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SOCIAL SECURITY ADMINISTRATION

Cases of Federal Employees and Transportation Drivers and Owners Who Fraudulently and/or Improperly Received SSA Disability Payments



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Highlights of [GAO-10-444](#), a report to congressional requesters

SOCIAL SECURITY ADMINISTRATION

Cases of Federal Employees and Transportation Drivers and Owners Who Fraudulently and/or Improperly Received SSA Disability Payments

Why GAO Did This Study

The Social Security Administration (SSA) administers two of the nation's largest cash benefits programs for people with disabilities: the Social Security Disability Insurance (DI) program, which provides benefits to workers with disabilities and their family members, and the Supplemental Security Income (SSI) program, which provides income for individuals with disabilities who have limited income and resources. In 2008, SSA provided about \$142 billion in financial benefits for these two programs. As part of the American Recovery and Reinvestment Act of 2009, the federal government also paid \$250 to each SSA recipient, such as DI beneficiaries, SSI recipients, and old-age retirement beneficiaries.

GAO was asked to (1) determine whether federal employees and commercial drivers and company owners may be improperly receiving disability benefits and (2) develop case study examples of individuals who fraudulently and/or improperly receive these benefits. To do this, GAO compared DI and SSI benefit data to civilian payroll records of certain federal agencies and carrier/driver records from the Department of Transportation (DOT) and 12 selected states. GAO also interviewed SSA disability beneficiaries and recipients.

What GAO Recommends

GAO makes two recommendations for SSA to detect and prevent fraudulent and improper payments. SSA agreed with our recommendations, but disagreed with some facts presented.

View [GAO-10-444](#) or [key components](#). For more information, contact Gregory Kutz at (202) 512-6722 or kutzg@gao.gov.

What GAO Found

GAO analysis of SSA and federal salary data found that there are indications that about 1,500 federal civilian employees may have improperly received benefits. In addition, GAO obtained data from 12 selected states and found that 62,000 individuals received or had renewed commercial driver's licenses after SSA determined that the individuals met the federal requirements for full disability benefits. Under DOT regulations, these individuals' eligibility must be medically certified every 2 years. Lastly, GAO found about 7,900 individuals with registered transportation businesses who were receiving SSA disability benefits. SSA regulations allow certain recipients to work and still receive their disability benefits. Thus, each case would require an investigation to determine whether there were fraudulent payments, improper payments, or both. The GAO analyses provide an indicator of potentially improper and fraudulent activity related to SSA benefits for federal employees, commercial drivers, and registrants of commercial vehicle companies. SSA currently does not perform a federal payroll or DOT records match to identify individuals improperly receiving benefits.

GAO nonrepresentatively selected and investigated 20 examples of individuals who improperly and in some cases fraudulently received disability payments. The following table describes 3 of these cases.

Examples of Fraudulent or Improper Disability Benefits

Job performed	Estimated overpayment	State	Case details
Screener for Transportation Safety Administration	\$108,000	CA	SSA approved disability benefits in 1995 for mood disorders. Recipient began federal employment in 2003. For several years, SSA notified recipient that the disability benefits will increase based on the wages earned in the prior year.
Home improvement contractor	Cannot be determined	MD	SSA approved disability benefits in 1998 for vascular disease. Recipient admitted fraud to GAO, noting that the company is operating under the spouse's name because he is on disability.
Office assistant for Social Security Administration	\$11,000	AZ	SSA approved disability benefits in 2003 for mood disorders. Although recipient began working for SSA in 2007, SSA had no information on the employment in the SSA disability file.

Source: GAO.

For these 20 cases, SSA did not have the processes to effectively prevent improper and/or fraudulent payments. To see video clips of three individuals working at their federal jobs, see <http://www.gao.gov/products/GAO-10-444>. GAO identified several issues arising from the investigations. For example, SSA continued to improperly pay individuals who informed SSA of their employment. Using a process called Automated Earnings Reappraisal Operations (AERO), SSA examined the earnings for several individuals and automatically increased these individuals' disability payments because of raises in salary from their federal employment. SSA officials stated that they currently do not use AERO to identify individuals who have returned to work. In addition, 18 individuals received \$250 stimulus payments while they were improperly receiving SSA disability payments.

Contents

Letter		1
	Background	4
	Federal Employees, Commercial Drivers, and Commercial Vehicle Company Owners Received SSA Disability Benefits	7
	Examples of Individuals Receiving SSA Disability Benefits Fraudulently and/or Improperly	11
	Conclusions	20
	Recommendations for Executive Action	20
	Agency Comments and Our Evaluation	20
Appendix I	Examples of Individuals Receiving SSA Disability Benefits Fraudulently and/or Improperly	22
Appendix II	Attributes of Selected Cases of SSA Disability Beneficiaries and Recipients Who Fraudulently and/or Improperly Received Benefits While Working	28
Appendix III	Debt Owed to SSA from Overpayment of DI and SSI Benefits Is Mounting	30
Appendix IV	Comments from the Social Security Administration	31
Tables		
	Table 1: Summary of Federal Employees Receiving SSA Benefits by Type of SSA Disability Program	8
	Table 2: Case Studies 1 through 10 Showing That Federal Employees and Commercial Vehicle Company Owners Improperly or Fraudulently Received SSA Disability Benefits While Working	15
	Table 3: Case Studies 11 through 20 Showing That Federal Employees and Commercial Vehicle Company Owners Improperly or Fraudulently Received SSA Disability Benefits While Working	22

Table 4: Attributes of Selected Cases of SSA Disability Beneficiaries and Recipients Improperly Receiving Benefits While Working	29
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Figures

Figure 1: Summary of Federal Employees by Employer	9
Figure 2: CDL Drivers in 12 Selected States Receiving Social Security Disability Benefits	10
Figure 3: Total DI and SSI Overpayment Debt, 2004-2008	30

Abbreviations

AERO	Automated Earnings Reappraisal Operations
CDL	commercial driver's license
CDLIS	Commercial Driver License Information System
CDR	continuing disability review
DFAS	Defense Finance and Accounting Service
DI	Disability Insurance
DOD	Department of Defense
DOT	Department of Transportation
EPE	extended period of eligibility
IRS	Internal Revenue Service
OIG	Office of Inspector General
SSA	Social Security Administration
SGA	substantial gainful activity
SSI	Supplemental Security Income

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United States Government Accountability Office
Washington, DC 20548

June 25, 2010

The Honorable Thomas R. Carper
Chairman
The Honorable John McCain
Ranking Member
Subcommittee on Federal Financial Management, Government
Information, Federal Services, and International Security
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable Tom Coburn
United States Senate

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

An individual is considered eligible for disability benefits under Social Security's regulations if he or she is unable to engage in any substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment that (1) can be expected to result in death or (2) has lasted (or can be expected to last) for a continuous period of not less than

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

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

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

12 months.⁴ For DI, individuals are engaged in SGA if they have earnings above \$940 per month in calendar year 2008.⁵ DI also allows a 9-month trial work period to test a beneficiary's ability to resume employment.⁶ After the 9-month trial work period, SSA beneficiaries are covered under an extended period of eligibility. This is a 36-month period in which SSA does not pay any benefit amounts (i.e., payments are suspended) if the beneficiary has earnings above the maximum SSA SGA threshold. If earnings are under SGA, the full benefit is paid. For SSI, every \$2 of earnings generally reduces the monthly benefit by \$1 after an \$85 monthly deductible.

As part of the American Recovery and Reinvestment Act of 2009 (Recovery Act), the federal government also recently paid DI beneficiaries and SSI recipients \$250 each to stimulate the economy.⁷ Given the magnitude of these cash benefit payments, it is important for SSA to have effective fraud prevention controls in place to minimize fraudulent payments, improper payments, or both.

In this context, you asked us to determine whether federal workers, commercial drivers, and commercial vehicle company owners are fraudulently receiving disability benefits, improperly receiving such benefits, or both. Specifically, you asked us to (1) determine whether federal employees and commercial vehicle drivers and company owners may be improperly receiving disability benefits and (2) develop case study examples of individuals who fraudulently and/or improperly receive these benefits. We plan to conduct subsequent investigations to determine whether other employment-related databases indicate whether individuals

⁴SGA is defined as work activity that involves significant physical or mental activities performed for pay or profit. SSA has established earnings guidelines as a basis for determining whether an individual is engaged in SGA.

⁵This threshold changes every year depending on changes in the wage index. For fiscal years 2007, 2008, and 2009 the earnings threshold for SGA was \$900, \$940, and \$980, respectively. A higher SGA threshold applies to blind beneficiaries.

⁶The trial work period is one of the provisions in the DI program intended to encourage beneficiaries to resume employment. Once the trial work period is completed, beneficiaries are generally ineligible for future DI benefits unless their earnings fall below the SGA level.

⁷Individuals who were eligible for DI or SSI benefits at any time during the months of November 2008, December 2008, or January 2009 were eligible for the onetime payment. To receive payment, a beneficiary's address must have been in one of the 50 states, the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, American Samoa, or the Northern Mariana Islands.

are fraudulently or improperly receiving disability benefits. In addition, because we did not systematically evaluate internal controls as part of this investigation, we plan to review such controls at that time.

To determine the number of individuals who are employed with the federal government and potentially receiving SSA disability benefits improperly, we matched the civilian payroll records from the Department of the Treasury, the U.S. Postal Service, and the Defense Finance and Accounting Service (DFAS) from October 2006 to December 2008 to the SSA disability files of DI beneficiaries and SSI recipients as of December 2008.⁸ The scope of our investigation did not include Department of Defense (DOD) military personnel who were improperly receiving SSA disability benefits. To determine the number of commercial vehicle owners and commercial drivers who were likely receiving DI and SSI benefits improperly, we compared the Department of Transportation's (DOT) Motor Carrier Management Information System file and Commercial Driver License Information System (CDLIS) file to the SSA disability files of DI beneficiaries and SSI recipients. Since DOT's CDLIS file contains both active and inactive licenses, we also obtained data from a nonrepresentative selection of 12 states to identify individuals who maintain active commercial driver's licenses (CDL).⁹

To illustrate actual cases of fraudulent payments and/or improper payments from our overall analysis, we nonrepresentatively selected 20 cases that illustrate the types of fraudulent and improper activity we found in SSA disability programs. The 20 cases were primarily selected based on our analysis of SSA electronic and paper files for the higher overpayment amounts, the types of employment, and the locations of employment. Because this is a nonrepresentative selection, the results of these 20 case investigations cannot be projected to other federal employees, commercial drivers, or commercial vehicle owners who received SSA disability

⁸The Department of the Treasury is the central disbursing agency for most federal agency payroll centers. For example, federal salary payments that are processed by the Department of Agriculture's National Finance Center are paid through the Department of the Treasury. The U.S. Postal Service processes payments for postal employees. DFAS processes payments for Department of Defense employees and employees of certain other federal agencies.

⁹The 12 selected states were California, Florida, Illinois, Kentucky, Maryland, Michigan, Minnesota, Montana, Tennessee, Texas, Virginia, and Wisconsin. The 12 states were selected primarily based on the size of the licensed commercial driver population. These 12 selected states represented about 42 percent of all commercial driver's licenses contained in CDLIS.

payments. To develop these cases, we interviewed, as appropriate, each beneficiary and the beneficiary's employer. We also reviewed relevant SSA case file documents and employer payroll records. We also videotaped employees who had improperly received benefits working at their places of employment. See <http://www.gao.gov/products/GAO-10-444>. Our case study investigations only focused on individuals who were improperly receiving SSA disability payments based on their employment information. Analyzing and identifying fraud based on fraudulent medical claims was beyond the scope of this investigation.

