
**OFFICE OF
THE INSPECTOR GENERAL**

SOCIAL SECURITY ADMINISTRATION

**THE SOCIAL SECURITY ADMINISTRATION'S
COLLECTION OF
COURT-ORDERED RESTITUTION**

March 2007

A-02-06-26019

AUDIT REPORT



Mission

By conducting independent and objective audits, evaluations and investigations, we inspire public confidence in the integrity and security of SSA's programs and operations and protect them against fraud, waste and abuse. We provide timely, useful and reliable information and advice to Administration officials, Congress and the public.

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SOCIAL SECURITY

MEMORANDUM

Date: March 2, 2007

Refer To:

To: The Commissioner

From: Inspector General

Subject: The Social Security Administration's Collection of Court-ordered Restitution (A-02-06-26019)

OBJECTIVE

Our objective was to determine the effectiveness of the Social Security Administration's (SSA) efforts to collect overpayments related to court-ordered restitution.

BACKGROUND

Courts may order individuals convicted of Social Security fraud to pay SSA restitution for illegally obtained funds in addition to any fees the court assesses. Between October 1, 2003 and September 30, 2006, the courts ordered 1,939 individuals to pay SSA approximately \$65 million. Our September 30, 2006 Semiannual Report to Congress reported that SSA had received approximately \$5 million of the court-ordered restitution—approximately 8 percent of the total amount due.

The Department of Justice (DoJ) collects payment of Federal debts, including court-ordered restitutions, through its Financial Litigation Unit (FLU).¹ The FLU litigates and enforces debt collection for Federal agencies. The FLU may impose collection efforts, such as garnishment of wages, offset of Federal tax refunds and benefits, and property liens.

SSA's Program Operations Manual System (POMS) defines the policy for overpayment recovery after a fraud conviction.² When ordering restitution for a fraud case involving SSA, courts will generally include the funds that must be repaid to SSA and may also include additional fines and penalties above the overpayment due SSA. SSA is not authorized to seek restitution of fines or penalties imposed by the court. According to POMS, the convicted person's liability is limited to the incorrect benefits he or she

¹ 28 C.F.R. § 0.171(b); United States Attorneys Manual §§ 3-9.100 and 3-9.120; and Executive Office for United States Attorneys Resource Manual, Title 3.101, Designation of Assistant United States Attorney Responsible for Financial Litigation.

² SSA, POMS, GN 02201.055.

received (as determined by SSA) plus any received as a representative payee. In overpayment or follow-up notices to the convicted person, only the amount of the overpayment should be requested.³

According to POMS,⁴ SSA staff should apply regular adjustment and recovery policies, with few specific exceptions,⁵ when recovering overpayments based on a fraud conviction. After the court issues a judgment and commitment order, the Office of the Inspector General's (OIG) Office of Investigations (OI) receives copies of the order and forwards a Form OI-68, *Report of Court-Ordered Restitution/Judgment Form*, to the court administrator and OI's Enforcement Operations Division. The Enforcement Operations Division forwards the Form OI-68 to SSA Debt Management in Philadelphia and the Regional Coordinators located in the servicing regional offices. During the period of our review, this was a paper process; it is being converted to an electronic process.

According to POMS, SSA should take the following steps to recover overpayments after a fraud conviction.

- Send an overpayment notice, if one has not already been sent, to the responsible party for the full amount of the overpayment, as determined by SSA, and explain waiver rights, where appropriate, in accordance with POMS guidance.
- Diary the Recovery of Overpayments Accounting and Reporting (ROAR) to review the individual's record in 90 days or until the month before the end of the probationary period, whichever comes first.
- Review the ROAR as scheduled to ensure the individual is making restitution in accordance with the court order.
- If no payment has been made during the quarter, or monthly payments are past due by 60 or more days, report the case to the Integrity Branch/Integrity Staff (IB/IS), which will then notify the court and OIG that the person convicted of fraud is not fulfilling the terms of his/her probation.

³ SSA, POMS, GN 02201.055 A.

⁴ Id.

⁵ According to POMS, if the court addresses repayment of only the convicted person's debt, fails to mention restitution, or specifies a figure less than the full amount of the overpayment, the convicted person's liability is limited to the incorrect benefits he or she received (as determined by SSA) plus any received as a representative payee. Regular adjustment and recovery policies apply. If the court orders the convicted person to repay not only his/her own overpayment but also that of any auxiliary who was overpaid as a result of the convicted person's action, SSA must first attempt recovery from the auxiliaries. If recovery from the auxiliaries is waived, SSA will seek recovery from the convicted person. SSA, POMS, GN 02201.055 A.

