

Office of the Inspector General

September 27, 1999

John R. Dyer  
Principal Deputy Commissioner  
of Social Security

Acting Inspector General

Waivers Granted for Title II Overpayments Exceeding \$500 (A-09-97-61005)

Attached is a copy of the subject final report. Our objective was to determine whether the Social Security Administration granted waivers of overpayments exceeding \$500 to beneficiaries in accordance with title II of the Social Security Act.

You may wish to comment on any further action taken or contemplated on our recommendations. If you choose to offer comments, please provide them within the next 60 days. If you wish to discuss the final report, please call me or have your staff contact Daniel R. Devlin, Acting Assistant Inspector General for Audit, at (410) 965-9700.

James G. Huse, Jr.

Attachment

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**OFFICE OF  
THE INSPECTOR GENERAL**

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**SOCIAL SECURITY ADMINISTRATION**

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**WAIVERS GRANTED FOR  
TITLE II OVERPAYMENTS  
EXCEEDING \$500**

September 1999

A-09-97-61005

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**AUDIT REPORT**

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# EXECUTIVE SUMMARY

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## OBJECTIVE

The objective of this audit was to determine whether the Social Security Administration (SSA) granted waivers of overpayments exceeding \$500 to beneficiaries in accordance with title II of the Social Security Act (Act).

## BACKGROUND

SSA administers the Old-Age, Survivors and Disability Insurance (OASDI) program under title II of the Act. For the Fiscal Year ending September 30, 1998, the OASDI program provided total cash benefits of \$372 billion to 44.2 million beneficiaries.<sup>1</sup>

Beneficiaries sometimes receive Social Security benefits to which they are not entitled. When overpayments are detected, SSA attempts to obtain repayment from the individuals liable for the debt or, if unsuccessful, offsets it against their current benefits. An overpaid beneficiary may seek relief from repayment by requesting a waiver of recovery. Generally, SSA will grant a waiver if the beneficiary is without fault and the recovery would “defeat the purpose of title II” or is “against equity and good conscience.”

## RESULTS OF REVIEW

Our review of a universe of 26,015 waivers granted during the period of August 1996 through June 1997 disclosed that an estimated 2,260 (or 8.7 percent) waivers of overpayments were incorrectly granted and an additional 13,058 (or 50.2 percent) waivers were inadequately supported. We estimated that the incorrect and unsupported waiver decisions amounted to \$4.3 and \$37.4 million, respectively. The estimated number and dollar amounts of waiver decisions are based on statistical projections of a stratified sample of 200 items randomly selected from the universe. (see Appendix B)

Because of the complexity and subjectivity of the waiver process, we determined that the incorrect waiver decisions resulted from: (1) the misapplication of waiver criteria by field office (FO) employees, and (2) clerical errors. We considered other waiver decisions to be unsupported because SSA was unable to provide us with the case folders, or supporting documentation for the waiver decision was missing, and/or FO employees did not adequately develop the cases.

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<sup>1</sup> Social Security Accountability Report for Fiscal Year 1998, page v.

## **CONCLUSIONS AND RECOMMENDATIONS**

We concluded that SSA needs to improve its procedures to prevent improper waivers of overpayments to ineligible individuals. These procedures should also reduce the vulnerability of the Agency to individuals who misrepresent their repayment ability or the circumstances surrounding their overpayments in order to qualify for a waiver. Therefore, we recommend that SSA:

- Provide FOs with additional guidance and training to clarify when recovery of overpayments from beneficiaries would “defeat the purpose of title II” or be “against equity and good conscience.” Specifically, SSA should revise its waiver checklist to further assist FOs in completing and documenting their reviews of waiver cases, with emphasis on the computation of monthly income and expenses, identification of beneficiaries with possession of overpayments, and allocation of household income and expenses.
- Strengthen procedures to preclude waivers to beneficiaries who have the ability to repay their debts, including individuals with unreasonable living expenses, nonrecurring and discretionary expenditures, and reasonable expectations of returning to work after a temporary layoff or injury.
- Revise procedures to clarify what constitutes “lack of good faith” to ensure that waivers are denied to beneficiaries who are at fault for causing their overpayments (e.g., individuals who negotiate duplicate checks).
- Direct program service centers to improve controls over the retention of case folders, including supporting documentation for waiver decisions, to ensure that the necessary information is accounted for in a proper manner.
- Instruct FOs to document the verification of all information, either financial or testimonial, provided by beneficiaries who request waivers of overpayments.

## **AGENCY COMMENTS AND OIG RESPONSE**

In its response, SSA agreed with the intent of the recommendations but did not believe that all of the suggested changes would achieve the desired results. SSA generally attributed the findings to insufficient training rather than inadequate procedures. SSA declined to concur with the 17 incorrect waivers until it had the opportunity to review the cases. At the exit conference, SSA requested to review the 99 unsupported waivers. We provided SSA with the requested information and offered to provide information on the 17 incorrect waivers. We are available to furnish this information at any time. The full text of SSA’s comments is included in Appendix C.

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# INTRODUCTION

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## OBJECTIVE

The objective of this audit was to determine whether the Social Security Administration (SSA) granted waivers of overpayments exceeding \$500 to beneficiaries in accordance with title II of the Social Security Act (Act).

## BACKGROUND

SSA administers the Old-Age, Survivors and Disability Insurance (OASDI) program under title II of the Act. For the Fiscal Year (FY) ending September 30, 1998, the OASDI program provided total cash benefits of \$372 billion to 44.2 million beneficiaries.<sup>2</sup> Beneficiaries include retired or disabled wage earners, their dependents, and the dependents of deceased wage earners.

Beneficiaries sometimes receive Social Security benefits to which they are not entitled. For example, SSA may incorrectly compute adjustments to benefit payments or beneficiaries may not promptly report events—such as changes in earnings or marital status—which affect their entitlement to benefits. Generally, when an overpayment is detected, SSA attempts to obtain repayment from the individual liable for the debt. If unsuccessful, SSA then adjusts current benefits to collect the overpayment or, when necessary, pursues collection through other means.

