cannot begin before the month in which a beneficiary files an application for benefits. Thus, if the beneficiary's DI filing date was later than the date of entitlement, we considered the TWP to begin in the same month as the DI filing date. Our analysis also verified that the 9 TWP months did not span more than 60 consecutive months. As mentioned, we calculated monthly computed earnings by dividing the NDNH quarterly earnings by 3.

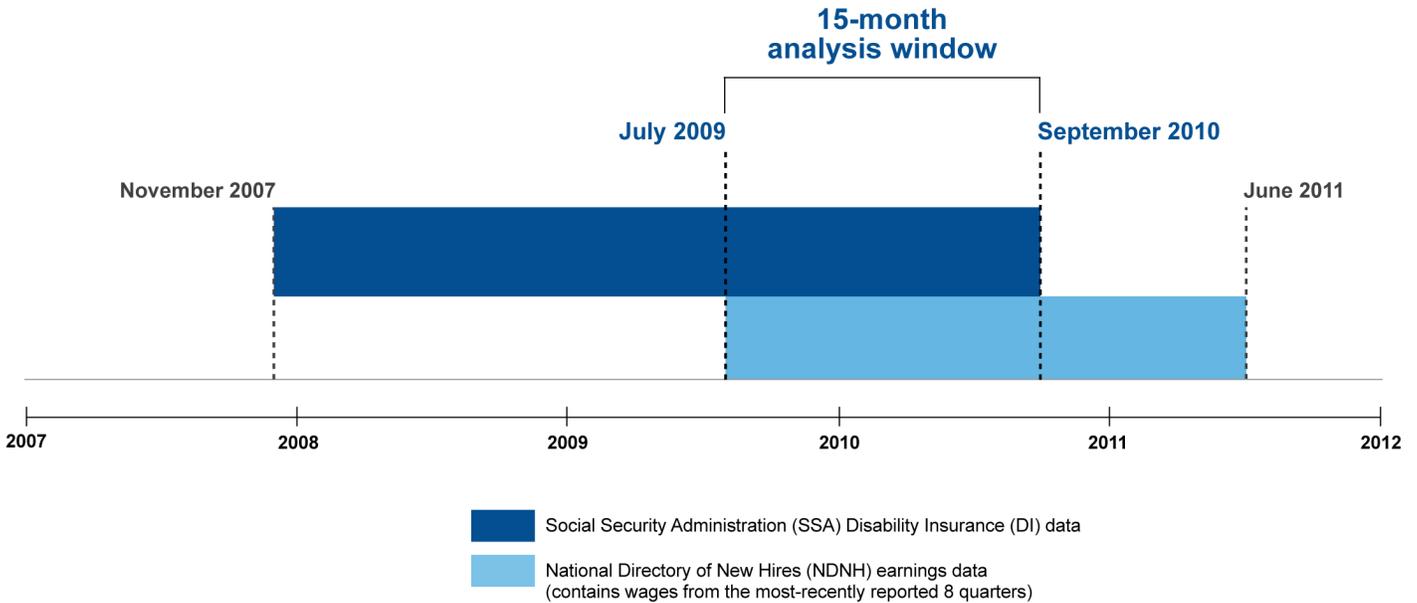
¹²Our analysis accounts for the higher SGA amounts for individuals whose disability is blindness. The monthly earnings amounts that demonstrate SGA are described in greater detail in app. III.

¹³SSA may hold payments to beneficiaries for a month under certain circumstances, such as when a payment address is in question. In these instances, the MBR may indicate benefits due, but not paid for that month.

months may not be included in our TWP overpayment population. For example, if NDNH earnings data indicated the beneficiary completed all 9 TWP months and 3 grace period months from October 2009 to September 2010 (i.e., 12 months), but the next month of SGA-level earnings occurred in October 2010, which is outside our 15-month time frame, the beneficiary was not included in our TWP overpayment population. Figure 5 below illustrates the 15 months from July 2009 to September 2010 for which our analysis captured both DI payment records on the MBR and earnings data on the NDNH.¹⁴ Second, because our calculation of potential overpayment months includes only months where DI payment records on the MBR showed that DI benefits were both due and paid for that month, our TWP overpayment population does not include individuals whose only months of SGA beyond the TWP occurred in months where benefits were due, but not paid. Similarly, our TWP overpayment population does not include individuals whose only months of SGA beyond the TWP occurred in months where benefits were paid, but not due.

¹⁴The NDNH maintains data only from the most-recently reported 24 months.

Figure 5: The 15 Months from July 2009 to September 2010 Is the Period for Which GAO Had Both Disability Insurance Data and Earnings Data



Source: GAO.