To determine the reliability of the SSA disability records, we interviewed officials responsible for SSA's databases. In addition, for the SSA disability records and the other databases used in our investigation, we performed electronic testing to determine the validity of specific data elements in the databases that we used to perform our work. Based on 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.

We conducted our audit and investigative work from September 2008 through June 2010. We conducted our audit work in accordance with U.S. 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. We performed our investigative work in accordance with standards prescribed by the Council of the Inspectors General on Integrity and Efficiency.

Background

SSA administers two federal programs under the Social Security Act that provide benefits to people with disabilities who are unable to work: The DI program provides cash benefits to workers with disabilities and their dependents based on their prior earnings. The SSI program provides benefits to the elderly and individuals with disabilities if they meet the statutory test of disability and have income and assets that fall below levels set by program guidelines.

Disability Insurance

The DI program was established in 1956 to provide monthly cash benefits to individuals who were unable to work because of severe long-term disability. SSA pays disability benefits to eligible individuals under Title II of the Social Security Act. An individual is considered eligible for disability

benefits under the Social Security Act if he or she is unable to engage in any SGA because of a medically determinable impairment that (1) can be expected to result in death or (2) has lasted (or can be expected to last) for a continuous period of at least 12 months. To be eligible for benefits, individuals with disabilities must have a specified number of recent work credits under Social Security (specifically, working 5 out of the last 10 years or 20 quarters out of 40 quarters) at the onset of medical impairment. An individual may also be able to qualify based on the work record of a deceased spouse or of parent who is deceased, retired, or considered eligible for disability benefits, meaning one disability beneficiary can generate multiple monthly disability payments. Benefits are financed by payroll taxes paid into the Federal Disability Insurance Trust Fund by covered workers and their employers, based on each worker's earnings history. Individuals are engaged in SGA if they have earnings above \$940 per month in calendar year 2008 or \$980 per month in calendar year 2009.

SSA conducts work-related continuing disability reviews (CDR) to determine if beneficiaries are working at or above the SGA level. Each beneficiary is allowed a 9-month trial work period, during which the beneficiary is permitted to earn more than the SGA level without affecting his or her eligibility for benefits. The trial work period is one of several provisions in the DI program intended to encourage beneficiaries to resume employment. Once the trial work period is completed, beneficiaries are generally ineligible for future DI benefits unless their earnings fall below the SGA level during the 36-month extended period of eligibility (EPE). Work issue CDRs are triggered by several types of events, although most are generated by SSA's Continuing Disability Review Enforcement Operation. This process involves periodic computer matches between SSA's administrative data and Internal Revenue Service (IRS) wage data. Work CDRs can also be triggered by other events. For example, SSA requires beneficiaries to undergo periodic medical examinations to assess whether they continue to be considered eligible for benefits. During such reviews, SSA's staff sometimes discovers evidence that a beneficiary may be working and usually forwards the case to an SSA field office or program service center for earnings/work development. 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 may voluntarily report their earnings to SSA by visiting an SSA field office or calling the agency's toll-free number. SSA had increased work-related CDRs from about 106,500 in fiscal year 2003 to about 175,600 in fiscal year 2006. However, the number of work CDRs has decreased slightly since 2006, and SSA projects that it will conduct about 174,200 work CDRs in fiscal year 2010.

Supplemental Security Income

Created in 1972, the SSI program is a nationwide federal cash benefit program administered by SSA that provides a minimum level of income to financially needy individuals who are aged, blind, or considered eligible for benefits because of physical or mental impairments. Payments under the SSI program are paid under Title XVI of the Social Security Act and are funded from the government's General Fund, which is financed through tax payments from the American public. Individuals are not eligible for SSI payments for any period during which they have income or resources that exceed the allowable amounts established under the Social Security Act. In addition, relevant information will be verified from independent or collateral sources to ensure that such payments are correct and are only provided to eligible individuals. SSI recipients are required to report events and changes of circumstances that may affect their eligibility and payment amounts, including changes in income, resources, and living arrangements. SSI generally reduces the monthly benefit \$1 for every \$2 of monthly earnings after the first \$85.

SSA has implemented measures to help identify SSI recipients with excess income, excess resources, or both, such as periodically conducting redeterminations to verify whether recipients are still eligible for and receiving the correct SSI payments. A redetermination is a review of a recipient's nonmedical eligibility factors, such as income, resources, and living arrangements. There are two types of redeterminations: scheduled and unscheduled. Scheduled redeterminations are conducted periodically depending on the likelihood of payment error. Unscheduled redeterminations are conducted based on a report of change in a recipient's circumstances or if SSA otherwise learns about a change that may affect eligibility or payment amount.

SSA has deferred a significant number of SSI redeterminations since fiscal year 2003. Although SSA increased the number of SSI redeterminations in fiscal year 2009 above the 2008 level, the number of reviews remains significantly below the fiscal year 2003 level. Specifically, SSA conducted about 719,000 SSI redeterminations in fiscal year 2009, 30 percent fewer than it did in fiscal year 2003. However, if SSA completes the number of SSI redeterminations it is projecting for fiscal year 2010, it will be close to the fiscal year 2003 level.

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

Our overall analysis found thousands of federal employees, commercial drivers, and owners of commercial vehicle companies who were receiving Social Security disability benefits during fiscal year 2008. It is impossible to determine from data mining alone the extent to which beneficiaries improperly or fraudulently received disability payments. To adequately assess an individual's work status, a detailed evaluation of all the facts and circumstances should be conducted. This evaluation would include contacting the beneficiary and the beneficiary's employer, obtaining corroborating evidence such as payroll data and other financial records, and evaluating the beneficiary's daily activities. Based on this evaluation, a determination can be made if the individual is entitled to continue to receive SSA disability payments or have such payments suspended. As such, our analysis provides an indicator of potentially improper or fraudulent activity related to federal employees, commercial drivers, and owners of commercial vehicle companies receiving SSA disability payments.¹⁰ Our case studies, discussed later, confirmed some examples in which individuals received SSA disability payments that they were not entitled to receive.

Federal Employees Receiving SSA Disability Benefits

Our analysis of federal civilian salary data and SSA disability data found that about 7,000 individuals at selected agencies had been wage-earning employees for the federal government while receiving SSA disability benefits during fiscal year 2008. The exact number of individuals who may be improperly or fraudulently receiving SSA disability payments cannot be determined without detailed case investigations. Our analysis of federal salary data from October 2006 through December 2008 found that about 1,500 federal employees' records indicate that they may be improperly receiving payments.¹¹ The individuals were identified using the following criteria: (1) DI beneficiaries who received more than 12 months of federal salary payments above the maximum SSA earnings threshold for the DI

¹⁰Federal disability programs, such as SSA's "Ticket to Work," encourage certain disability beneficiaries to work and still receive all or a portion of their disability benefits. In addition, from the beneficiary's income, SSA may exclude certain out-of-pocket work expenses (e.g., costs of car modifications or attendant care) from the calculation of the beneficiary's income. The beneficiary's salary may also include compensation for sick leave, which SSA also excludes from the calculation of the beneficiary's income. From our analysis of the data, it is impossible to determine the extent to which this population beyond our 20 cases was affected by these factors.

¹¹The actual estimate of federal employees who may be improperly receiving benefits was 1,487.

program (e.g., \$940 per month for nonblind DI beneficiaries during calendar year 2008) after the start date of their disabilities¹² or (2) SSI recipients who received more than 2 months¹³ of federal salary above the maximum SSA earnings threshold for the SSI program after the start date of their disabilities.¹⁴ Based on their SSA benefit amounts, we estimate that these approximately 1,500 federal employees received about \$1.7 million of payments monthly.^{15,16} Table 1 summarizes the types of SSA disability benefits for these 1,500 federal employees who are receiving disability benefits.

Table 1: Summary of Federal Employees Receiving SSA Benefits by Type of SSA Disability Program

Disability program	Number of federal employee beneficiaries
DI	1,097
SSI	306
Concurrent DI/SSI	84
Total	1,487

Source: GAO analysis of SSA disability data.

¹²After the 9-month trial work period, SSA beneficiaries are covered under an extended period of eligibility. This is a 36-month period in which SSA does not pay any benefit amounts if the beneficiary has earnings above the SSA earnings threshold for the DI program. If earnings are under SGA, the full benefit is paid.

¹³Although any monthly earnings greater than the maximum SSI earnings threshold are technically improper, to be conservative, we only considered the receipt of benefits by those employees who had over 2 months of monthly earnings greater than the maximum SSI threshold to be likely fraudulent or improper for our analysis.

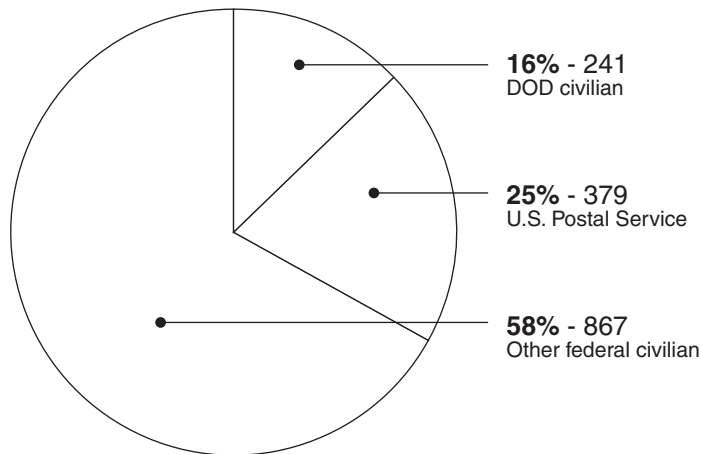
¹⁴The maximum SSI monthly benefit for eligible individuals for 2009 was \$674. SSI reduces the monthly benefit \$1 for every \$2 of monthly earnings after the first \$85. As such, the maximum SSI earnings threshold for calendar year 2009 is \$1,433.

¹⁵This estimate was based on the sum of the December 2008 disability payments for the approximately 1,500 federal employees identified.

¹⁶Our estimate of federal employees with potential improper payment indicators is likely underestimated. It does not include salary payments that these individuals may have received outside of the federal government. Also, we had only the net pay amounts for federal employees disbursed by Department of the Treasury, not gross pay. For these employees the salary we used was reduced for deductions such as health insurance, income taxes, and other withholdings.

Figure 1 shows that 379 of the approximately 1,500 federal employees were U.S. Postal Service workers and 241 were DOD civilian employees. The remainder was other federal civilian employees.

Figure 1: Summary of Federal Employees by Employer



Source: GAO analysis of federal payroll data.

Note: Percentages do not add to 100 because of rounding.