An overpaid beneficiary may seek relief from repayment by requesting a waiver of recovery. The Act allows for the waiver of recovery if the beneficiary is without fault and the recovery would “defeat the purpose of title II” or is “against equity and good conscience.”<sup>3</sup>

### Without Fault

An individual is without fault if he or she is “blameless”<sup>4</sup> in causing the overpayment. Conversely, individuals who demonstrate a lack of good faith or do not exercise a high degree of care in reporting circumstances, which may affect their entitlement to or the amount of benefits, are at fault for the overpayment. When assessing fault, field office (FO) employees are required to consider all circumstances surrounding an overpayment, which includes any physical, mental, educational, or linguistic limitations of the beneficiary. Any doubts about whether an individual understood his or her

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<sup>2</sup> *Ibidem.*

<sup>3</sup> Section 204(b), 42 U.S.C. § 404(b).

<sup>4</sup> SSA's Program Operations Manual System section GN 02250.005.

reporting requirements are generally resolved in favor of the beneficiary. Lack of good faith in preventing an overpayment is evident when the overpayment resulted from a beneficiary's:

- incorrect statement which he or she knew to be false;
- failure to furnish information which he or she should have known was material; and
- acceptance of any payment that he or she should have known was incorrect.

When assessing what a beneficiary either knew or should have known, employees should consider the following: (1) the application for benefits contains an explanation of most reporting responsibilities, (2) a copy of *"Your Social Security Rights and Responsibilities"* is mailed with every award letter, (3) beneficiaries receive pamphlets and check stuffers at various times during the year, and (4) beneficiaries receive information about the retirement test every January. Unless otherwise noted, employees should assume that beneficiaries received the appropriate information.

#### **"Defeat the Purpose of Title II"**

Recovery of an overpayment would "defeat the purpose of title II" if the overpayment is no longer in the beneficiary's possession and recovery would create a financial hardship for the beneficiary (i.e., deprive the person of income required for ordinary and necessary living expenses). Recovery is considered to present a financial hardship if it reduces: (1) the beneficiary's total monthly income in excess of expenses below \$25, or (2) the beneficiary's assets below \$3,000 (for beneficiaries without dependents) or \$5,000 (for beneficiaries with one dependent, plus \$600 for each additional dependent).

#### **"Against Equity and Good Conscience"**

Recovery of an overpayment would be "against equity and good conscience" if the beneficiary relied on SSA's decision to award benefits and subsequently changed his or her financial condition for the worse. Some examples include scenarios where beneficiaries received benefit payments and then quit their jobs or incurred expenses to send a child to college. "Against equity and good conscience" also applies when more than one beneficiary is entitled to payments on the same account and collection is sought from an individual who lived in a separate household from the beneficiary who received the overpayment.

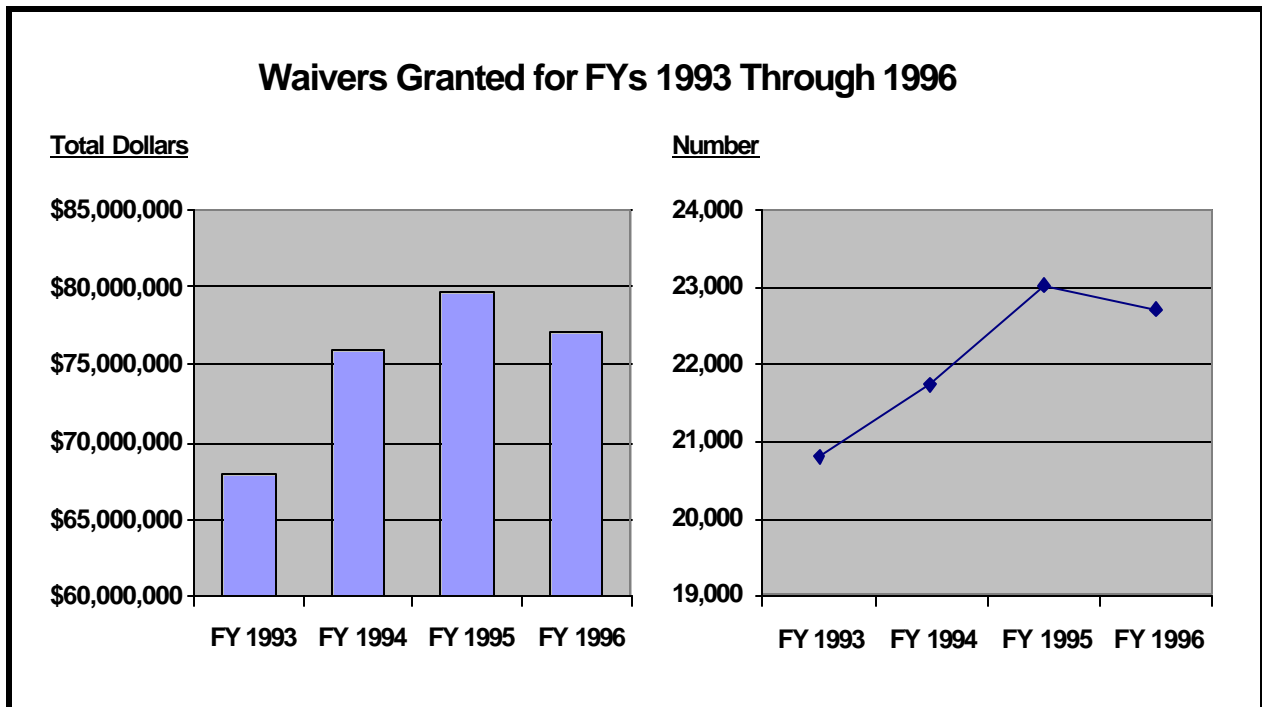
SSA's Program Operations Manual System (POMS) does not provide specific financial criteria to define what constitutes a finding of "against equity and good conscience" as it does for "defeat the purpose of title II." However, the Code of Federal Regulations (CFR) clearly states that an individual's financial circumstances are not material to a

finding of “against equity and good conscience.”<sup>5</sup> Regardless of whether the waiver was granted because it would “defeat the purpose of title II” or is “against equity and good conscience,” the individual is released from any liability to reimburse SSA for the overpayment.