Next, we drew a simple random sample of 130 individuals from the TWP overpayment population and contacted the employers to verify the wages paid to the individuals. We completed requests from employers for 98 individuals for a response rate of 76 percent.¹⁵ Nonresponses included sample items whose employers we could not locate, employers who were no longer in business, and employers who refused to cooperate with our requests. We asked employers who provided earnings data to identify payments that were not related to work activity, such as paid time off, extended sick leave, or posttermination compensation. Many employers provided payroll reports indicating hours and payments by payment

¹⁵The method we used to calculate the response rate, The American Association for Public Opinion Research Response Rate 3, uses a calculation that includes an estimate of the proportion of the sample that is eligible to complete the survey among those whose eligibility for the survey is unknown. The estimate is derived using a formula that includes the number of respondents interviewed, the number of respondents known to be eligible that were not interviewed, and the number of respondents contacted that were determined to be ineligible.

category, such as total payments for hours in regular work, hours in overtime work, and hours of vacation time.

Using the earnings data employers provided, we calculated monthly earned income for each sample item and identified whether the beneficiaries' monthly earned income exceeded SGA during any month of the extended period of eligibility. Because employers use different payroll cycles and provided different levels of detail in their responses, we adhered to the following guidelines to standardize our calculation of monthly earned income:

1. In consideration of SSA guidance regarding the timing of payments, we calculated monthly earned income according to the period in which payments were earned rather than when they were paid. However, if an employer's payroll reports indicated only the dates when payments were issued, we calculated monthly earned income according to those dates.
2. In consideration of SSA guidance regarding the nature of payments, our calculation of monthly earned income excludes payments not related to work activity, such as payments for paid time off, vacation pay, and extended sick leave, if those payments covered the entire pay period, as defined by the employer. Thus, payments not related to work activity that were episodic, such as sick pay or vacation pay received during a pay period when the individual also performed work, are included in our calculation of monthly earned income.

We then obtained additional DI program data on the MBR to estimate total program overpayments to-date for our sample items.¹⁶ Because we followed a probability procedure based on random selections, our sample is only one of a large number of samples that we might have drawn. Since each sample could have provided different estimates, we express our confidence in the precision of our particular sample's results as a 95 percent confidence interval.

¹⁶We received an additional extract of MBR data as of January 2013 for the individuals in our sample.

Trial Work Period Overpayment Examples

To provide examples of the circumstances under which SSA made potential overpayments to individuals with work activity beyond their trial work period, we randomly selected three beneficiaries from our trial work period sample who were among those beneficiaries receiving potential overpayments for at least 36 months (3 years). For these three individuals, we obtained detailed DI case-file information from SSA to determine the facts and circumstances surrounding their potential overpayments. Because we selected a small number of individuals for further investigation, the results cannot be projected to the population of individuals receiving DI overpayments due to SGA beyond the trial work period.

Data Reliability Assessments

To determine the reliability of the SSA disability records and NDNH quarterly wage records, we reviewed documentation related to these databases and interviewed officials responsible for compiling and maintaining relevant DI and NDNH data. In addition, we performed electronic testing to determine the validity of specific data elements in the databases that we used to perform our work. We also reviewed detailed wage data from employers and DI program data from SSA for the statistical samples of individuals selected as described above to confirm that quarterly wage data from the NDNH indicated payments that were potentially improper from the DI program. On the basis of our discussions with agency officials and our own testing, we concluded that the data elements used for this report were sufficiently reliable for our purposes.

To assess the extent to which SSA's enforcement operation detects potentially disqualifying work activity during the waiting period, we interviewed officials from SSA regarding the agency's internal controls for detecting and preventing overpayments due to work activity. We interviewed agency officials from SSA's policy offices to confirm our interpretations of SSA regulations and policies regarding work activity during the waiting period and beyond the trial work period. We also interviewed officials from SSA's operations offices to confirm the actions SSA took while reviewing the work activity for our nongeneralizable examples. We also examined SSA's mechanisms to detect potentially

disqualifying work activity and compared them with Standards for Internal Control in the Federal Government.¹⁷

We conducted this performance audit from April 2012 to July 2013 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our objectives.

¹⁷GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: November 1999).

Appendix III: Monthly Earnings That Indicate a Trial Work Period or Substantial Gainful Activity

To be eligible for disability benefits, a person must be unable to engage in substantial gainful activity (SGA). A person who is earning more than a certain monthly amount (net of impairment-related work expenses) is ordinarily considered to be engaging in SGA. During a trial work period, a beneficiary receiving Social Security disability benefits may test her or his ability to work and still be considered disabled. The Social Security Administration (SSA) does not consider services performed during the trial work period as showing that the disability has ended until services have been performed in at least 9 months (not necessarily consecutive) in a rolling 60-month period and 1 additional month, at an SGA-level, after the trial work period has ended. Table 1 shows the amount of monthly earnings that trigger a trial work period month for calendar years 2001–2012.