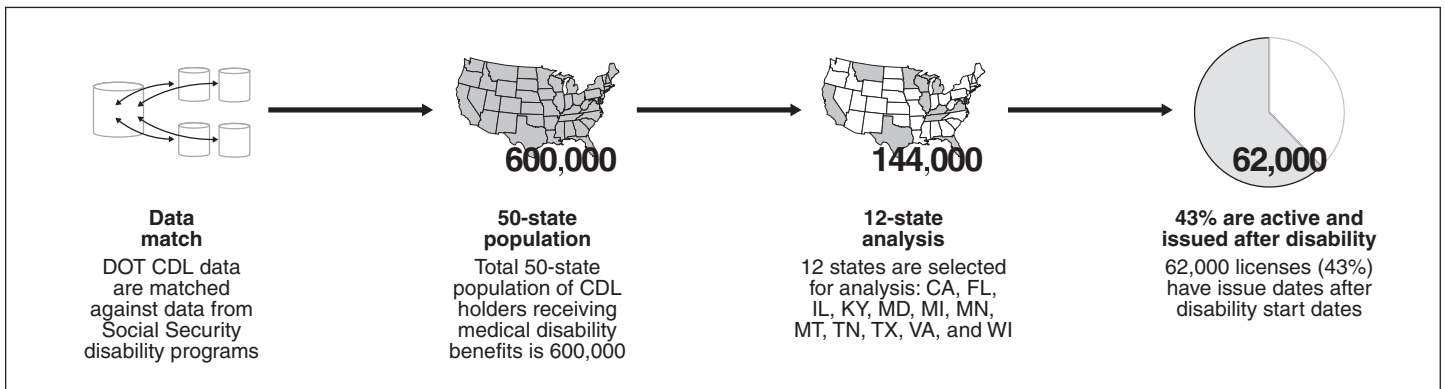
According to SSA officials, SSA currently does not obtain payroll records from the federal government to identify SSA disability beneficiaries or recipients who are currently working. SSA officials stated that they have not conducted a review to determine the feasibility of conducting such a match. However,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

Commercial Drivers and Transportation Business Registrants Receiving SSA Disability Benefits

Our analysis of data from DOT on commercial drivers and from SSA on disability beneficiaries found that about 600,000 individuals had been issued CDLs and were receiving full Social Security disability benefits. The actual number of SSA disability beneficiaries with active CDLs cannot be determined for two reasons. First, states maintain the current status of

CDLs, not DOT.¹⁷ Second, possession of a CDL does not necessarily indicate that the individual returned to work. Because federal regulations require interstate commercial drivers to be examined and certified by a licensed medical examiner to be able to physically drive a commercial vehicle once every 2 years, we selected a nonrepresentative selection of 12 states¹⁸ to determine how many SSA disability beneficiaries had CDLs issued after their disabilities were determined by SSA. Of the 600,000 CDL holders receiving Social Security disability benefits, about 144,000 of these individuals were from our 12 selected states. As figure 2 shows, about 62,000 of these 144,000 individuals, or about 43 percent, had CDLs that were issued after SSA determined that the individuals met the federal requirements for full disability benefits. As a result, we consider the issuance of CDLs to be an indication that these individuals may no longer have serious medical conditions and may have returned to work.

Figure 2: CDL Drivers in 12 Selected States Receiving Social Security Disability Benefits



Sources: GAO (data), Art Explosion (graphics).

Our analysis of DOT data on commercial carriers found about 7,900 individuals who registered as transportation businesses¹⁹ and also received

¹⁷The DOT data do not contain identifiers to indicate whether a license is currently active. It is an index system designed to ensure that drivers do not obtain CDLs from multiple states. As a result, DOT's database includes drivers with valid, suspended, revoked, or lapsed licenses.

¹⁸The states were chosen primarily based on size and availability of data.

¹⁹Each business is a registered motor carrier in DOT's Motor Carrier Management Information System with an active DOT number. For private motor carriers, there is no cost associated with maintaining an active listing.

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

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

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

Based on our overall analysis above, we nonrepresentatively selected 20 examples of federal employees, commercial drivers, and registrants of commercial vehicle companies who received disability payments fraudulently and/or improperly. As mentioned earlier, the 20 cases were primarily selected based on our analysis of SSA electronic and paper files for the higher overpayment amounts, the types of employment, and the locations of employment, and thus they cannot be projected to other federal employees, commercial drivers, or commercial vehicle owners who received SSA disability payments. In each case, SSA's internal controls did not prevent improper and fraudulent payments, and as a result, tens of thousands of dollars of overpayments were made to individuals for 18 of these 20 cases. In fact, in one case, we estimate that SSA improperly paid an individual over \$100,000 in disability benefits. For 10 of the 20 cases, SSA continued to pay these individuals their SSA disability benefits through October 2009 primarily because the agency had not yet identified their ineligibility for benefits. For the other cases, SSA has terminated the disability benefits and has negotiated repayment agreements for 2 of those cases.

Our investigations found that five individuals committed fraud in obtaining SSA disability benefits because they knowingly withheld employment

information from SSA. Fraud is “a knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment.”²⁰ Although SSA instructions provided to beneficiaries require them to report their earnings to SSA in a timely manner to ensure that they remain eligible for benefits, several individuals knowingly did not notify SSA of their employment.

Our investigations also found that 11 individuals potentially committed fraud because these individuals likely withheld required employment information from SSA. Most of these individuals claimed that they reported their employment information to SSA. However, according to SSA officials, for all 11 individuals, SSA did not have any tangible documentation in its files that these individuals actually reported their employment status to SSA. SSA officials stated that their workers are required to document all contacts in their files and that these purported contacts regarding employment notifications were likely never made.

Finally, our investigations found four cases with no evidence of fraud but, rather, of administrative error. In these situations, the beneficiaries told our investigators that they reported their employment to SSA and SSA had evidence in its files that such contact did occur. Thus, we concluded that SSA made improper payments to these individuals because SSA was aware of the employment but continued to make disability payments to those individuals.

During our investigations of the 20 cases, we also noted the following:

- SSA has an automated process, called Automated Earnings Reappraisal Operations (AERO), that screens changes in an individual’s earnings record and uses that information to compute changes in the monthly disability benefit payment.²¹ However, SSA currently does not use AERO to identify individuals who return to work and alert SSA staff to review these individuals’ records for possible suspension of disability payments. As a result, SSA increased the monthly disability benefits of

²⁰*Black’s Law Dictionary*, 9th Edition (2009).

²¹AERO is a computer operation that reexamines an individual’s earnings record to determine whether the beneficiary is due a recomputation to include earnings not previously considered in the monthly disability amount. If an increase is due, AERO processes a benefit change and notifies the beneficiary. If no increase is due, AERO does not send a notice. AERO is run twice for each earnings year, usually in late October and late March.

several individuals based on the higher wages the individuals' current employers reported to the agency but did not properly suspend the payments to those individuals.

- Four individuals received additional disability benefits because they had dependent children living with them.
- One individual was hired by a federal agency during the required waiting period prior to becoming eligible for benefits. This individual also improperly received additional government medical assistance (i.e., Medicare) based on the SSA disability determination.²²
- Certain individuals who claim that they are unable to immediately repay the disability benefits they improperly received can be put on long-term repayment plans that span years or decades. Although SSA has the authority to charge interest and penalties, SSA did not do so on these agreements. As a result, several individuals from our cases were placed in long-term, interest-free repayment plans for improperly accepting disability overpayments. For 1 of our 20 cases, SSA placed an individual on a repayment plan to repay approximately \$33,000 in overpayments through \$20 monthly installments. Based on this agreement, it will take over 130 years to repay this debt, exceeding the life expectancy for this individual.

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

The Recovery Act states that these stimulus benefit payments should be provided to individuals who are entitled to DI benefit payments or are eligible for SSI cash benefits.²³ SSA stated that it did not seek a formal

²²For DI, beneficiaries can continue their Medicare coverage for up to 93 months after the end of the trial work period. For SSI, Medicaid coverage can continue as long as the earnings do not exceed the Medicaid income thresholds.

²³Pub. L. No. 111-5 § 2201 (Feb. 17, 2009).

legal determination as to whether individuals who had their payments suspended because of employment should receive these stimulus payments. In total, SSA paid about \$10.5 million in stimulus payments to approximately 42,000 individuals who were covered by EPE.²⁴ However, we believe that a question exists as to whether these payments were proper and believe that SSA should have at least sought a formal legal opinion before making the payments.

Table 2 highlights 10 of the 20 individuals we investigated. Table 3 in appendix I describes the other 10 individuals that we investigated. For 3 of these 20 cases, we videotaped the individuals who had improperly received disability benefits working at their federal government jobs. (See <http://www.gao.gov/products/GAO-10-444>.) In all 20 cases, we found that SSA had improperly paid the Social Security disability benefits.

²⁴According to SSA officials, the “Making Work Pay” tax credit is reduced by the amount of any stimulus payments. The extent to which these individuals reduced their “Making Work Pay” tax credit for these stimulus benefit payments is not known.

Table 2: Case Studies 1 through 10 Showing That Federal Employees and Commercial Vehicle Company Owners Improperly or Fraudulently Received SSA Disability Benefits While Working

Case no.	Details
1	<ul style="list-style-type: none"> • Based on our investigation, the beneficiary did not appear to have committed fraud but SSA made improper payments to the beneficiary. • The beneficiary was a Department of Justice attorney who worked in California. The estimated overpayment was about \$20,000. • SSA approved DI payments starting in January 2006 for chronic obstructive pulmonary disease. • In April 2007, SSA sent a letter to the beneficiary thanking him for contacting the agency to report his employment. • In May 2007, SSA notified the beneficiary that based on his employment the trial work period began in January 2007. • The beneficiary told our investigator that he contacted SSA by phone and by mail in January 2008 informing the agency that the trial work period was over and thus the benefit payments should cease. • In February 2008, SSA notified the beneficiary that “your disability has ended and you are not entitled to payments beginning in February 2008,” but the monthly benefit payments continued. • In August 2008, SSA notified the beneficiary that “we paid you \$1,954 in February and we should have paid you \$0,” but the monthly benefit payments continued. • In November 2008, SSA notified the beneficiary that based on wages earned in 2007 his monthly benefits would be increased to \$1,967. • Beneficiary reached full retirement age in January 2009 and now receives monthly SSA retirement benefits. • At the time the beneficiary was receiving disability benefits, the beneficiary was generally making over \$6,000 monthly in federal salary. • According to SSA officials, SSA staff did complete a work CDR on the individual and determined that the disability payments should be suspended. SSA officials stated that in this case, SSA did not complete the manual steps to suspend the disability payments.