### Agency Procedures

To request a waiver of overpayment, a beneficiary must complete and submit Form SSA-632, *Request for Waiver of Overpayment Recovery or Change in Repayment Rate*. This form requires the beneficiary to provide general information about the circumstances surrounding the overpayment and detailed financial data about the beneficiary’s assets, monthly household income, monthly household expenses, financial expectations, and availability of funds. The Form SSA-635, *Waiver Determination*, is completed by SSA to document the waiver decision.

Since August 1996, FOs have been responsible for processing virtually all requests for waivers submitted from beneficiaries. Previously, the program service centers (PSC) handled most disability cases. Waivers granted for amounts over \$2,000 must be reviewed by another employee in the office. Waivers granted for amounts less than \$2,000 are not subject to second-party review. Until FY1996, there had been an upward trend in the number of waivers granted and the amount of total overpayments waived. This trend is illustrated in the chart below.



<sup>5</sup> Title 20, CFR § 404.509(b).



## SCOPE AND METHODOLOGY

Based on SSA's Recovery of Overpayments, Accounting, and Reporting (ROAR) system, we obtained a data extract of all waivers granted between October 1992 and June 1997. From August 1996 through June 1997, there were 26,015 waivers of overpayments totaling \$92.2 million granted to beneficiaries under title II of the Act in which the amount waived exceeded \$500. We selected this time period to eliminate any waivers granted by PSCs prior to August 1996, when SSA transferred the responsibility for processing waivers to FOs. From this universe, we selected a stratified random sample of 200 waivers, of which 100 waivers were granted for amounts from \$500 to \$2,000 and 100 waivers were granted for amounts in excess of \$2,000.

To accomplish our objective, we:

- reviewed the applicable sections of the Act, CFR, and POMS;
- conducted interviews with officials from SSA's Headquarters, PSCs, regional offices, and FO;
- extracted a stratified random sample of 200 waivers from SSA's ROAR system;
- obtained computer printouts from SSA's Master Beneficiary Record, Payment History Update System, and Detailed Earnings Query; and
- reviewed case folders to determine the propriety of the waiver decisions in our sample.

We evaluated the adequacy of SSA's controls and procedures to ensure that waivers of overpayments exceeding \$500 were granted to beneficiaries in accordance with the requirements of the Act.

The results of our audit were based on a stratified random sample of 200 waivers granted between August 1996 and June 1997. We projected the results of our sample review to the universe using the Office of the Inspector General, Office of Audit, statistical software for variable analysis and attribute analysis of a stratified random sample. All estimates in our report are the midpoint projections.

We performed audit work in Baltimore, Maryland, and Richmond, California, between November 1997 and October 1998. We conducted our audit in accordance with generally accepted government auditing standards.

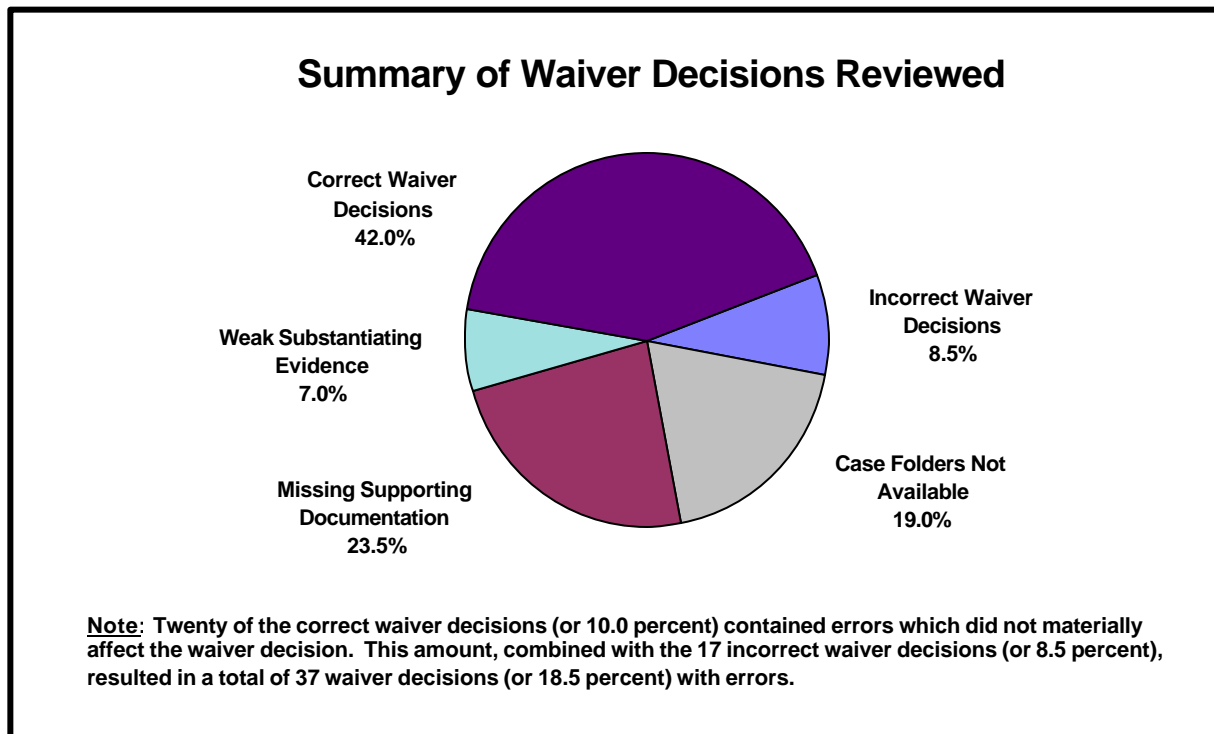
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# RESULTS OF REVIEW

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Our review of a universe of 26,015 waivers granted during the period of August 1996 through June 1997 disclosed that an estimated 2,260 (or 8.7 percent) waivers of overpayments were incorrectly granted and an additional 13,058 (or 50.2 percent) waivers were inadequately supported. We estimated that the incorrect and unsupported waiver decisions amounted to \$4.3 and \$37.4 million, respectively. The estimated number and dollar amounts of waiver decisions are based on statistical projections of a stratified sample of 200 items randomly selected from the universe. (see Appendix B).