Table 1: Monthly Earnings That Trigger a Trial Work Period, 2001–2012

Year	Monthly earnings
2001	\$530
2002	560
2003	570
2004	580
2005	590
2006	620
2007	640
2008	670
2009	700
2010	720
2011	720
2012	720

Source: SSA.

The amount of monthly earnings considered as SGA depends on whether a person’s disability is for blindness or some other condition. The Social Security Act specifies a higher SGA amount for statutorily blind individuals and a lower SGA amount for nonblind individuals. Both SGA amounts generally change with changes in the national average wage index. Table 2 shows the amount of monthly earnings that ordinarily demonstrate SGA for calendar years 2001–2012.

**Appendix III: Monthly Earnings That Indicate a
Trial Work Period or Substantial Gainful
Activity**

Table 2: Monthly Earnings That Demonstrate Substantial Gainful Activity (SGA), 2001–2012

Year	Blind	Nonblind
2001	\$1,240	\$740
2002	1,300	780
2003	1,330	800
2004	1,350	810
2005	1,380	830
2006	1,450	860
2007	1,500	900
2008	1,570	940
2009	1,640	980
2010	1,640	1,000
2011	1,640	1,000
2012	1,690	1,010

Source: SSA.

Appendix IV: Comments from the Social Security Administration



SOCIAL SECURITY
Office of the Commissioner

July 16, 2013

Mr. Steve Lord, Director
Forensic Audits and Investigative Service
United States Government Accountability Office
441 G. Street, NW
Washington, DC 20548

Dear Mr. Lord,

Thank you for the opportunity to review the draft report, "DISABILITY INSURANCE: Work Activity Indicates Certain Social Security Disability Insurance Payments Were Potentially Improper" (GAO-13-635). Our response to the audit report contents, findings, and recommendation are enclosed. We also provided technical comments directly to your staff.

If you have any questions, please contact me at (410) 965-0520. Your staff may contact Gary S. Hatcher, Senior Advisor for Records Management and Audit Liaison Staff, at (410) 965-0680.

Sincerely,

A handwritten signature in black ink that reads "Katherine Thornton".

Katherine Thornton
Deputy Chief of Staff

Enclosure

SOCIAL SECURITY ADMINISTRATION BALTIMORE, MD 21235-0001

COMMENTS ON THE GOVERNMENT ACCOUNTABILITY OFFICE DRAFT REPORT, "DISABILITY INSURANCE: WORK ACTIVITY INDICATES CERTAIN SOCIAL SECURITY DISABILITY INSURANCE PAYMENTS WERE POTENTIALLY IMPROPER" (GAO-13-635)

As described in our 2013-2016 Agency Strategic Plan goal of preserving the public's trust in our programs, improving payment accuracy is one of our highest priorities. According to our Fiscal Year 2012 Title II Payment Accuracy Report, our Disability Insurance (DI) non-medical overpayment accuracy rate was 99.03 percent and our DI non-medical underpayment accuracy rate was 99.82 percent. While our payment accuracy rates are high, even small payment errors result in large costs to taxpayers and to DI beneficiaries. We strive to improve payment accuracy, and we appreciate information provided by the Government Accountability Office (GAO) and others that will help us improve the stewardship of our programs.

Our Fiscal Year 2012 Title II Payment Accuracy Report shows that the largest source of overpayment errors is DI beneficiary work activity that we identify through work continuing disability reviews (CDR). Our Office of Quality Performance (OQP) recently completed a quality review of our work CDR process. The review revealed that there are problems with the inconsistent and inaccurate application of the various work incentives involved in the Title II disability program. OQP recommended specialized training for staff on substantial gainful activity (SGA) policy and the application of work incentives; and that our Operations component target work CDRs for in-line quality review, utilizing or developing, as appropriate, tools to profile and select cases based on certain criteria. We are determining how to implement these recommendations within the current budget environment.

The GAO report acknowledges some of our efforts to improve the work CDR process. For example, we developed a predictive model that identifies beneficiaries who are at risk of high work-related overpayments and prioritizes those beneficiaries for work CDRs. We have also prioritized beneficiaries for work CDRs who are eligible for benefit increases due to earnings from work. These efforts will help reduce the number of beneficiaries with large overpayment amounts, but some overpayments will continue to occur because of the complexity of the Title II work incentive provisions, the SGA determination process, the annual Federal wage reporting process, and decreasing budget allocations. Work incentive simplification, quarterly Federal wage data, and sufficient budget appropriations are more promising methods of substantially reducing overpayments.