Case no.	Details
2	<ul style="list-style-type: none"> • Our investigation found that the beneficiary committed fraud in obtaining SSA disability payments. • The beneficiary was a Transportation Safety Administration screener who worked in California. The estimated overpayment was about \$108,000. • SSA approved DI payments starting in 1995 for mood and anxiety disorders. • The beneficiary began full-time federal employment in 2003. From 2003 through 2008 her annual earnings were from \$36,000 to \$50,000. • SSA requested a Work Activity Report from the beneficiary in April 2005, but the beneficiary did not provide it. • In November 2005, SSA notified the beneficiary that based on wages earned in 2004 her benefits would be increased. • SSA's case file indicates that in July 2006 the beneficiary called SSA and stated that she did not want SSA to contact her employer for work review and that she would submit a Work Activity Report as soon as possible. SSA records do not indicate that the beneficiary provided this report. • In November 2006, SSA notified the beneficiary that based on wages earned in 2005 her benefits would be increased. • In November 2007, SSA notified the beneficiary that based on wages earned in 2006 her benefits would be increased. • As of October 2009, SSA continued to pay the beneficiary a monthly benefit. The beneficiary also received a \$250 economic stimulus payment. • The beneficiary stated that she is working full-time and receiving disability benefits. • According to SSA officials, SSA has subsequently suspended the beneficiary's disability benefit payments for failure to cooperate in a medical disability review in the latter part of 2009. • The beneficiary resides in a house that is currently listed for sale at about \$1,800,000.
3	<ul style="list-style-type: none"> • Our investigation found that the beneficiary committed fraud in obtaining SSA disability payments. • The beneficiary was a home improvement contractor located in Maryland. The estimated overpayment could not be determined. • SSA approved DI payments starting in 1998 for back disorders and vascular disease. • The beneficiary owns an active construction business registered with DOT. • The beneficiary stated that his home improvement business includes drywall, roofing, carpeting, siding, decks, kitchens, and any other home improvement work. We found evidence of fraud by the beneficiary, who stated that he puts everything in his wife's name because he is on disability for heart problems. • The beneficiary stated that he always has at least two jobs going on at a time and that he has three trucks. • Our investigators observed the beneficiary driving a pickup truck with ladders attached to the roof. The Maryland Home Improvement Contractor license displayed on the side of another truck on the property is listed under the wife's name. • In April 2006, SSA notified the beneficiary that the State of Maryland will pay the Medicare medical insurance premium beginning in February 2006. • In June 2009, SSA notified the beneficiary that the agency had received his application for help with Medicare prescription drug plan costs. The application asked "Have you worked in 2008 or 2009?" SSA records indicate that the beneficiary answered "No." Later in the month, SSA notified the beneficiary that he is automatically eligible for extra help with Medicare prescription drug plan costs because he receives DI, Medicaid, or participates in the Medicare Savings Program. • As of October 2009, SSA continued to pay the beneficiary a monthly benefit of \$1,072. SSA also sent the beneficiary the \$250 economic stimulus payment. • According to SSA officials, no work CDR has been conducted for this beneficiary and no earnings information exist in his records.

Case no.	Details
4	<ul style="list-style-type: none"> • Our investigation found that the beneficiary potentially committed fraud in obtaining SSA disability payments. • The beneficiary was an X-ray technician for the Department of Veterans Affairs who worked in California. The estimated overpayment was about \$22,000. • SSA approved DI payments starting in 2002 for an infection. • SSA records indicate that the beneficiary returned to work in August 2007. In February 2008, SSA notified the beneficiary that based on his employment the trial work period began in August 2007. • In August 2008, SSA notified the beneficiary that “your disability has ended and you are not entitled to payments beginning in October 2008,” but the monthly benefit payments continued. • The beneficiary stated that he wrote SSA when the trial work period was over and requested that the benefit payments stop. According to SSA records, the beneficiary did not contact the agency as required. • The beneficiary stated that he is holding the money that SSA keeps sending him because he knows that he will eventually have to pay it back. • As of October 2009, SSA continued to send the beneficiary a monthly benefit payment of \$1,986. SSA also sent the beneficiary a \$250 economic stimulus payment. • According to SSA records, a work CDR was conducted for the individual in May 2009. SSA officials confirmed that the overpayment amount was about \$22,000.
5	<ul style="list-style-type: none"> • Our investigation found that the beneficiary committed fraud in obtaining SSA disability payments. • The beneficiary was a laundry worker for the Department of Veterans Affairs who worked in West Virginia. The estimated overpayment was about \$39,000. • The beneficiary began work as a textile care production worker, earning around \$35,000 per year in April 2007. • The position description for the job states that continuous standing, walking, stretching, stooping, bending, and arduous labor are required in the position. The shift supervisor stated that the beneficiary performs all the regular functions of the job and that no special accommodations have been arranged for his work. • SSA approved DI payments starting in August 2007 for back disorders and mood disorders. At the time of SSA approval for DI, the beneficiary was working full-time at the Department of Veterans Affairs; thus the beneficiary was never entitled to any disability payments. • In November 2008, SSA notified the beneficiary that based on wages earned in 2007 his benefits would be increased. • In July 2009, SSA notified the beneficiary that he was entitled to Medicare hospital and medical insurance beginning in August 2009. • The beneficiary stated that SSA said he could work even though he was on disability. The beneficiary stated that he did not know that he was supposed to report to SSA when he began working. • As of October 2009, SSA continued to send the beneficiary a monthly benefit payment of \$1,236. SSA also sent the beneficiary a \$250 economic stimulus payment. • SSA officials stated that the recipient returned to work prior to his eligibility start date and was therefore not eligible for any SSA disability benefits.

Case no.	Details
6	<ul style="list-style-type: none"> • Our investigation found that the beneficiary potentially committed fraud in obtaining SSA disability payments. • The beneficiary was a letter carrier for the U.S. Postal Service who worked in Texas. The estimated overpayment was about \$27,000. • SSA approved DI payments starting in December 2006 for affective/mood disorders. • The beneficiary stated that she began work for the U.S. Postal Service in the summer of 2007, and that prior to that she worked for United Parcel Service. • In April 2007, SSA notified the beneficiary that based on wages earned in 2006 her benefits would be increased. • In November 2008, SSA notified the beneficiary that she was entitled to Medicare hospital and medical insurance beginning in December 2008. • In November 2008, SSA notified the beneficiary that based on wages earned in 2007 her benefits would be increased. • In August 2009, on the day of our interview, the beneficiary was terminated from the U.S. Postal Service for an incident between her and a customer. • According to SSA records, the beneficiary did not contact the agency as required. • As of October 2009, SSA continued to send the beneficiary a monthly benefit payment of \$1,477. SSA also sent the beneficiary a \$250 economic stimulus payment. • According to SSA officials, they have not conducted a work CDR for this individual.
7	<ul style="list-style-type: none"> • Our investigation found that the beneficiary committed fraud in obtaining SSA disability payments. • The beneficiary was a truck company owner and driver located in Texas. The estimated overpayment could not be determined. • SSA approved DI payments starting in 1991 for disorders of the back. • DOT records show that the beneficiary applied for a Motor Carrier DOT number in May 2008, and that provisional authority had been granted in December 2007. • DOT's new entrant safety audit for the carrier in April 2008 stated that the company is a corporation owned and managed by the beneficiary, who was present for the audit. It also specified that the carrier had two drivers, two tractor trailers, and gross income of approximately \$84,000 through the end of that year. DOT identified the beneficiary as one of the drivers. • State records indicate that the corporation is a limited liability company and the beneficiary is the registered agent and manager. • The beneficiary stated that he oversees the business, that it steadily employs three drivers, and that he had recently fired a driver. He stated that his daughter does the scheduling and dispatching. • The beneficiary stated that he had an operation in the 1990s in which screws were put into his back and that he is on pain medication for life. DOT records indicate that he has a CDL and that he had two roadside inspections in 2008, in Florida and Texas, providing further evidence of SGA. • The beneficiary stated that the income from his business is reported to IRS. • As of October 2009, SSA continued to pay the beneficiary a monthly disability benefit of \$1,824. SSA also sent the beneficiary a \$250 economic stimulus payment. • SSA conducted a work CDR for the recipient in January 2007. According to SSA, the individual owns a trucking company but does no work.

Case no.	Details
8	<ul style="list-style-type: none"> • Our investigation found that the beneficiary potentially committed fraud in obtaining SSA disability payments. • The beneficiary was a legal assistant for SSA who worked in Arizona. The estimated overpayment was about \$11,000. • SSA approved DI payments starting in 2003 for affective/mood disorders and osteoarthritis. • The beneficiary began working for SSA in the third quarter of 2007. • According to SSA records, the beneficiary did not contact the agency as required. • In November 2008, SSA notified the beneficiary that based on wages earned in 2007 her benefits would be increased. • The SSA Office of Inspector General opened an investigation of the employee after we informed the agency of her employment status. • According to SSA officials, SSA disability programs do not have access to SSA's payroll records to determine whether their employees are receiving disability payments and thus should be evaluated for eligibility. • SSA sent the beneficiary a \$250 economic stimulus payment. • SSA officials stated that a work CDR for the recipient is pending.
9	<ul style="list-style-type: none"> • Our investigation found that the beneficiary committed fraud in obtaining SSA disability payments. • The beneficiary was a mail clerk for the U.S. Postal Service who worked in Pennsylvania. The estimated overpayment was about \$19,000. • SSA approved DI payments starting in 2006 for a brain tumor. • The beneficiary stated that she returned to work in 2007. • The beneficiary stated that around July 2009 she received a statement from SSA that the agency had found out about her working and that her benefits were to be terminated. SSA stated that she would have to repay about \$19,000 in benefits. • The beneficiary stated that she agreed to repay \$100 per month by check and that she will likely die before paying back the full debt. • We found evidence of fraud when the beneficiary stated that she knew she was supposed to notify SSA of her work but that she did not because she needed the money. • SSA sent the beneficiary a \$250 economic stimulus payment.
10	<ul style="list-style-type: none"> • Our investigation found that the beneficiary potentially committed fraud in obtaining SSA disability payments. • The beneficiary was a letter carrier for the U.S. Postal Service who worked in Michigan. The estimated overpayment was about \$45,000. • SSA approved DI payments starting in May 2004 for mood and personality disorders. • SSA records indicate that the beneficiary returned to work in December 2004 and completed her trial work period in December 2005. However, her monthly payments continued through March 2007. According to SSA records, the beneficiary did not contact the agency as required. • SSA records indicate that 18 months later, in October 2008, her monthly payments resumed. • The beneficiary stated that when the payments resumed in October 2008, she assumed that the rules had changed and she was eligible again. • The beneficiary stated that she did not feel she should have to pay anything back to SSA, since she did what SSA wanted. The beneficiary also stated that she was upset that SSA is deducting Medicare premiums from her current payment, when she has good health care coverage from the U.S. Postal Service. • The beneficiary stated that her condition does not keep her from working. As of October 2009, SSA continued to pay beneficiary a monthly benefit of \$1,358. SSA also sent beneficiary a \$250 economic stimulus payment. • SSA records indicate that a repayment was made in 2008 for about \$37,000.

Source: GAO.

Appendix I provides details on the other 10 cases we investigated. Appendix II provides a summary of the key attributes from our investigations of the 20 cases. We referred all 20 cases to SSA management for collection action. The SSA Office of Inspector General has been informed of the 5 cases that we believe committed fraud. We also referred the case involving the SSA employee to the SSA Office of Inspector General for investigation.

Conclusions

While it is important to encourage individuals with disabilities to return to work, SSA must also ensure that it has an effective system in place to maintain its program integrity. SSA has a stewardship responsibility to identify those individuals who have returned to work and are no longer eligible for benefits. Because of limited resources, SSA must effectively allocate its resources to identify such individuals. Federal payroll records and the AERO process are tools that SSA could utilize to timely initiate reviews and minimize improper and fraudulent payments.

Recommendations for Executive Action

To enhance SSA's ability to detect and prevent fraudulent and improper payments in its disability programs, we recommend that the Commissioner of Social Security take the following two actions to improve the agency's processes:

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

Agency Comments and Our Evaluation

We provided a draft of this report to SSA and DOT for comment. DOT stated that it did not have comments on the report. SSA's comments, along with our responses, are reprinted in appendix IV, and its technical comments were incorporated throughout the report as appropriate.

SSA agreed with all our recommendations. SSA stated that it will evaluate the feasibility of using the AERO process. In addition, SSA stated that it will review the efficacy of matching federal salary payment records with SSA disability files of DI beneficiaries and SSI recipients. We encourage

SSA to follow through on these recommendations. SSA also expressed concern that the overall message of our report is misleading and in some cases factually incorrect. We believe our report accurately describes the cases and our methodology.