Because of the complexity and subjectivity of the waiver process, we determined that the incorrect waiver decisions resulted from: (1) the misapplication of waiver criteria by field office (FO) employees, and (2) clerical errors. We considered other waiver decisions to be unsupported because SSA was unable to provide us with the case folders, or supporting documentation for the waiver decision was missing, and/or FO employees did not adequately develop the cases. For the 200 waiver decisions in our sample, the results of our review are summarized below.

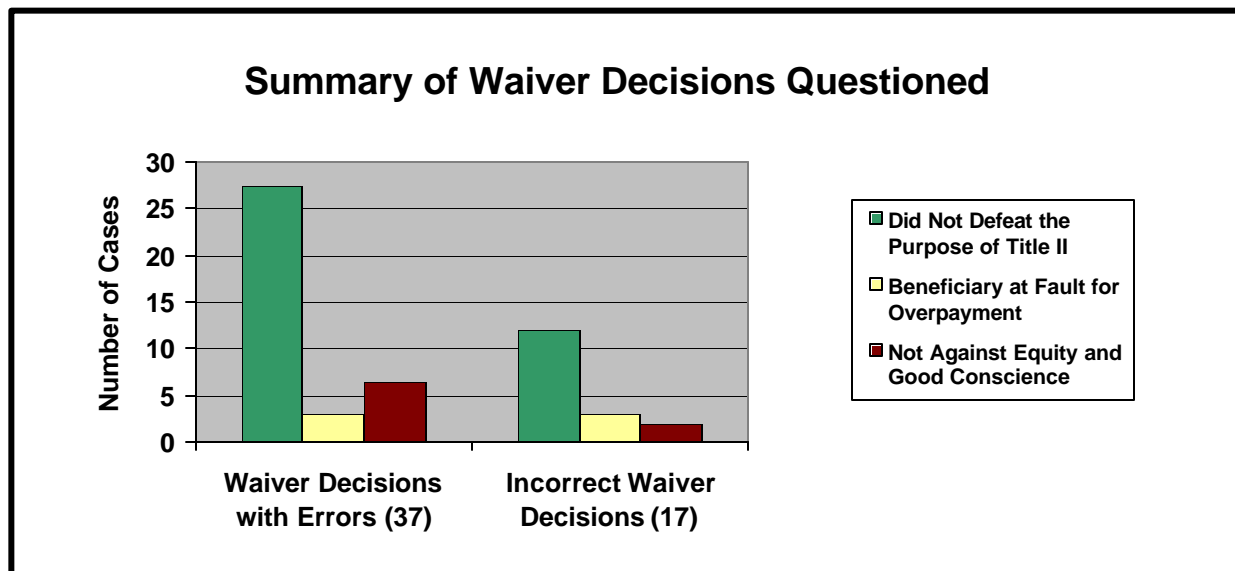


## INCORRECT WAIVERS OF OVERPAYMENTS

Our audit disclosed that 37 of the 200 waivers (or 18.5 percent) in our sample contained 1 or more errors. For each of these cases, we recalculated the waiver decision and concluded that the net effect of the errors resulted in 17 incorrect waiver decisions. The errors in the remaining 20 cases were immaterial or offset other errors and, therefore, did not have an adverse effect on the waiver decisions.<sup>6</sup> For the 17 incorrect waiver decisions, we found that SSA granted:

- 12 waivers where the recovery did not “defeat the purpose of title II,”
- 3 waivers where the beneficiaries were at fault for their overpayments, and
- 2 waivers where the recovery was not “against equity and good conscience.”

As a result, these beneficiaries received waivers of overpayments to which they were not entitled. A breakdown of the waivers questioned during our audit is provided below.



### Recovery Did Not “Defeat the Purpose of Title II”

Of the 17 incorrect waiver decisions in our sample, SSA granted 12 waivers where recovery did not “defeat the purpose of title II.” In these instances, the beneficiaries either had the financial resources to repay their debt or had all or part of the overpayments in their possession. This occurred because some SSA employees, who process relatively few waiver transactions, were not fully aware of applicable program

<sup>6</sup> The 20 correct waiver decisions contained errors similar to the 17 incorrect waiver decisions. For the 20 correct waiver decisions, we found 15 cases contained errors involving provisions for “defeat the purpose of title II,” 4 cases contained errors involving provisions for “against equity and good conscience,” and 1 case contained both types of errors.

requirements. We noted that SSA employees made both procedural and clerical errors involving the application of waiver criteria and computation of monthly income and expenses. We also noted other cases where the beneficiaries claimed questionable income and expenses to qualify for the waivers. Specifically, we found:

*Monthly Income Exceeded Monthly Expenses* – In 5 of the 12 incorrect waiver decisions, FO employees incorrectly concluded that recovery of an overpayment would “defeat the purpose of title II” because it would present a financial hardship for the beneficiary. Under SSA procedures, recovery of an overpayment creates a financial hardship if it reduces: (1) the beneficiary’s total monthly income in excess of expenses below \$25, or (2) the beneficiary’s assets below \$3,000 (for beneficiaries without dependents) or \$5,000 (for beneficiaries with one dependent, plus \$600 for each additional dependent).<sup>7</sup> For five cases in our sample, SSA employees concluded that a financial hardship existed and, therefore, granted a waiver to the beneficiary. Our review of the supporting documentation in the case folders, including the financial analyses prepared by the FO employees, disclosed that the beneficiaries’ monthly incomes exceeded their monthly expenses by an average of \$91.

*Beneficiaries Had Possession of Overpayments* – In 4 of the 12 incorrect waiver decisions, the beneficiaries reported that they had possession of all or part of the overpayments at the time the waivers were requested. POMS states that “recovery will not “defeat the purpose of title II” to the extent that the person has, at the time of the overpayment notice, any part of the overpayment in his/her possession.”<sup>8</sup> Accordingly, the beneficiaries were ineligible to receive waivers for any amount of overpaid SSA benefits still in their possession. For four cases in our sample, this information was reported by the beneficiaries on their requests for waivers; however, FO employees did not consider the information in their waiver decisions.