- If restitution payments are being made timely, schedule another review in 90 days to determine whether restitution payments are being made to SSA as ordered.

Additionally, POMS⁶ indicates, subject to certain exceptions, that any benefit payments that become due after conviction must be withheld until the overpayment is recovered.

To meet our objective, we reviewed court-ordered restitution reported by the OIG for Fiscal Year (FY) 2004 to determine SSA's success in collecting the associated overpayment funds as of October 2006. In FY 2004, 700 individuals were ordered to repay SSA \$24,309,652. Of these 700 cases, we reviewed the 488 with a restitution amount of \$10,000 or more, totaling \$22,925,610, to determine whether overpayments related to court-ordered restitution were posted to individual records and repayments were being made. We also reconciled SSA's recorded cases to those recorded with the DoJ.

RESULTS OF REVIEW

The effectiveness of SSA's efforts to collect overpayments related to court-ordered restitution can be improved. We found that SSA had a record of the overpayment related to a court-ordered restitution and was actively receiving repayment from 82 of the 488 individuals we reviewed. SSA had a record for another 259 individuals, who collectively were ordered to repay \$12 million in restitution, which included overpayments, fines or penalties, but repayments of the related overpayments were not being made at the time of our review. We found no record of either an overpayment or repayment documented in SSA's electronic systems for 147 of the 488 individuals convicted of fraud and ordered to repay restitution to SSA. These 147 individuals were ordered by courts to repay over \$7 million in restitution, which included overpayments, fines and penalties. In addition, we found that 53 of the 147 cases unrecorded in SSA's systems were also not recorded on DoJ debt collection records. Lastly, our review found that SSA staff lacked updated procedures regarding how to recover overpayments related to court-ordered restitution.

Recording of Overpayment After Fraud Convictions

As part of our review, we determined whether there was any record of the overpayment related to the fraud conviction or collection activities for the 488 individuals convicted of defrauding SSA in SSA's electronic systems. We reviewed the Master Beneficiary Record (MBR), ROAR, Payment History Update System (PHUS), Supplemental Security Record (SSR) or SSID. We concluded that SSA had a record of the court-ordered restitution if the convicted individual's MBR, ROAR, PHUS, SSR or SSID indicated OIG or DoJ involvement, fraud, an overpayment, or any other indication of a court-ordered restitution. Additionally, we searched any related record, including a

⁶ SSA, POMS, GN 02201.055 B.2. If the debtor is deceased and the estate is less than the overpayment amount, recovery is limited to the amount of the estate. Similarly, if a U.S. Attorney (or Central Justice) accepts a compromise settlement, POMS directs acceptance of the settlement as full payment of the debt.

victim's record, if the convicted individual's record had any information on the victim's name and/or SSN.

We found evidence of a court-ordered restitution or the related overpayment for 341 of the 488 individuals. (The 341 individuals consisted of the 82 individuals with an overpayment recorded in SSA's systems who were actively repaying the Agency at the time of our review and the 259 individuals who were in SSA's systems, but not making repayments.)

We were unable to find any evidence in SSA's records for 147 individuals who were ordered by courts to collectively repay SSA \$7,082,286 in restitution, which included overpayments, fines or penalties. We found no evidence the overpayments associated with these records were being collected or SSA staff had knowledge that these individuals had been ordered by the courts to repay SSA funds. Accordingly, overpayments related to court-ordered restitution were not being recorded, as required by POMS.

Without a reference to the fraud conviction, court-ordered restitution, or the related overpayment in the record of an individual convicted of defrauding SSA, SSA staff do not have the information necessary to properly manage such cases or pursue the overpayment. Additionally, staff will not have at their disposal important information that could affect future actions. For example, staff would have no knowledge of past Social Security fraud when a person previously convicted of defrauding the Agency applies to be a representative payee for another claimant.

We asked SSA staff involved in recovering the overpayments related to court-ordered restitution cases why we were unable to find these cases in SSA's systems. SSA staff stated that unrecorded cases might be recorded under the victim's record, rather than the convicted individual's or debtor's record. However, in our work, we searched any related record that was referenced in the convicted person's record, including a victim's record, to confirm if we had any information on the victim's name and/or Social Security number (SSN). In most cases, there were no cross-references to lead us to any other record.