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 interested congressional committees, the Commissioner of Social Security, and the Secretary of Transportation. The report also will be available at no charge on the GAO Web site at <http://www.gao.gov>.

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

A handwritten signature in black ink that reads "Gregory D. Kutz". The signature is written in a cursive style with a large, stylized initial "G".

Gregory D. Kutz
Managing Director
Forensic Audits and Special Investigations

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

This appendix presents summary information on fraudulent and improper payments associated with 10 of our 20 case studies. Table 3 shows the remaining case studies that we audited and investigated. As with the 10 cases discussed in the body of this report, the Social Security Administration (SSA) did not prevent improper payment of Social Security disability benefits to these individuals. We referred all 20 cases to SSA management for collection action. The SSA Office of Inspector General has been informed of the 5 cases that we believe committed fraud. We also referred the case involving the SSA employee to the SSA Office of Inspector General for investigation.

Table 3: Case Studies 11 through 20 Showing That Federal Employees and Commercial Vehicle Company Owners Improperly or Fraudulently Received SSA Disability Benefits While Working

Case no.	Details
11	<ul style="list-style-type: none">• Our investigation found that the beneficiary potentially committed fraud in obtaining SSA disability payments.• The beneficiary was a mail handler for the U.S. Postal Service who worked in Texas. The estimated overpayment was about \$53,000.• The beneficiary stated that he suffered a stroke in February 2006. Based on this disability, SSA began making Disability Insurance (DI) benefit payments in August 2006.• The beneficiary returned to work in September 2006. He stated that at that time he verbally notified SSA that he had resumed employment. The beneficiary stated that he also informed SSA that he returned to work at the end of 2007. According to SSA records, the beneficiary did not contact the agency as required.• SSA records indicate that for 2007 and 2008 the beneficiary earned from \$70,000 to \$80,000.• The beneficiary was still working full-time and receiving a \$1,168 monthly benefit in August 2009.• The beneficiary stated that his child also receives a monthly benefit based on his claim. SSA records indicate that the child's monthly benefit is around \$400.• SSA also sent the beneficiary a \$250 economic stimulus payment.• The beneficiary stated that he is ready to pay back any overpayments.• SSA is in the process of reviewing this case.

**Appendix I: Examples of Individuals
Receiving SSA Disability Benefits
Fraudulently and/or Improperly**

Case no.	Details
12	<ul style="list-style-type: none">• Our investigation found that the beneficiary potentially committed fraud in obtaining SSA disability payments.• The beneficiary worked in inventory management for the U.S. Mint in California. The estimated overpayment was about \$36,000.• SSA approved DI payments starting in 2004 for skin cancer and an infection.• SSA records indicate that the beneficiary returned to work in April 2007.• The beneficiary stated that when the 9-month trial work period ended, he wrote SSA requesting that the agency stop the payments, but the monthly benefit payment continued. According to SSA records, the beneficiary did not contact the agency as required.• In July 2008, SSA notified the beneficiary that since substantial work had been performed, his eligibility for disability benefits had ended. However, the monthly payments never stopped.• The beneficiary generally made about \$4,500 in net monthly salary at the time that he was improperly receiving disability benefits.• In November 2008, SSA notified the beneficiary that based on wages earned in 2007 his DI benefits would be increased.• As of October 2009, SSA continued to send the beneficiary a monthly benefit payment of \$1,507. SSA also sent the beneficiary a \$250 economic stimulus payment.• According to SSA officials, SSA staff did complete a work continuing disability review (CDR) on the individual and determined that the disability payments should be suspended. SSA officials stated that in this case, SSA did not complete the manual steps to suspend the disability payments.
13	<ul style="list-style-type: none">• Based on our investigation, the beneficiary did not appear to have committed fraud but SSA made improper payments to the beneficiary.• The beneficiary was an administrative specialist for the Small Business Administration who worked in Virginia. The estimated overpayment was about \$12,000.• SSA approved DI payments starting in 1996 for multiple infections.• The beneficiary stated that he returned to work full-time in November 2006, and that he notified SSA by both telephone and e-mail in January 2007 of his full-time employment. SSA records indicate that the beneficiary reported full-time wages beginning in December 2006.• The beneficiary stated that about 6 months after his initial notification, he again contacted SSA and sent the agency copies of his pay stubs.• In August 2007, SSA sent a letter to the beneficiary acknowledging receipt of information to support eligibility for payments. The letter acknowledged that the beneficiary reported full-time wages beginning in December 2006.• In November 2007, SSA notified the beneficiary that based on wages earned in 2006 his benefits would be increased.• In November 2008, SSA notified the beneficiary that based on wages earned in 2007 his benefits would be increased.• The beneficiary stated that after 2 years of full-time work, he again contacted SSA and implored the agency to stop paying him because he knew something was not right and that he would have to return the money.• In February 2009, SSA notified the beneficiary that he was no longer entitled to payments beginning in October 2007. SSA stated that because it did not stop the payments until February 2009, the beneficiary owed over \$12,000 in overpayment of benefits.• SSA also sent the beneficiary a \$250 economic stimulus payment despite SSA records showing that the beneficiary was ineligible since October 2007.• According to SSA officials, the individual is in a repayment plan for \$100 a month.

**Appendix I: Examples of Individuals
Receiving SSA Disability Benefits
Fraudulently and/or Improperly**

Case no.	Details
14	<ul style="list-style-type: none"> • Our investigation found that the beneficiary potentially committed fraud in obtaining SSA disability payments. • The beneficiary was a psychology aide for the Department of Veterans Affairs who worked in Florida. The estimated overpayment was about \$33,000. • SSA approved DI payments starting in 1996 for muscular dystrophy. • The beneficiary began federal employment in 2007, earning from \$31,000 to \$42,000 per year. • The beneficiary stated that he notified SSA about his return to work through the 1-800 number a month after he returned to work, a month after that, then a third time about 4 months after starting work. The beneficiary stated that SSA told him that it would be noted in the system that he had called. According to SSA records, the beneficiary did not contact the agency as required. • In September 2008, SSA notified the beneficiary that “your disability has ended and you are not entitled to payments.” The notice stated that the trial work period ended in September 1998, 10 years prior. • In November 2008, SSA notified the beneficiary that based on the wages he earned in 2007, it would be increasing his benefits. The agency also noted that it would send a payment of \$4,478 on or about December 3, 2008, that would include the new regular monthly benefit, plus the difference between what SSA actually paid in 2008 and what it should have paid according to the wage increase. • In January 2009, SSA notified the beneficiary that it had paid him \$32,858 too much in benefits. SSA stated that he should refund this overpayment within 30 days. SSA placed the beneficiary in a repayment plan for \$20 per month. • The beneficiary stated that he requested a waiver of the overpayment amount and is awaiting SSA’s response.
15	<ul style="list-style-type: none"> • Based on our investigation, the recipient did not appear to have committed fraud but SSA made improper payments to the recipient. • The recipient was a mail clerk for the U.S. Postal Service who worked in Washington, D.C. The estimated overpayment was about \$16,000. • SSA approved Supplemental Security Income (SSI) payments starting in 2003 for affective/mood disorders and anxiety disorders. • U.S. Postal Service records indicate that the recipient began full-time work in November 2004. From 2005 through 2008, her annual earnings were from \$39,000 to \$47,000. • In February 2007, SSA notified the recipient that “because of your income, you are not eligible to receive SSI payments for January 2005 on.” The notice stated that SSA would stop the payments beginning in March 2007. • In March 2007, SSA notified the recipient of the overpayment of about \$8,000 in SSI benefits. The overpayment happened from February 2006 through February 2007. • SSA records show that SSI payments resumed in November 2007 for several months. SSA withheld 10 percent of the monthly payment and applied it to the overpayment balance. • SSA records show that in March 2008, the recipient called to report that she started working last month and that she wanted SSA to stop her SSI benefits. The records show that she did not want to provide the name of her employer, but stated that she was earning about \$1,000 a month and wanted her benefits cut off. • In November 2008, SSA notified the recipient that starting in January 2009 the benefit due was being raised to \$674 a month. The recipient then received couple of months of disability benefits. • U.S. Postal Service records indicate that the recipient retired in August 2009. • As of October 2009, SSA continued to pay the recipient a monthly benefit. SSA also sent the recipient a \$250 economic stimulus payment. • According to SSA officials, SSA subsequently suspended the recipient’s disability benefit payments for failure to cooperate.

**Appendix I: Examples of Individuals
Receiving SSA Disability Benefits
Fraudulently and/or Improperly**

Case no.	Details
16	<ul style="list-style-type: none">• Our investigation found that the beneficiary potentially committed fraud in obtaining SSA disability payments.• Beneficiary was a human resources specialist for the Defense Logistics Agency who worked in Ohio. The estimated overpayment was about \$25,000.• SSA approved DI payments starting in 2002 for muscular disorders.• The beneficiary stated that she returned to work in March 2005 and that she notified SSA about her return to work via telephone. The beneficiary stated that she called SSA again in December 2005 and January 2006 and requested that her benefit payments stop. According to SSA records, the beneficiary did not contact the agency as required.• SSA records indicate that the benefit payments did stop after January 2006. However, SSA started the payments again in August 2007, before the payments were eventually stopped in March 2009.• In November 2008, SSA notified the beneficiary that based on wages earned in 2007 her benefits would be increased.• SSA records indicate that benefit payments were made through February 2009.• The beneficiary stated that no one from SSA has ever contacted her asking for repayment.• SSA sent the beneficiary a \$250 economic stimulus payment.
17	<ul style="list-style-type: none">• Based on our investigation, the beneficiary did not appear to have committed fraud but SSA made improper payments to the beneficiary.• The beneficiary was a mail clerk for the U.S. Postal Service who worked in Ohio. The estimated overpayment was about \$21,000.• SSA approved DI payments starting in 2003 for back disorders.• The beneficiary stated that she returned to work in June 2007 and called the SSA 1-800 number to inform the agency of her return to work.• The beneficiary received a notice from SSA in September 2007, stating that June 2007 was the first month of the trial work period. The notice also stated that SSA had scheduled the claim for review in February 2008 since it appeared that the ninth month of the trial work period would end at that time.• The beneficiary stated that in February 2008, she received a letter from SSA stating that her disability payments would be terminated, but the monthly benefit payments continued.• The beneficiary stated that after 2 to 3 months, she called SSA again and requested that the payments be stopped.• The beneficiary stated that she has not been notified by SSA of any overpayment, and that she is segregating the payments from her regular funds so she will be able to pay the debt.• As of October 2009, SSA continued to pay the beneficiary a monthly benefit of \$1,334. SSA also sent the beneficiary a \$250 economic stimulus payment.• According to SSA officials, the beneficiary has recently paid about \$21,000 to SSA for the full overpayment amount.