*Misallocation of Household Income and Expenses* – In 3 of the 12 incorrect waiver decisions, FO employees misapplied waiver provisions related to the allocation of household income and expenses. Under SSA procedures, a single family unit consists of the wage earner, spouse, and dependents living in the same household.<sup>9</sup> All income and resources earned by the members of a family unit are considered to be available to each member of the household. However, when determining whether recovery of an overpayment from a minor child in a household will “defeat the purpose of title II,” only the child’s own income (e.g., Social Security benefits) and resources are considered. All dependent members of a household, such as minor children, are deemed their pro-rata share of household expenses. We found that SSA employees made errors in applying these rules for three cases in our sample. Consequently, the individuals received waivers even though they had the income to make restitution.

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<sup>7</sup> POMS section GN 02250.115.

<sup>8</sup> POMS section GN 02250.105.

<sup>9</sup> POMS section GN 02250.130.

Questionable Income and Expenses – In addition to the 12 incorrect waivers of overpayments noted above, we identified a number of questionable expenses claimed by beneficiaries and possible sources of income not included for waiver determination purposes. These items related to ordinary and necessary expenses, treatment of large expenditures, and potential future earnings. Because of the lack of specific program guidance, we did not take exception to these items during our review. Nevertheless, we believe that because of vague criteria in POMS for applying the provisions under “defeat the purpose of title II,” six individuals received waivers even though they had the ability to repay their debts. Details are as follows:

- Recovery of an overpayment may “defeat the purpose of title II” if it deprives a person of income required for “ordinary and necessary” living expenses. However, SSA procedures do not clearly define the term “ordinary and necessary” living expenses. Specifically, POMS states that:

*“A person’s particular circumstances and lifestyle determine whether expenses are ordinary and necessary. Patterns of living are established over time and these patterns must be considered when evaluating the facts. This policy, however, does not imply acceptance of unreasonable expenses which are neither ordinary nor necessary.”<sup>10</sup>*

We believe this definition allows for the inclusion of some expenses that should be considered unreasonable or extravagant. For example, in one case, an overpaid beneficiary was allowed to include \$400 a month for expenses for tennis tournaments and their related costs (e.g., training and travel). In another case, an overpaid beneficiary was allowed to include expenses of \$500 a month for college savings and \$75 a month for Individual Retirement Account contributions. In yet another case, an overpaid beneficiary was allowed to include \$260 a month in charitable contributions as an ordinary and necessary expense.

- Under SSA procedures, large expenditures that are unusual and nonrecurring in nature should be prorated over a 12-month period. This rule applies even if the expenditures are discretionary or can be reasonably expected to produce benefits over a longer period of time.<sup>11</sup> For example, in one case, an individual who had been overpaid a total of \$23,104 was granted a waiver even though he had a monthly income of \$3,529. This beneficiary claimed other expenses of \$417 per month for such items as home repairs and improvements, appliances and furniture, and gifts and vacations. We believe that these expenses were discretionary and should have been disallowed or prorated over a period of time in excess of 12 months.
- Waiver determinations in which recovery would “defeat the purpose of title II” are based on a person’s current financial condition. POMS states that such information

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<sup>10</sup> POMS section GN 02250.120.

<sup>11</sup> *Ibidem.*

should be no more than 1-year old when the waiver decision is made.<sup>12</sup> No consideration is given to an individual's future earnings potential or whether the individual's current financial condition is temporary and is expected to improve. For example, in one case, a young couple received a waiver because the husband had just been laid off from work even though he had an established work history. In another case, a young adult who had been overpaid as a child received a waiver because he was recovering from a motorcycle accident even though he also had a work history.

We recommend that SSA provide FOs with additional guidance and training to clarify when recovery of overpayments from beneficiaries would "defeat the purpose of title II." Although SSA has developed a waiver checklist,<sup>13</sup> we believe it should be revised to further assist FOs in completing and documenting their reviews of waiver cases, with emphasis on the computation of monthly income and expenses, identification of beneficiaries with possession of overpayments, and allocation of household income and expenses. We also recommend that SSA revise POMS to preclude waivers to beneficiaries who have the ability to repay their debts. These actions should address individuals with unreasonable living expenses, nonrecurring and discretionary expenditures, and reasonable expectations of returning to work after a temporary layoff or injury.

### **Beneficiaries Were at Fault for Overpayments**

Three of the 17 incorrect waiver decisions in our sample involved beneficiaries who were at fault for their overpayments. We determined that SSA procedures require FO employees to make subjective decisions regarding what beneficiaries either knew or should have known about events that affected their benefit payments and whether the beneficiaries understood their responsibilities to report such events to SSA on a timely basis. Consequently, FO employees waived recovery of overpayments to three individuals who were clearly at fault for their overpayments.

One beneficiary was overpaid \$845 for April and May 1995. This occurred because the beneficiary received and negotiated two duplicate checks. The FO employee approved the waiver and stated that the beneficiary was not at fault in causing the overpayment because she had exercised a high degree of care. However, we found that the beneficiary did not make any attempt to contact SSA upon receipt of the duplicate checks. Instead, since one of the checks was annotated with the phrase "Social Security Insurance," the beneficiary asserted that the duplicate checks were for repayment of Medicare premiums withheld from her retirement checks. The beneficiary did not exercise a high degree of care nor accept the duplicate checks in good faith. As a result, the waiver should not have been granted.

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<sup>12</sup> POMS section GN 02250.115.

<sup>13</sup> POMS section GN 02250.244.

The other two cases involved beneficiaries who continued to receive disability benefits after they were no longer eligible. For example, a beneficiary was overpaid \$2,095 for the period of November 1991 through March 1992. The FO employee approved the waiver and stated that the beneficiary was not at fault in causing the overpayment because her ability to understand written instructions was very limited. However, we found that the beneficiary had been employed as a case worker/coordinator and her duties included interviewing clients and determining their eligibility. In March 1991, when SSA requested that the beneficiary provide information about her work history since 1979, she did not report her 1990 earnings. In February 1992, after SSA learned about her 1990 earnings and notified the beneficiary that she was no longer entitled to benefits, she negotiated her March 1992 check. The beneficiary understood her reporting requirements and did not act in good faith. As a result, the waiver should not have been granted.