Additionally, SSA staff stated the courts forwarded some payments to SSA with no SSN indicated, making it impossible to determine which account should be credited. These funds are deposited into SSA's trust fund, but not attributed to any individual's record. We found that limited coordination existed between SSA and DoJ staffs. Such coordination by SSA staff is not required by the POMS.

Recovery of Overpayment After Fraud Conviction

We found that 341 of the 488 court-ordered restitution cases we reviewed were recorded in SSA's systems. Once we determined a case was recorded, we then examined the payment status of the related overpayments. A summary of our analysis is presented in the following table.

Court-ordered Restitution Recorded in SSA's Systems			
Case Status	Number of Cases	Dollar Amount of Restitution	Dollar Amount Uncollected
No payments made	92	\$4,411,700	\$4,411,700
Some payments made, but not currently being made	167	7,559,811	6,846,389
Active payments being made	82	3,871,813	2,931,415
Total	341	\$15,843,324	\$14,189,504

As the table illustrates, no payments were made for 92 cases. Partial payments were made for 167 cases, but payments on those cases were not being made at the time of our review. Agency staff indicated that some convicted individuals initially entered into installment payment agreements with SSA but then failed to continue meeting the obligations outlined in the agreements. For example, an individual may make a payment to demonstrate good will in front of the court but not make subsequent payments after sentencing. Staff noted that overpayment letters are often ignored, and they felt they had little recourse in many of these situations.

In total, SSA was not receiving payments at the time of our review for 259 cases recorded in SSA's systems (92 no payment cases and 167 partial payment cases). The 259 cases had a total of \$11,971,511 in restitution, which included overpayments, fines or penalties. SSA collected \$713,422 of that amount, and \$11,258,089 remained outstanding. In 82 cases, active payments were being made to SSA at the time of our review. For these cases, SSA had received \$940,398 of the \$3,871,813 restitution owed by the 82 individuals at the time of our review, while \$2,931,415 remained outstanding.

According to the DoJ staff responsible for collecting court-ordered restitution, DoJ does not discourage SSA's collection efforts of the overpayments related to court-ordered restitution cases. In fact, SSA staff reported to us that they recently have been notifying DoJ staff that certain individuals ordered to pay restitution were receiving benefits and that SSA could withhold the benefits to repay the related overpayment. According to SSA staff, DoJ staff were glad to have SSA withhold the benefits since the DoJ staff reported that they often found it difficult to get the convicted individuals to pay the restitution.

Coordination with DoJ

We coordinated with DoJ to reconcile its records with SSA's recorded cases. DoJ reported that 156 of the 488 cases we examined were not found in its debt collection system. According to DoJ staff, the absence of a case in its debt collection system signified the debt was not being pursued. When comparing the 156 records unrecorded in DoJ's system and the 147 cases unrecorded in SSA's systems, we determined that 53 of the records were not recorded in either DoJ or SSA systems. These 53 cases are most at-risk of not being collected, since the two Federal agencies that can initiate collection efforts did not have a record of the outstanding debt.

DoJ only reported aggregate data on the 332 cases in its records, so we were unable to determine the status of DoJ's collection actions. DoJ only provided aggregate data since individual case records are assigned to FLU staff who maintain case details locally. DoJ also stated that SSA may pursue collection of overpayments, regardless of any action DoJ may take.

Guidance for Recovery of Overpayment After Fraud Conviction

Our review found that POMS lacked updated procedures on how to process and collect overpayments related to court-ordered restitution. As a result, there were inconsistencies in the recording and processing of cases. For example, some staff recorded the related overpayments under the debtor's SSN, while others used the victim's SSN. Some staff provided a cross-reference to the victim's SSN; others did not.

Additionally, POMS, dated October 30, 1998, indicates that SSA staff are responsible for tracking repayments in ROAR, and, under specific circumstances, alerting IB/IS of payment delinquencies.⁷ However, IB/IS no longer existed as a Government entity as of August 2000, and SSA staff were not formally notified to whom they should forward delinquent cases. Also, POMS does not provide for a central SSA point of contact for court-ordered restitution cases.

⁷ SSA, POMS, GN 02201.055.