The President's fiscal year (FY) 2014 budget proposal does include several provisions that focus on reducing overpayments. The budget proposal contains a provision for restructuring the Federal wage reporting process by moving from an annual reporting process to quarterly wage reporting. Increasing the timeliness of wage reporting will improve program integrity for a range of programs, including the Social Security disability programs. The President's FY 2014 budget also includes a proposal to reauthorize our demonstration authority. This reauthorization would allow us to continue to test effective ways to boost employment and support return to work for current DI beneficiaries, as well as explore work incentive simplifications. Simplifying work incentives would make them easier for beneficiaries to understand and for us to administer, which could reduce overpayments.

We point out that the GAO did not replicate the process we use to make SGA determinations, and GAO made assumptions that may not be consistent with our policy. First, GAO did not follow our process of identifying whether a beneficiary's work activity qualifies as an unsuccessful work attempt, whether the beneficiary had impairment-related work expenses (IRWE), or whether the work involved subsidies or special conditions. Second, for the five-month waiting period analysis, GAO assumes that every payment made after the five-month waiting period is likely to be an improper payment instead of re-establishing the disability onset date. Third, the GAO report notes that pay for medical leave may be included in some of the payroll data. We do not count payment for medical leave when making an SGA determination. As a result, the GAO report's limitations may lead to a substantial overstatement of the estimated amount of improper payments.

To assess the extent that GAO estimates may overstate the dollar value of improper payments, we asked GAO to provide us with additional data. For the five-month waiting period example, we inferred from its estimate that 25 of the 98 people in the sample had at least one month of payroll data indicating their work activities during the waiting period might be SGA. We asked GAO for the number of the 25 beneficiaries who had only one month of payroll data indicating SGA during the waiting period, the number who had only two months, the number who had only three months, etc. The data would allow us to assess the number of the 25 beneficiaries who might have had an unsuccessful work attempt. In addition, GAO selected 3 examples from a subset of the 25 beneficiaries with payroll data indicating that they may have performed SGA in at least 1 month after the waiting period. We asked GAO for the exact number in its subset so we can assess the validity of its improper payment estimate to following our policy of re-establishing the disability onset date. The data would provide us with baseline data we may use for assessing GAO's recommendation. GAO has not provided the requested data that would have allowed us to do additional analysis.

We also asked GAO to provide an additional estimate and confidence interval for the five-month waiting period overpayment amount. Rather than assuming every payment we made after the waiting period is an improper payment, the GAO could follow our policy of re-establishing the disability onset date and calculating improper payments based on a re-established onset date. While the estimate would not account for unsuccessful work attempts, IRWEs, subsidies, and special conditions, it would help us assess the validity of the GAO estimate. The additional data would also provide us with the data we need to address the GAO recommendation. GAO did not provide the requested data that would have allowed for refinement of the payment estimates.

We recognize that improving payment accuracy is critical to preserving the public's trust in our program. Our ability to increase payment accuracy is ultimately determined by available resources. We must conduct all agency work within the funding levels set by our annual appropriation. In the current fiscal environment, expansion of our earnings enforcement operation or work continuing disability review program would require additional administrative funding, or we would need to defer performing other agency priority work. The President's FY 2014 budget includes the proposals and the resources necessary to make meaningful increases in payment accuracy. We look forward to working with GAO, Congress, and others to improve the stewardship of the disability program.

Recommendation

Assess the costs and feasibility of establishing a mechanism to detect potentially disqualifying earnings during all months of the waiting period, including those months of earnings that the Agency's enforcement operation does not currently detect and implement this mechanism to the extent that an analysis determines it is cost effective and feasible.

Response

We agree. The data GAO gathered as part of this study could help us assess the costs and the feasibility of establishing such a mechanism. To perform our assessment, we request the detailed individual-level data GAO gathered. Using the GAO data, we will re-examine GAO's estimates using policy-compliant assumptions, and we will re-calculate the estimated amount of improper payments. We will develop administrative cost estimates by assuming that we would need to investigate a subset of the 83,179 National Directory of New Hires (NDNH) cases for work activity during the five-month waiting period to find a subset of the GAO upper bound estimate of 21,000 with an indication of at least one month of possible SGA during the waiting period. As stated in the GAO report, we must conduct detailed case investigations because:

- As noted on page 23, the NDNH posts earnings quarterly, which is an improvement on the annual postings we use in our current enforcement operation, but still not monthly;
- we must evaluate earnings when earned, and the NDNH postings are when earnings are paid;
- many of the NDNH postings represent payments that are not work for wages (e.g., sick and vacation pay, disability payments, etc.) and based on our experience, these payments are most likely to occur right after disability onset, specifically in the waiting period; and
- we must investigate for IRWEs, subsidies, special conditions, and unsuccessful work attempts.

We will examine whether we can reduce the number of cases we would need to investigate based on the characteristics of the cases. For example, indications of work activity in periods both before and after the waiting period might result in a more productive set of cases for our staff to investigate and, therefore, a greater return on investment.

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