We recommend that SSA revise its procedures to preclude waivers to individuals who are at fault for causing their overpayments. Current guidelines, which require FOs to ascertain what beneficiaries either knew or should have known about their reporting responsibilities, result in subjective decisions. We believe that beneficiaries who negotiate duplicate checks or do not report events that affect their entitlement to benefits are responsible for their resulting overpayments. As a result, SSA should clarify what constitutes “lack of good faith” by beneficiaries to prevent future occurrences of similar problems noted during our review.

### **Recovery Was Not “Against Equity and Good Conscience”**

To qualify for a waiver, a beneficiary must be without fault and recovery must either “defeat the purpose of title II” or be “against equity and good conscience.” Of the 17 incorrect waiver decisions in our sample, SSA granted 2 waivers in which the recovery was not “against equity and good conscience.” This occurred because SSA employees misinterpreted the waiver criteria for “against equity and good conscience” and, therefore, did not determine whether the recovery would “defeat the purpose of title II.” As a result, SSA disregarded the repayment ability of the beneficiaries and granted waivers to two individuals who had the financial resources to repay their debts.

For example, one FO employee waived an overpayment because the beneficiary had relied on misinformation from a routine notice mailed by SSA. Therefore, the recovery was deemed to be “against equity and good conscience.” However, POMS states that individuals are misinformed only when they solicit information that subsequently proves to be incorrect. Specifically, POMS states that “a routine notice is never cause for misinformation. For example, misinformation does not apply to the Automatic Earnings Reappraisal Operations notice received by a person who has received an incorrect benefit computation.”<sup>14</sup>

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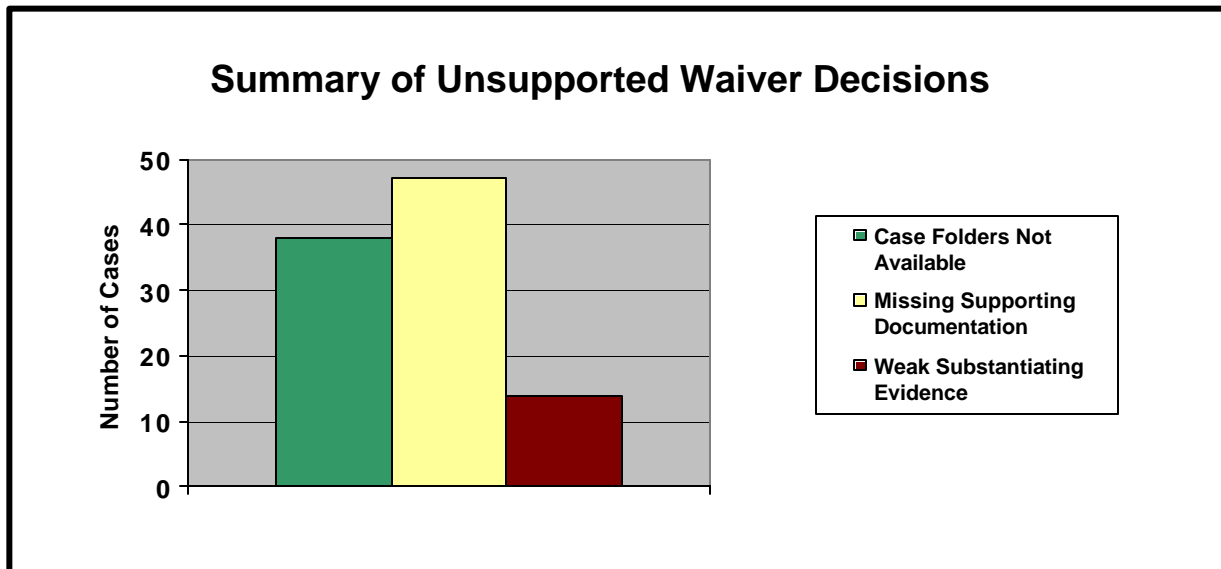
<sup>14</sup> POMS section GN 02250.061.

As a result, the doctrine of “against equity and good conscience” did not apply in this case. The doctrine also did not apply in the other case we questioned. Consequently, SSA should have performed analyses of the financial information provided by the beneficiaries. Based on our review, we concluded that recovery of the overpayments from the two beneficiaries would not “defeat the purpose of title II.” Since recovery was not “against equity and good conscience” and did not “defeat the purpose of title II,” the two beneficiaries received waivers to which they were not entitled.

We recommend that SSA provide FOs with additional guidance and training to clarify when the recovery of overpayments from beneficiaries would be “against equity and good conscience.” Accordingly, SSA should revise its waiver checklist to further assist FOs in completing and documenting their reviews of waiver cases.

## UNSUPPORTED WAIVERS OF OVERPAYMENTS

Our audit disclosed that 99 of the 200 waivers (or 49.5 percent) in our sample were not adequately supported. Consequently, we were unable to determine the propriety of these waiver decisions. The 99 unsupported decisions consisted of 38 cases where SSA was unable to provide us with the case folders, 47 cases in which the case folders did not contain supporting documentation for the waiver decisions, and 14 cases that were not adequately developed by FO employees. A summary of the unsupported waiver decisions in our sample is provided below.



### Case Folders Not Available

SSA could not provide the case folders for 38 of the 99 waiver decisions in our sample. Without the case folders, we were unable to determine the propriety of the waiver decisions. During our review, we made numerous attempts to obtain the case folders from both FOs and PSCs. POMS states that PSCs are responsible for monitoring the



whereabouts of the case folders and routing correspondence to the appropriate folders.<sup>15</sup>

SSA officials could not account for the missing case folders; however, they informed us that the case folders may have been assigned to another SSA component or incorrectly routed or filed. In these instances, we contacted the other components but were still unable to obtain the folders. We recommend that SSA direct PSCs to improve controls over the retention of case folders to ensure that the necessary information is accounted for in a proper manner.