CONCLUSION AND RECOMMENDATIONS

Based on the results of our review, we concluded that SSA should improve its efforts to effectively manage the collection of overpayments related to court-ordered restitution. To ensure the effectiveness of these collections, we recommend that SSA:

1. Record and pursue collection efforts, in coordination with DoJ, of overpayments related to court-ordered restitution that are not recorded in SSA's systems.
2. Pursue collection efforts, in coordination with DoJ, for the recorded overpayments related to court-ordered restitution that are not currently being paid to SSA.
3. Establish coordinated collection efforts with DoJ to ensure all overpayments related to court-ordered restitution cases are being actively pursued.
4. Update POMS guidance for the collection of overpayments related to court-ordered restitution. The guidance should designate the transfer of function from IB/IS to another SSA staff component. The guidance should also clearly designate a central receiving point within SSA for staff to disseminate restitution cases to ensure that SSA staff receive all Forms OI-68 that are sent from the OIG.
5. Inform staff of IB/IS dissolution and train staff to uniformly record and process court-ordered restitution cases.

AGENCY COMMENTS

SSA agreed with our recommendations (see Appendix D).



Patrick P. O'Carroll, Jr.

Appendices

APPENDIX A – Acronyms

APPENDIX B – Scope and Methodology

APPENDIX C – Flow Chart of Processing and Collecting Overpayments Related to Court-Ordered Restitution

APPENDIX D – Agency Comments

APPENDIX E – OIG Contacts and Staff Acknowledgments

Acronyms

DoJ	Department of Justice
FLU	Financial Litigation Unit
FY	Fiscal Year
IB/IS	Integrity Branch/Integrity Staff
MBR	Master Beneficiary Record
OI	Office of Investigations
OIG	Office of the Inspector General
PHUS	Payment History Update System
POMS	Program Operations Manual System
ROAR	Recovery of Overpayments Accounting and Reporting
SSA	Social Security Administration
SSID	Supplemental Security Income Display
SSN	Social Security Number
SSR	Supplemental Security Record

Scope and Methodology

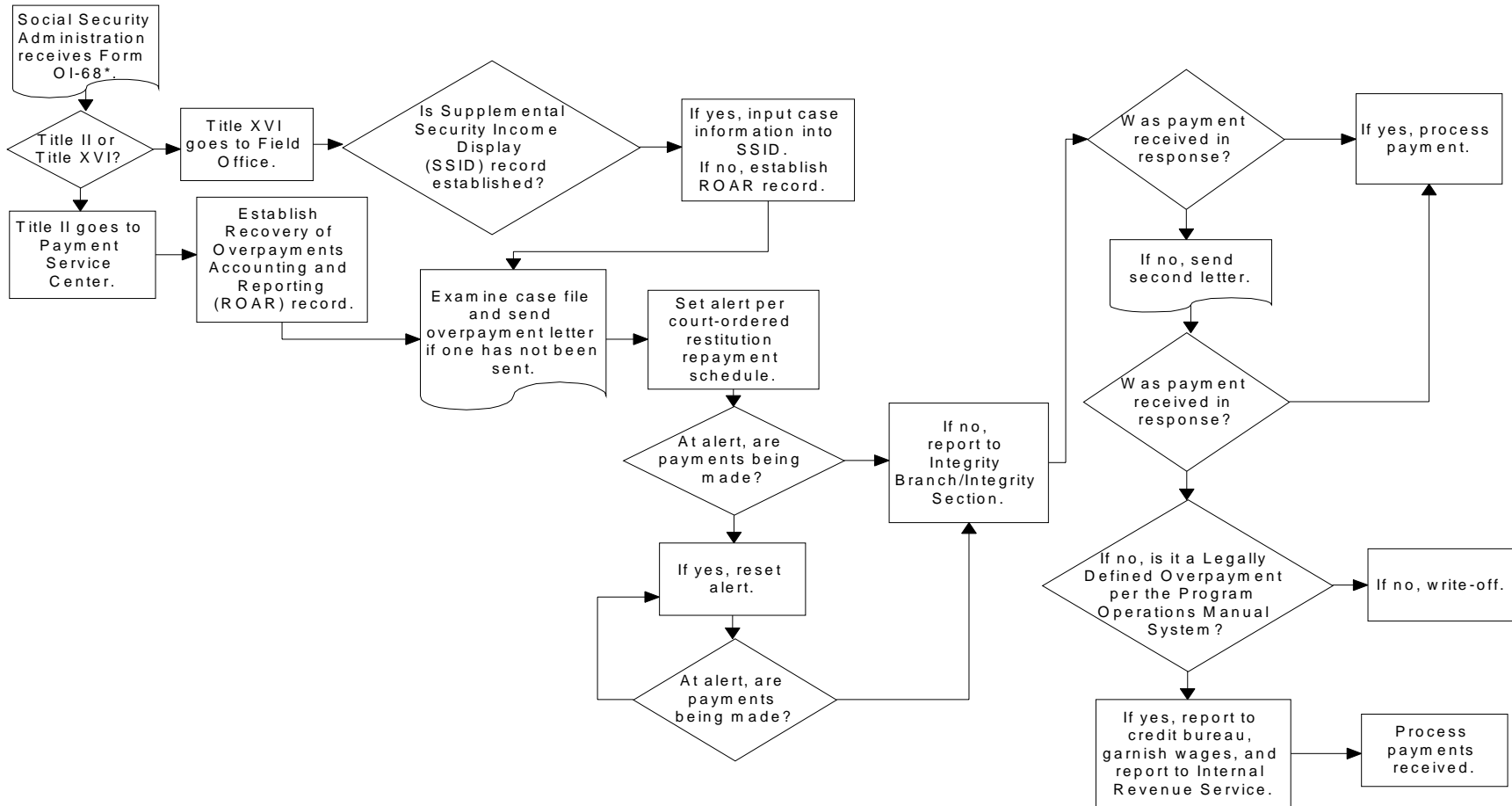
We received 700 records from the Office of the Inspector General's (OIG) Office of Investigations (OI) for individuals who were court-ordered to pay \$24,309,652 in restitution to the Social Security Administration (SSA) during Fiscal Year (FY) 2004, as reported in our March 2005 Semiannual Report to Congress. We reviewed 488 of the 700 records, totaling \$22,925,610, which had a court-ordered restitution amount of \$10,000 or more, as these represented about 70 percent of the cases and over 94 percent of the dollar amounts. In this way, we were able to concentrate our resources on the cases with the most funds in question.