**Appendix I: Examples of Individuals
Receiving SSA Disability Benefits
Fraudulently and/or Improperly**

Case no.	Details
18	<ul style="list-style-type: none">• Our investigation found that the beneficiary potentially committed fraud in obtaining SSA disability payments.• The beneficiary was a mail clerk for the U.S. Postal Service who worked in New York. The estimated overpayment was about \$58,000.• SSA approved DI payments starting in 2003 for back disorders.• The beneficiary stated that he returned to work in November 2005, and that shortly thereafter he visited a local SSA office to notify the agency of his employment. The beneficiary stated that about a year later he again went in person to the local SSA office to discuss terminating his benefits, but the benefits continued. According to SSA records, the beneficiary did not contact the agency as required.• In November 2006, SSA notified the beneficiary that based on wages earned in 2005 his benefits would be increased.• In November 2007, SSA notified the beneficiary that based on wages earned in 2006 his benefits would be increased.• In November 2008, SSA notified the beneficiary that based on wages earned in 2007 his benefits would be increased.• As of October 2009, SSA continued to pay the beneficiary a monthly benefit of \$1,775. SSA also sent the beneficiary a \$250 economic stimulus payment.
19	<ul style="list-style-type: none">• Our investigation found that the recipient potentially committed fraud in obtaining SSA disability payments.• The recipient was a nursing assistant for the Department of Veterans Affairs who worked in Texas. The estimated overpayment was about \$14,000.• SSA approved SSI payments starting in 2002 for a benign brain tumor.• SSA records show that recipient returned to work in October 2006. The recipient started full-time federal employment in November 2007.• The recipient stated that he kept SSA informed of all the changes required to be reported, such as a change of address and work status. He said that he used the SSA 1-800 telephone number to report these changes, but was not asked to provide actual dollar earnings. SSA officials stated that their records indicated that he contacted SSA about the change in address but not about his work status, thus not providing the required disclosure to SSA.• SSA sent the recipient benefit payments of \$449 until June 2009. SSA also sent the recipient a \$250 economic stimulus payment.• In June 2009, SSA notified the recipient of the \$14,000 overpayment of SSI benefits from October 2006 through June 2009.• The recipient stated that he really thought it was his money to use, and that making the repayments is a hardship for him.• According to SSA officials, the recipient is currently repaying SSA \$200 per month.

**Appendix I: Examples of Individuals
Receiving SSA Disability Benefits
Fraudulently and/or Improperly**

Case no.	Details
20	<ul style="list-style-type: none">• Our investigation found that the recipient potentially committed fraud in obtaining SSA disability payments.• The recipient was a clerk for the Internal Revenue Service (IRS) who worked in Texas. The estimated overpayment was about \$11,000.• SSA approved SSI payments starting in 1991 for late effects of polio.• The recipient stated that she began working for IRS on a part-time basis in 2000, and every year notified SSA that she was working.• In May 2005, SSA notified the recipient that it had overpaid her \$4,400 in SSI benefits. The notice stated that to collect the overpayment, SSA would withhold \$25 per month from her ongoing SSI payments. The notice stated that she will resume receiving the full regular monthly payment in the year 2020.• The recipient stated that she transitioned to full-time permanent status in September 2008, and at that time she informed SSA of her employment status. According to SSA records, the recipient did not contact the agency as required.• In July 2009, SSA notified the recipient of a \$6,800 overpayment of SSI benefits for the period of February 2008 through July 2009. The notice stated that this amount is in addition to the prior overpayment of \$4,400.• SSA sent the recipient a \$250 economic stimulus payment.• According to SSA officials, a work CDR was conducted and the estimated overpayment was about \$11,000.

Source: GAO.

Appendix II: Attributes of Selected Cases of SSA Disability Beneficiaries and Recipients Who Fraudulently and/or Improperly Received Benefits While Working

Our investigations detailed examples of 20 federal employees, commercial drivers, and owners of commercial vehicle companies who fraudulently and/or improperly received disability payments. For the 20 cases, our investigations found the following:

- For six cases, SSA eventually identified the disability overpayment and sent notification letters to the individuals indicating that they would have to repay the debts.
- For 10 cases, the individuals were continuing to receive disability benefits as of October 2009.
- For 14 cases, the individuals claimed to have notified SSA that they had returned to work or that it should terminate the disability benefits because they were no longer eligible because of employment income. However, for only 4 of these 14 cases did SSA have indications in its records that the individuals notified SSA of the return to work or requested termination of disability benefits.
- For 10 cases, SSA improperly increased the benefit amounts of the disability payments because the individuals had increases in the reported wages on which the disability benefit payments are based.
- For 18 cases, SSA sent the SSA beneficiaries and recipients the \$250 economic stimulus check.
- For five cases, we believe that there is sufficient evidence that the beneficiaries committed fraud to obtain or continue receiving Social Security disability payments.¹ For each of these five cases, we concluded that the individual withheld employment information from SSA to obtain or continue receiving disability payments.

Table 4 provides these attributes for each selected case that we investigated.

¹For 11 other cases, we believe there may have been fraud committed by these individuals to continue receiving disability payments. For the most part, these are situations where the individuals claimed to have reported their employment to SSA but SSA had no record of this contact in its files.

**Appendix II: Attributes of Selected Cases of
SSA Disability Beneficiaries and Recipients
Who Fraudulently and/or Improperly Received
Benefits While Working**

Table 4: Attributes of Selected Cases of SSA Disability Beneficiaries and Recipients Improperly Receiving Benefits While Working

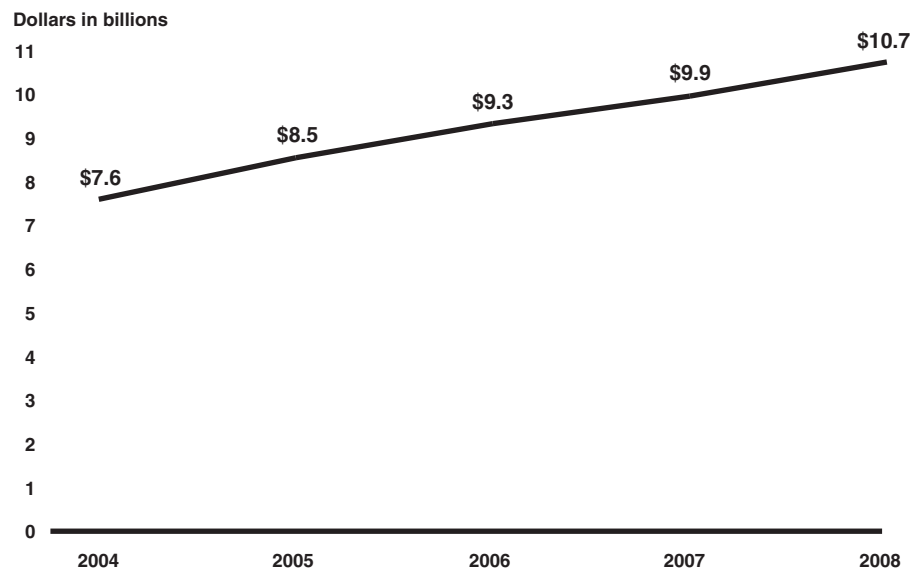
	SSA sent overpayment notification letter	Individual continued to receive disability benefits as of October 2009	Individual claimed to have notified SSA	SSA records have indications that individual notified SSA	SSA increased disability benefits based on reported wages	SSA sent \$250 economic stimulus check to individual receiving disability payments	Individual likely committed fraud
Case 1	✓		✓	✓	✓		
Case 2			✓		✓	✓	✓
Case 3		✓				✓	✓
Case 4			✓			✓	
Case 5		✓			✓	✓	✓
Case 6		✓			✓	✓	
Case 7		✓				✓	✓
Case 8					✓	✓	
Case 9						✓	✓
Case 10		✓	✓			✓	
Case 11		✓	✓			✓	
Case 12		✓	✓		✓	✓	
Case 13	✓		✓	✓	✓	✓	
Case 14	✓		✓		✓		
Case 15	✓	✓	✓	✓		✓	
Case 16			✓		✓	✓	
Case 17		✓	✓	✓		✓	
Case 18		✓	✓		✓	✓	
Case 19	✓		✓			✓	
Case 20	✓		✓			✓	
Total	6	10	14	4	10	18	5

Source: GAO.

Appendix III: Debt Owed to SSA from Overpayment of DI and SSI Benefits Is Mounting

SSA's failure to promptly prevent improper disability payments for the DI and SSI programs has, in part, contributed to overpayments in these programs. The overpayment of DI and SSI benefits may come from beneficiaries who had their benefits suspended or terminated following a work CDR. Overpayments may also be caused by other types of events, including receipt of workers compensation benefits, being in prison while receiving benefits, and medical improvement to the point where the individual no longer has disabilities. As shown in figure 3, in fiscal year 2004 the total net amount owed to SSA for DI and SSI overpayments was \$7.6 billion.¹ This debt has significantly increased through fiscal year 2008, as individuals owed over \$10.7 billion in overpayments of DI and SSI benefits.²

Figure 3: Total DI and SSI Overpayment Debt, 2004-2008



Source: GAO analysis based on SSA data.

Note: The SSI portion of totals includes the overpayments to nondisability (i.e., age-based) recipients.

¹Total overpayment debt comprises existing debt carried forward from prior years and newly detected overpayments, net of collections, waivers, and write-offs in each fiscal year.

²For 2008, the overpayment debt was \$5 billion for DI and \$5.7 billion for SSI. Because of SSA system limitations, SSA was not able to separate overpayments to age-based SSI recipients from those to SSI disability recipients. However, most of the SSI recipients receive benefits based on disability or blindness. Specifically, as of December 2008 84 percent of SSI recipients were eligible because they were disabled or blind; the remaining 16 percent of SSI recipients were eligible based on age.

Appendix IV: Comments from the Social Security Administration

Note: GAO comments supplementing those in the report text appear at the end of this appendix.




May 28, 2010

Mr. Greg Kutz
Managing Director
Forensic Audits and Special Investigations
441 G. Street, N.W.
Washington, D.C. 20548

Dear Mr. Kutz:

Thank you for the opportunity to review and comment on the Government Accountability Office (GAO) draft report, "SOCIAL SECURITY ADMINISTRATION: Cases of Federal Employees and Transportation Drivers and Owners Who Fraudulently and/or Improperly Received SSA Disability Payments" (GAO-10-444). Our comments on the report are enclosed.

If you have any questions, please contact me or have your staff contact Candace Skurnik, Director, Audit Management and Liaison Staff, at (410) 965-4636.

Sincerely,

Michael J. Astrue

Enclosure

cc: Matthew Valenta
Philip Reiff

SOCIAL SECURITY ADMINISTRATION BALTIMORE, MD 21235-0001

COMMENTS ON THE GOVERNMENT ACCOUNTABILITY OFFICE (GAO) DRAFT REPORT, "SOCIAL SECURITY ADMINISTRATION (SSA): CASES OF FEDERAL EMPLOYEES AND TRANSPORTATION DRIVERS AND OWNERS WHO FRAUDULENTLY AND/OR IMPROPERLY RECEIVED SSA DISABILITY PAYMENTS" (GAO-10-444)

General Comments

Thank you for the opportunity to comment on the draft report *Cases of Federal Employees and Transportation Drivers and Owners Who Fraudulently and/or Improperly Received SSA Disability Payments*, and for your efforts in collaborating with us over the last few weeks as you worked to issue your findings. We believe that you provide a fair representation for some of the issues. For others, though, you do not, and we remain concerned that your overall message is misleading and in some cases factually incorrect.

We clearly recognize the importance of reducing improper and fraudulent payments; considering the size of our programs, we are keenly aware of this need. In fact, "Curbing Improper Payments" is the first objective under our 2008-2013 Strategic Plan Goal to "Preserve the Public's Trust in Our Programs." As further evidence of our commitment, we are taking a number of proactive actions described in our "Annual Report – Executive Order 13520, Reducing Improper Payments." We issued the report on May 18, 2010, and in it explain our methods for identifying improper payments and analyzing their root causes, and also our specific plans for reducing them in the future.