### **Missing Supporting Documentation**

We found that SSA did not retain the supporting documentation for 47 of the 99 waiver decisions in our sample. Without the supporting documentation, we were unable to determine the propriety of the waiver decisions. POMS requires that beneficiary folders contain the documentation supporting the waiver decisions until the paper claims files are destroyed.<sup>16</sup> During our review, we made numerous attempts to obtain the supporting documentation from both FOs and PSCs. Although SSA officials were unable to explain these discrepancies, they informed us that the supporting documentation may have been incorrectly routed or filed.

We believe the lack of supporting documentation raises serious questions about the integrity of the waiver process and the reliability of the waiver decision. Unless the necessary documentation is obtained and properly retained to support the waiver decision, the program is vulnerable to fraud, waste, and abuse. SSA needs to take corrective action to reduce the potential for adverse publicity, legal challenges, and monetary losses. We recommend that SSA direct PSCs to improve controls over the retention of supporting documentation for waiver decisions to ensure that the necessary information is forwarded to the appropriate case folders.

### **Weak Substantiating Evidence**

We concluded that SSA did not adequately develop the remaining 14 of the 99 waiver decisions in our sample. This occurred because FO employees did not always obtain sufficient evidence to support the waivers of overpayments granted to the beneficiaries. Of the 14 cases with weak substantiating evidence, there were 10 cases in which the household expenses reported by beneficiaries were not verified and 4 cases in which FOs accepted unsupported statements from beneficiaries. Specifically, we found:

Verification of Household Expenses – There was no evidence in 10 case folders to indicate that SSA had verified the household expenses reported by beneficiaries. To determine if recovery of an overpayment would “defeat the purpose of title II,” SSA is required to analyze the current financial condition of the beneficiary. POMS states that

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<sup>15</sup> POMS section SM 00401.010.

<sup>16</sup> POMS section DG 00510.025.

beneficiaries should provide financial information that is no more than 1-year old.<sup>17</sup> In most instances, FO employees document that they have verified expenses by either: (1) annotating the Form SSA-632, *Request for Waiver of Overpayment Recovery or Change in Repayment Rate*, or (2) including a copy of the supporting documentation in the case folder. However, in 10 cases, we could not locate any indication of employee verification. Consequently, we could not determine the propriety of the waiver decisions.

*Acceptance of Beneficiary Statements* – There was no evidence in four case folders to indicate that SSA had verified the beneficiary statements used as a basis for its determination that the individuals were not at fault for their overpayments. POMS states that an individual is without fault for an overpayment if he or she properly reported a termination or deduction event and SSA took some action which the individual could reasonably believe was correct.<sup>18</sup> When an overpaid beneficiary alleges that he or she properly reported an event to SSA, employees are required to review all available records in the FO and request PSC staff to review the case folder for any evidence that could support the beneficiary's statement. If supporting documentation cannot be located, employees are required to assess the credibility of the beneficiary's statement before accepting the allegation. POMS states that employees should obtain a detailed statement from the beneficiary that includes the following information:

- how the report was made;
- to whom the report was made;
- the exact contents of the report;
- what the person expected would happen as a result of the report (e.g., benefits would terminate, person would be notified only if benefits were affected, etc.); and
- why the person did not recontact SSA when no action was taken on the report.<sup>19</sup>

Our review disclosed that FO employees did not take adequate steps to determine whether documentation existed to support the assertions made by the beneficiaries. Also, FO employees did not adequately assess the credibility of the beneficiary statements before accepting the assertions. Therefore, in four cases, SSA did not have sufficient justification to support the decisions to grant waivers to the beneficiaries. Without this information, we were unable to determine the propriety of the waiver decisions.

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<sup>17</sup> POMS section GN 02250.115.

<sup>18</sup> POMS section GN 02250.042.

<sup>19</sup> POMS section GN 02250.010.

We recommend that SSA instruct FOs to document the verification of all information, either financial or testimonial, provided by beneficiaries who request waivers of overpayments. In addition, SSA should clarify that acceptance of such information without independent verification undermines the integrity of the waiver process and compromises the accuracy of the waiver decision.

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# CONCLUSIONS AND RECOMMENDATIONS

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We projected the 17 incorrect waiver decisions and 99 unsupported waiver decisions to our universe of 26,015 waivers granted during the period of August 1996 through June 1997. We estimated that 2,260 (or 8.7 percent) waivers of overpayments were incorrectly granted and an additional 13,058 (or 50.2 percent) waivers were inadequately supported. Because of the complexity and subjectivity of the waiver process, we determined that the incorrect waiver decisions resulted from: (1) the misapplication of waiver criteria by field office (FO) employees, and (2) clerical errors. The unsupported waiver decisions occurred because SSA was unable to provide us with the case folders, or supporting documentation for the waiver decision was missing, and/or FO employees did not adequately develop the cases. Based on our projections, we estimated that the incorrect and unsupported waiver decisions amounted to \$4.3 and \$37.4 million, respectively (see Appendix B).

We believe that SSA needs to improve its procedures to prevent improper waivers of overpayments to ineligible individuals. These procedures should also reduce the vulnerability of the Agency to individuals who misrepresent their repayment ability or the circumstances surrounding their overpayments in order to qualify for a waiver. Therefore, we recommend that SSA:

1. Provide FOs with additional guidance and training to clarify when recovery of overpayments from beneficiaries would “defeat the purpose of title II” or be “against equity and good conscience.” Specifically, SSA should revise its waiver checklist to further assist FOs in completing and documenting their reviews of waiver cases, with emphasis on the computation of monthly income and expenses, identification of beneficiaries with possession of overpayments, and allocation of household income and expenses.
2. Strengthen procedures to preclude waivers to beneficiaries who have the ability to repay their debts, including individuals with unreasonable living expenses, nonrecurring and discretionary expenditures, and reasonable expectations of returning to work after a temporary layoff or injury.
3. Revise procedures to clarify what constitutes “lack of good faith” to ensure that waivers are denied to beneficiaries who are at fault for causing their overpayments (e.g., individuals who negotiate duplicate checks).
4. Direct PSCs to improve controls over the retention of case folders, including supporting documentation for waiver decisions, to ensure that the necessary information is accounted for in a proper manner.