- We researched the Program Operations Manual System (POMS) to determine SSA guidance for recording and processing court-ordered restitution cases.
- We interviewed SSA staff to determine processing procedures for the overpayments related to court-ordered restitution cases. A flow chart of the processing procedures is found in Appendix C.
- We coordinated with OI to confirm that court-ordered restitution cases were forwarded to SSA staff.
- We validated the data by reconciling them to SSA and Numident data contained in the Master Beneficiary Record (MBR), which includes the Recovery of Overpayments Accounting and Reporting (ROAR), and the Payment History Update System (PHUS) for Title II cases; and the Supplemental Security Record (SSR), which includes the Supplemental Security Income Display (SSID) for Title XVI cases.
- Upon determining the data validity, we determined whether there was any indication of a debt, overpayment, fraud, OIG involvement, or any other indication of a court-ordered restitution in SSA's systems—the MBR, which includes the ROAR; the PHUS; and the SSR, which includes the SSID. We primarily categorized cases as being either unrecorded or recorded.
- We further categorized recorded cases by whether no repayment had ever been made; any repayment had been made, but were not currently being made; or repayments were actively being made at the time of our review, October 2006.
- We collaborated with DoJ to determine the number of court-ordered restitution cases in their records and the status of collection efforts.

The entity audited was the Division of Operations Analysis and Customer Service, Customer Service Branch within the Office of Public Service and Operations Support, under the Deputy Commissioner for Operations. Division of Operations staff concurred with our overall audit methodology and confirmed our case review results.

We performed our audit between December 2005 and October 2006 in New York. Our audit was performed in accordance with generally accepted government auditing standards.

Flow Chart of Processing and Collecting Overpayments Related to Court-Ordered Restitution



*Form OI-68 Report of Court Ordered Restitution/Judgment Form

Agency Comments



SOCIAL SECURITY

MEMORANDUM

Date: February 15, 2007

Refer To: S1J-3

To: Patrick P. O'Carroll, Jr.
Inspector General

From: Larry W. Dye /s/

Subject: Office of the Inspector General (OIG) Draft Report, "The Social Security Administration's Collection of Court-Ordered Restitution" (A-02-06-26019)--INFORMATION

We appreciate OIG's efforts in conducting this review. Our comments on the draft report content and recommendations are attached.