We are pleased that you acknowledge some of our efforts. For example, we appreciate your citing our commitment to increase the number of Supplemental Security Income (SSI) redeterminations we perform this year. However, increasing the number of redeterminations is just one of a number of approaches we are taking to reduce improper payments.

In your report, you describe some possible alternatives, such as periodically matching the names of disability beneficiaries against Federal payroll records to identify possible situations where we are improperly paying people who are working. As we note in our comments, our current enforcement process captures Federal payroll data, but we will review the efficacy of matching these payroll records with our records.

As we have noted, our methods are working. The report does not acknowledge that prior to the report's issuance, we had already detected overpayments for half of the 20 cases handpicked for this review. Our existing processes identified these cases, and we had already computed overpayment amounts. We would have identified the remaining cases where IRS reported earnings for those beneficiaries through subsequent enforcement activities..

We are grateful you took the time to meet with us to gain a better understanding of our program requirements; but we must note that you continue to inappropriately apply the complete

See comment 1.

See comment 2.

definition of substantial gainful activity (SGA). Under the requirements of the disability programs, individuals are not determined to be performing work activity at the SGA level based on earnings levels alone. The SGA regulatory definition requires that the work activity criteria also include what the nature of the work is, how well the individual performs the work, whether the work is done under special conditions, whether the individual is self-employed, and what kind of time is spent in work activity (20 C.F.R. 404.1573). We must consider all these factors when determining SGA and when assessing whether a person has been paid improperly.

We are also concerned that you did not adequately consider our various work incentives. While you mention them briefly in your narrative, you do not seem to appreciate their importance in determining beneficiaries' eligibility. Please see the attached fact sheet for further information on work incentives.

See comment 3.

As the report's title suggests, you devoted much of your effort to examining activity related to transportation drivers and owners. Your recommendations, though, do not address drivers and owners, and we believe the title of your report may be an overstatement and raise unwarranted concerns that there is widespread fraud in this area. Accordingly, we suggest that you consider revising the title of the report.

The following provides our response to your two recommendations:

Recommendation 1

Evaluate the feasibility (including consideration of any costs, operational and system modifications) of incorporating the Automated Earnings Reappraisal Operations (AERO) process to identify individuals that have returned to work.

Comment

We agree and will evaluate the feasibility of utilizing the AERO process as you recommend.

Recommendation 2

Evaluate the feasibility of periodically matching SSA disability beneficiaries and recipients to federal payroll data. Such matches would provide SSA with more timely data to help SSA systematically and more effectively identify federal employees who are likely to incur overpayments.

Comment

We agree. As you discuss in the report, we currently conduct a computer match of our beneficiary information with Internal Revenue Service data for all wage earners. While we capture Federal payroll data through that enforcement process, we will review the efficacy of matching Federal payroll records with our records. We will then assess whether such a data

match might detect unreported earnings earlier, trigger work continuing disability reviews (CDR) sooner, and result in smaller overpayments.

See comment 4.

Request: In the first sentence of the “Highlights” page, you state that, “there are indications that about 1,500 federal civilian employees may have improperly received benefits.” Please provide us with the data, including beneficiaries’ Social Security numbers, that you used to support your conclusion. We will examine the information in evaluating your recommendation and also assess whether these beneficiaries have, or would have been, identified in our existing computer match with the IRS.

Page/Sentence Specific Comments

Highlights page, “Why GAO Did This Study”; page 1, 1st sentence:

You refer to both the Social Security Disability Insurance (SSDI) and SSI programs as “cash assistance” programs.

See comment 5.

Comment: Replace the term “cash assistance” with “cash benefit.” SSDI is not a cash assistance program; it is a social insurance program to which wage earners contribute and earn the right to disability benefits for themselves and their dependents.

Highlights page, “Why GAO Did This Study”; page 1, 1st paragraph:

See comment 5.

Comment: Similarly, replace references to “financial assistance” with the term “cash benefit.”

Highlights page, “What GAO Found,” 1st paragraph, last sentence reads:

“SSA currently does not perform a payroll or DOT records match to identify individuals improperly receiving benefits.”

See comment 6.

Comment: This statement is not wholly accurate. As you acknowledge at the bottom of page 6 and top of page 7, we conduct a match of beneficiary data with IRS data for all wage earners. We do not, however, match our data to the subset of Federal wage earners as you did in your study. We suggest you replace the sentence with the following:

“While SSA conducts a match of its beneficiary file to IRS data for all wage earners, it does not match its records to Federal payroll or DOT data to potentially identify persons who may be improperly receiving benefits.”

See comment 5.

Page 1, 1st paragraph, 1st sentence, 5th line

Comment: Replace “disabled people” (semantics – the term often conveys a negative meaning) with the words, “persons with disabilities” and use it throughout the report.

Page 4, 1st full sentence reads:

“To illustrate actual cases of fraudulent payments and/or improper payments from our macro analysis, we non-representatively selected 20 cases...”

See comment 5.

Comment: In this sentence and throughout the report you say, “macro analysis.” This is not a commonly accepted statistical term. We suggest you define its meaning, or alternatively use a different term to describe the nature of your analysis

Page 5, “Background”, 2nd sentence reads:

See comment 5

“DI replaces income for those with Social Security work records and provides benefits related to their prior earnings levels.”

Comment: DI does not “replace income.” it provides cash benefits. Please revise to read:

“DI provides cash benefits to disabled workers and their dependents based on their prior earnings.”

Page 6, 1st paragraph, 2nd full sentence reads:

See comment 5.

“To be eligible for benefits, individuals with disabilities must have a specified number of recent work credits under Social Security (which is generally 10 years of work credits) at the onset of medical impairment.”

Comment: For accuracy, change the parenthetical phrase to read:

“(specifically, working 5 out of the last 10 years or 20 quarters out of 40 quarters)”

Page 6, 2nd paragraph, 1st sentence reads:

See comment 5.

“SSA conducts work issue continuing disability reviews (CDR) to determine if beneficiaries are working above the SGA level.”

Comment: Revise to read: “... working at or above the SGA level.”

Note: there may be other references in the report that you need to revise similarly.

See comment 5.

Page 6, 2nd paragraph, 4th sentence reads:

“Once the trial work period is completed, beneficiaries are generally ineligible for future DI benefits unless their earnings fall below the SGA level.”

Comment: Revise to read:

“... for future DI benefits unless their earnings fall below the SGA level during the 36-month extended period of eligibility (EPE).”

See comment 5.

Page 7, “Supplemental Security Income,” 1st sentence in part reads:

“... provides a minimum level of income to financially needy individuals who are aged, blind, or considered eligible for benefits because of physical impairments.”

Comment: Revise to read:

“... for benefits because of physical or mental impairments.”

See comment 5.

Page 8, 2nd full sentence reads:

“SSI generally reduces the monthly benefit \$0.50 for every \$1 of monthly earnings after the first \$85.”

Comment: Revise to read:

“... reduces the monthly benefit \$1 for every \$2 of monthly earnings after the first \$85.”

See comment 7.

Page 9, footnote 10 reads:

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

Comment: We believe this deserves more than footnote consideration. Readers may not understand the importance of work incentives when determining SGA or countable income and the time it takes to develop this information, which may cause overpayments to continue for

longer periods of time. We recommend you insert the footnote as a new paragraph after the first partial paragraph on page 6.

Page 10, footnote 11 reads:

“The actual estimate of federal employees who may be improperly receiving benefits was 1,486.”

Comment: Please reconcile “1,486” to the “1,487” number presented in Table 1 on page 11.

Page 11, Table 1, use of the term, “joint”

Comment: Please replace with the word “concurrent.”

Page 12, Commercial Drivers and Transportation Business Registrants Receiving SSA Disability Benefits, first sentence reads:

“Our analysis of data from DOT on commercial drivers and from SSA on disability beneficiaries found that about 600,000 individuals had been issued commercial drivers licenses (CDL) and were receiving full federal medical disability benefits.”

Comment: Revise to read:

“... issued commercial drivers licenses (CDL) and were receiving Social Security disability benefits.”

Page 15, 1st full sentence reads in part:

“As mentioned earlier, the 20 cases were primarily selected based on our analysis of SSA electronic and paper files for the more egregious overpayments...”

Comment: We believe “egregious” may be too strong a characterization. Possibly consider, “larger.”

See comment 5.

See comment 5.

See comment 5.

See comment 5.

Page 17, bullet 3, 2nd sentence reads:

“Although SSA has the authority to charge interest and penalties, SSA did not do so on these agreements.”

See comment 8.

Comment: The Social Security Act authorizes us to waive repayments or to reach agreements with beneficiaries as to the monthly amount they can afford to repay. The report does not establish that these cases met the conditions for applying penalties or interest on the overpayments. Accordingly, we recommend you delete this sentence.

Page 17, bullet 3, 3rd sentence reads:

“As a result, several individuals from our cases were placed in long-term, interest-free repayment plans for improperly cashing disability overpayments.”

See comment 5.

Comment: Please change the word “cashing” to “accepting.”

See comment 8.

We also suggest you remove the term, “interest-free repayment” because it misrepresents our procedures for handling overpayments and recovery actions. In every case we must review an individual's income and assets, and then consider those factors in determining whether or not a demand for repayment will create undue hardship. We recommend that you delete from the report any references to the term “interest.”

Page 18, first full paragraph 2nd sentence reads:

“SSA stated that they did not seek a legal determination as to whether individuals that had their payments suspended because of employment should receive these stimulus payments.”

See comment 9.

Comment: This sentence mischaracterizes the situation. While we did not seek a formal opinion, we did consult with our Office of the General Counsel (OGC) on issues concerning eligibility for economic recovery payments. We then applied the law accordingly. The American Recovery and Reinvestment Act of 2009 provides clear wording on eligibility for the \$250 payment, so a formal opinion was unnecessary. As we stated in one of our meetings, our OGC was willing to discuss this with you, but you declined the offer.

See comment 10.

Also, the report does not include information that we provided to GAO investigators on the relationship between the \$250 economic recovery payment and the Making Work Pay tax credit. According to the IRS, “the Making Work Pay tax credit, normally a maximum of \$400 for working individuals and \$800 for working married couples, is reduced by the amount of any economic recovery payment (\$250 per eligible recipient of Social Security, Supplemental Security Income, Railroad Retirement or Veteran's benefits) or Special Credit for Certain Government Retirees (\$250 per eligible federal or state retiree).” The GAO report does not

include this information. We believe that this is a problem because the GAO report includes an estimate of “\$10.5 million in stimulus payments to approximately 42,000 individuals who were covered by the EPE,” suggesting a sizeable net impact of these economic recovery payments on the Federal budget. We recommend including a description of the corresponding reduction in the Making Work Pay tax credit for these beneficiaries. This will provide the reader with a more accurate impression of the net impact of the economic recovery payments on the Federal budget.

Page 23, Case 9 2nd bullet, 2nd sentence reads:

“The estimated overpayment was about \$23,000.”

Comment: Please correct the estimated overpayment to \$19,000.

Page 24, Case 10, 2nd bullet, 2nd sentence reads:

“The estimated overpayment was about \$45,000.”

Comment: Please correct the estimated overpayment to \$37,000.