5. Instruct FOs to document the verification of all information, either financial or testimonial, provided by beneficiaries who request waivers of overpayments.

## **AGENCY COMMENTS AND OIG RESPONSE**

In its response, SSA agreed with the intent of the recommendations but did not believe that all of the suggested changes would achieve the desired results. For the first two recommendations, SSA agreed to provide additional training to FO employees by the end of the first quarter of calendar year 2000. For the fourth recommendation, SSA advised that corrective actions were implemented during our audit to improve controls over case folders and supporting documentation. For the fifth recommendation, SSA contended that POMS provides sufficient instructions to its employees. However, the results of our review suggest that additional guidance is needed to ensure the waiver decisions are fully developed and supported.

SSA did not agree with our third recommendation. SSA stated that fault determinations are subjective in nature and, therefore, existing instructions are adequate. SSA added that further clarification of these instructions may cause FO employees to make waiver decisions without proper consideration of the individual circumstances of each case. We disagree. We believe that additional guidance would help—not hinder—employees in evaluating the relevant information necessary to make equitable and consistent waiver decisions. Therefore, we encourage SSA to reconsider its response to this recommendation.

SSA declined to concur with the 17 incorrect waivers until it had the opportunity to review the cases. At the exit conference, SSA requested to review the 99 unsupported waivers. We provided SSA with the requested information and offered to provide information on the 17 incorrect waivers. We are available to furnish this information at any time. SSA also provided technical comments that have been considered and incorporated, where appropriate, in this final report. The full text of SSA's comments is included in Appendix C.

SSA also proposed that we revise the language of the report in which we discuss the universe of waivers reviewed by our audit. We examined SSA's proposed alternate language and believe that, substantively, it does not differ from the original report. As such, we have not modified that report language.

# **APPENDICES**

# ACRONYMS

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CFR	Code of Federal Regulations
FO	Field Office
FY	Fiscal Year
OASDI	Old-Age, Survivors and Disability Insurance
POMS	Program Operations Manual System
PSC	Program Service Center
ROAR	Recovery of Overpayments, Accounting, and Reporting
SSA	Social Security Administration

## SAMPLING METHODOLOGY

We obtained a data extract from the Social Security Administration (SSA) of all waivers granted between October 1992 and June 1997. From this extract, we determined that there were 26,015 waivers granted for the period of August 1996 through June 1997. This period was selected for review because, effective August 1, 1996, SSA amended its waiver procedures by transferring responsibility for virtually all requests for waivers to the field offices. Previously, the program service centers handled most disability cases. The following table provides information about the waivers in our population.

**Table 1 – Population Description**

Population	Population Count	Population Dollars
Strata 1 (\$500 - \$2,000)	14,643	\$15,413,704
Strata 2 (Over \$2,000)	11,372	\$76,820,074
<b>Total</b>	<b>26,015</b>	<b>\$92,233,778</b>

We selected a total of 200 waivers for review. We randomly sampled 100 waivers from each of the two stratum in our population: (1) waivers granted for amounts from \$500 to \$2,000, and (2) waivers granted for amounts in excess of \$2,000. We reviewed each case to determine whether the waiver decision was accurate and properly supported. The following tables provide the details of our sampling results and statistical projections.

**Table 2.1 – Sample Results  
Incorrect Waiver Decisions**

Population	Sample Size	Error Count	Error Dollars
\$500 - \$2,000	100	10	\$7,309
Over \$2,000	100	7	\$28,495
<b>Total</b>	<b>200</b>	<b>17</b>	<b>\$35,804</b>

**Table 2.2 – Statistical Projection of Sample Results  
Number of Incorrect Waiver Decisions**

90 Percent Confidence Level			
Description	Strata 1 (\$500 - \$2,000)	Strata 2 (Over \$2,000)	Total
Projected Number in Population	1,464	796	2,260
Lower Limit	810	380	1,190
Upper Limit	2,395	1,447	3,842



**Table 2.3 – Statistical Projection of Sample Results  
Amount of Incorrect Waiver Decisions**

<b>90 Percent Confidence Level</b>			
<b>Description</b>	<b>Strata 1 (\$500 - \$2,000)</b>	<b>Strata 2 (Over \$2,000)</b>	<b>Total</b>
Projected Amount in Population	\$1,070,257	\$3,240,451	\$4,310,708
Lower Limit	\$444,082	\$831,247	\$1,275,329
Upper Limit	\$1,696,431	\$5,649,656	\$7,346,087

**Table 3.1 – Sample Results  
Unsupported Waiver Decisions**

<b>Population</b>	<b>Sample Size</b>	<b>Error Count</b>	<b>Error Dollars</b>
\$500 - \$2,000	100	55	\$61,671
Over \$2,000	100	44	\$249,624
<b>Total</b>	<b>200</b>	<b>99</b>	<b>\$311,295</b>

**Table 3.2 – Statistical Projection of Sample Results  
Number of Unsupported Waiver Decisions**

<b>90 Percent Confidence Level</b>			
<b>Description</b>	<b>Strata 1 (\$500 - \$2,000)</b>	<b>Strata 2 (Over \$2,000)</b>	<b>Total</b>
Projected Number in Population	8,054	5,004	13,058
Lower Limit	6,782	4,047	10,829
Upper Limit	9,292	5,991	15,283

**Table 3.3 – Statistical Projection of Sample Results  
Amount of Unsupported Waiver Decisions**

<b>90 Percent Confidence Level</b>			
<b>Description</b>	<b>Strata 1 (\$500 - \$2,000)</b>	<b>Strata 2 (Over \$2,000)</b>	<b>Total</b>
Projected Amount in Population	\$9,030,485	\$28,387,241	\$37,417,726
Lower Limit	\$7,474,380	\$20,528,116	\$28,002,496
Upper Limit	\$10,586,589	\$36,246,367	\$46,832,956

# AGENCY COMMENTS

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# SSA ORGANIZATIONAL CHART

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