Page 24, Case 10, 5th bullet reads:

“Beneficiary is under a repayment agreement with SSA for about \$100 per month.”

Comment: Delete the fifth bullet; there is no repayment agreement because the beneficiary repaid the overpayment in full.

Page 24, 2nd sentence reads:

“We are referring all 20 cases to the SSA Office of Inspector General for further investigation and SSA management for collection action.”

Comment: It appears you mingle two separate issues in this sentence: fraud and overpayments. We assume that you mean you will refer only some of the cases (those involving possible fraud) to our Inspector General (IG), and you will refer all cases (those involving possible overpayments) to SSA management. We suggest you revise the sentence for clarification because it implies erroneously that all 20 cases involve possible fraud, and you will refer them all to the IG.

Page 26, in the paragraph above Table 3, 4th sentence reads:

“We have referred all 20 cases to the SSA Office of Inspector General for further investigation and to SSA management for collection action.”

Comment: See comment immediately above. Also, to our knowledge, you have referred only two cases to our OIG, and one to the U.S. Postal Service IG.

See comment 5.

See comment 11.

See comment 5.

See comment 5.

See comment 5.

Page 29, Case 16, 2nd bullet, 2nd sentence reads:

“The estimated overpayment was about \$25,000.”

See comment 12.

Comment: Please delete the estimated overpayment. There is no overpayment, estimated or otherwise, on this record.

Page 29, Case 16, 5th bullet, 2nd sentence reads:

“However, SSA made her eligible for payments again in August 2007.”

See comment 12.

Comment: Please delete this sentence and replace it with the following:

“The beneficiary was eligible for payments again in August 2007, because her earnings were below SGA. Benefit payments were stopped in March 2009.”

Page 32, 1st paragraph, 2nd sentence reads:

“For all 20 cases, SSA did not promptly suspend the payments for the Social Security disability benefits.”

See comment 5.

Comment: Please delete this sentence as it is misleading. We cannot “promptly” suspend payments because someone is working. A suspension is not always appropriate. Determinations of SGA require evaluation of work and earnings, and we must provide due process before suspending anyone’s benefits.

Pages 35 and 36

See comment 5.

Comment: On page 35 under “Debt Owed to SSA from Overpayment of DI and SSI Benefits are Mounting,” you discuss “substantial increases in the amount of SSA reported debt owed by individuals.” In Figure 3, page 36, you provide a graphic representation of that debt for the years 2004 through 2008. It is important to note that your data represents total overpayment debt. By including this information, you are implying that the overpayment activity you describe in your report somehow contributes significantly to the overall debt numbers. This implication is inaccurate. We believe you should remove pages 35 and 36 from the report or at the very least provide clarifying language.



Fact Sheet.docx

**Substantial Gainful Activity
Fact Sheet**

Definition of Disability

The inability to engage in any substantial gainful activity (SGA) because of a medically-determinable physical or mental impairment(s) that:

- is expected to result in death, or
- has lasted or is expected to last for a continuous period of not less than 12 months.

SGA

SGA means the performance of significant physical and/or mental activities in work for pay or profit, or in work of a type generally performed for pay or profit, regardless of the legality of the work.

- Work may be “substantial” even if performed on a part-time basis, or if the person does less, is paid less, or has less responsibility than in previous work.
- Work is “gainful” if it is the kind of work usually done for pay, whether in cash or in kind, or for profit, whether or not a profit is realized.

SGA is used as a factor to determine initial eligibility for Social Security Disability Insurance (SSDI) and to decide if disability continues for SSDI after completion of the trial work period (TWP). SGA is only used as a factor to determine initial eligibility for Supplemental Security Income (SSI) disability benefits. We do not use SGA for initial eligibility to SSI based on blindness. After initial eligibility, SGA is not considered for SSI benefits.

Evaluation of SGA

Work is counted when earned for SSDI and when paid for SSI. After monthly gross earnings are determined, applicable work incentives are applied. We are only concerned with income that represents the actual value of the work performed as a result of the person’s own productivity. We then use the SGA earnings guidelines to evaluate the countable earnings.

Generally, countable earnings averaging over \$1,000 a month (in 2010) demonstrate the ability to perform SGA. For blind persons, countable earnings averaging over \$1,640 a month (in 2010) generally demonstrate SGA for SSDI.

Benefit Eligibility Based on SGA

If an SSDI blind or disabled claimant’s work is over SGA, the definition of disability is not met and benefits are denied. The same is true for an SSI disabled claimant.

When an SSDI beneficiary returns to work, he or she will receive full, unreduced benefits for at least 9 work months. This is the TWP. After the TWP, we will evaluate earnings

for SGA to determine if disability continues. This is called a work continuing disability review (CDR).

When an SSI beneficiary returns to work, we are not concerned with SGA. We count income and earnings when received (after allowable deductions) to determine the monthly payment amount. The countable income is subtracted from the Federal Benefit Rate (\$674 in 2010) to arrive at the payment. An SSI beneficiary may go in and out of pay based on countable income. An SSI beneficiary whose payment is reduced to zero because of earnings will retain eligibility to SSI and Medicaid, provided disability continues and earnings are below a State threshold amount. State thresholds vary between a low of \$23,981 in Alabama to a high of \$54,815 in Connecticut.

Work Incentives

Some of the work incentives that may be applied to reduce countable earnings for SSDI are:

- TWP: Allows beneficiary to test ability to work without affecting benefits; the TWP is completed when 9 months (with earnings over \$720 in 2010) are completed within a rolling 60-month period.
- Impairment related work expenses: Out-of-pocket costs for items and services related to the disability that are needed in order to work.
- Subsidies and special conditions: Supports received on the job which results in the person receiving more pay than the actual value of the services performed.
- Unsuccessful work attempts: We disregard earnings from work attempts of 6 months or less that were stopped due to the impairment.

Some of the work incentives that reduce SSI countable earnings are:

- Impairment related work expenses.
- Blind work expenses: For SSI beneficiaries receiving benefits based on blindness, we exclude any earnings that are used to meet expenses needed to earn that income; they do not need to be related to blindness.
- Student earned income exclusion: We do not count up to \$1,640 (in 2010) of monthly earnings (up to a yearly maximum of \$6,600 in 2010) of a student under age 22.
- Plan to achieve self-support: We do not count any earnings an SSI beneficiary sets aside toward an approved plan.

Work CDRs

After an SSDI beneficiary completes the TWP and continues to work, we will conduct a work CDR to determine if disability continues. We do not perform work CDRs for SSI beneficiaries.

We may receive a report that an SSDI beneficiary has worked directly from the beneficiary, from a third party, or from an earnings alert (such as the Internal Revenue Service match). We first attempt to obtain verification of monthly wages, such as pay

stubs, directly from the beneficiary. When the beneficiary cannot or will not provide proof of wages, we must request it from the employer.

If the TWP has been completed, we must determine if work after the TWP represents SGA. Before determining that earnings are SGA, we must determine if any work incentives apply. (Work incentives do not apply during the TWP.) This may require additional verification, such as receipts for impairment related expenses from the beneficiary or determining the value of a subsidy provided by an employer.

Once we complete our development, we make an SGA determination. In cases where we cannot obtain any verification from the beneficiary or employer, we will make an SGA determination based on all available evidence.

If we find that work is over SGA, then disability ceases. We send a due process notice to the beneficiary, who has 10 days to present any other proof before we stop benefits. The beneficiary may also appeal our determination and ask for payment continuation while we review our decision. If there is no appeal, the beneficiary will be due benefits for the month of cessation and a grace period during the 2 following months.

Overpayments are unavoidable because even if the beneficiary appears to be working over SGA, we cannot stop benefits until we have completed our development, made our determination, and provided due process. The beneficiary, however, may ask us at any time to suspend benefits if he or she wishes to avoid or reduce an overpayment due to work. We would continue our development while benefits are suspended.

The Extended Period of Eligibility (EPE)

An SSDI beneficiary enters the EPE after completion of the TWP. During the first 36 months after the TWP, if a beneficiary, whom we have determined to be ceased, stops working and earning over the SGA earnings limit, his or her benefits will be reinstated (without a new application). After these 36 months, if a beneficiary is receiving benefits because work is under SGA, benefits will continue until the next month SGA work is performed. Benefits are terminated with the first month of SGA after the 36-month period. Again, we cannot terminate the benefit until we have determined that the work is over SGA and provided due process.

The following are GAO's comments on the Social Security Administration's letter dated May 28, 2010.

GAO Comments

1. In the report, we identify those cases where SSA has sent an overpayment notification letter to the individual. However, we do not believe that identifying fraudulent or improper payments after dollars have been disbursed is an effective internal control. Our work across the government has shown that once fraudulent or improper payments are made, the government is likely to only recover pennies on the dollar. Preventive controls are the most efficient and effective.
2. In the report, we state that to adequately assess an individual's work status, a detailed evaluation of all the facts and circumstances should be conducted. This evaluation would include contacting the beneficiary and the beneficiary's employer, obtaining corroborating evidence such as payroll data and other financial records, and evaluating the beneficiary's daily activities. Based on this evaluation, a determination can be made on whether the individual is entitled to continue to receive SSA disability payments or whether such payments should be suspended. As such, our analysis provides an indicator of potentially improper or fraudulent activity related to federal employees, commercial drivers, and owners of commercial vehicle companies receiving SSA disability payments.
3. Our report described two cases of transportation drivers and owners who fraudulently and/or improperly received SSA disability payments. We do not believe that a change to the title is necessary.
4. We believe that SSA should perform the match with more current federal payroll records to determine the efficacy of matching federal salary payment records with SSA disability files of DI beneficiaries and SSI recipients.
5. We revised the report to address SSA's specific comment.
6. IRS provides summary earnings data for a calendar year. We have previously reported that the IRS earnings data used by SSA in its enforcement operations are typically 12 to 18 months old when SSA first receives them, thus making some overpayments inevitable. The federal payroll data provide detailed earnings information for each pay period (e.g., all 26 pay periods for a fiscal year). We believe that these data are more useful in the determination of whether continuing

disability reviews and redeterminations should be conducted and could be more current.

7. We believe the footnote is appropriate for this report.
8. As we stated in the report, SSA has the authority to charge interest and penalties, but SSA did not do so on any of its agreements with beneficiaries in our case studies.
9. The American Recovery and Reinvestment Act of 2009 states that these stimulus benefit payments should be provided to individuals who are entitled to DI benefit payments or are eligible for SSI cash benefits. SSA did not seek a formal legal determination as to whether individuals who had their payments suspended because of employment—and were thus not receiving DI or SSI payments during November and December of 2008 or January of 2009—should receive these stimulus payments. We continue to believe that a question exists as to whether these payments were proper and believe that SSA should have at least sought a legal opinion before making the payments.
10. IRS may well collect some of these stimulus benefits payments through a reduction of the “Making Work Pay” tax credit. We simply stated the magnitude of the stimulus payments made to those individuals covered under the extended period of eligibility. However, we believe that relying on the IRS offset is not an effective internal control activity.
11. Our estimated overpayment amount was based on our review of detailed payroll records and discussion with the SSA beneficiary. We believe that our estimated overpayment is accurate.
12. Our estimated overpayment amount was based on our review of detailed payroll records and discussion with the SSA beneficiary. Detailed payroll records showed that the beneficiary’s earnings were never below the substantial gainful activity threshold. As such, our estimated overpayment is about \$25,000.

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