Please let me know if we can be of further assistance. Staff inquiries may be directed to Ms. Candace Skurnik, Director, Audit Management and Liaison Staff, at extension 54636.

Attachment:
SSA Response

COMMENTS ON THE OFFICE OF INSPECTOR GENERAL (OIG) DRAFT REPORT, “THE SOCIAL SECURITY ADMINISTRATION’S (SSA) COLLECTION OF COURT-ORDERED RESTITUTION”(A-02-06-26019)

Thank you for the opportunity to review and comment on the draft report. We appreciate your conducting this audit of SSA’s collection of court-ordered restitution.

We appreciate the report addressing SSA’s role and scope of authority in collecting court-ordered restitution. We note that the recommendations reflect the joint responsibility between SSA and the Department of Justice (DoJ) in the collection of court-ordered restitution. We would also like to point out that we believe the OIG report overstates the amount that individuals owe SSA in restitution because it includes fines and penalties, payments which SSA lacks the authority to collect. We support the audit recommendations, however collection efforts will be subject to competing funding priorities.

Recommendation 1

SSA should record and pursue collection efforts, in coordination with DoJ, of overpayments related to court-ordered restitution that are not recorded in SSA’s systems.

Comment

We agree. We will investigate those items OIG identified as not being posted to SSA records, post the items not previously on our records and will follow established policies and procedures in pursuing recovery of the overpayments. However, based on the information in this report, we cannot be sure that the identified 147 missing items are truly not posted to our records. We can only confirm that they are not posted to the defendant’s Social Security number (SSN). SSA posts all court ordered restitutions under the victim’s record. These items may be correctly posted to the SSN under which the fraud took place, and we believe that the list of 147 items includes cases which had been recorded or had remittances. We request that OIG provide an updated list of unposted cases for a clean up operation which we will undertake.

To assist with posting from the Form OI-68, Report of Court-Ordered Restitution/Judgment Form, we propose that the form be revised to reposition the information on the defendant to Section 2. The claimant information currently in Section 2 should be included in the Section 1 header. This revision would assist with subsequent forwarding of misrouted forms. We also request that OIG ensure accurate completion of the OI-68. Regions have reported receipt of forms with omissions of critical data, such as monthly payment amount and the first payment due date.

OIG stated that 53 records were unrecorded in SSA’s systems and not recorded in DoJ debt collection records. It would be helpful if OIG could determine if the items were ever transmitted to SSA and if not, why not?

Recommendation 2

SSA should pursue collection efforts, in coordination with DoJ, for the recorded overpayments related to court-ordered restitution that are not currently being paid to SSA.

Comment

We agree. See our response to Recommendation 1.

Recommendation 3

SSA should establish coordinated collection efforts with DoJ to ensure all overpayments related to court-ordered restitution cases are being actively pursued.

Comment

We partially agree. SSA does not pursue collection while DoJ has jurisdiction. OIG serves as the middleman, ensuring that both parties have sufficient information to carry out their respective missions. DoJ has not in the past been amenable to collection efforts being taken by SSA on these cases, and that includes any efforts to withhold the overpayment from ongoing benefits. At a debt collection conference sponsored by the Department of Treasury, a spokesperson from DoJ indicated that when a debt was referred to them by an agency, they had jurisdiction and the agency should not pursue collection. According to DoJ, SSA's responsibility at that point was to monitor the collection efforts. However, we do agree that it is a good practice to notify DoJ staff when individuals receive benefits that could be withheld to recover the related overpayment. We will work to include guidance in the Program Operations Manual System (POMS) revisions.

Recommendation 4

SSA should update POMS guidance for the collection of overpayments related to court-ordered restitution. The guidance should designate the transfer of function from Integrity Branch/Integrity Staff (IB/IS) to another SSA staff component. The guidance should also clearly designate a central receiving point within SSA for staff to disseminate restitution cases to ensure that SSA staff receive all Forms OI-68 that are sent from the OIG.

Comment

We agree. The Agency has plans to update the POMS by September 30, 2007.

Recommendation 5

SSA should inform staff of IB/IS dissolution and train staff to uniformly record and process court-ordered restitution cases.

Comment

We agree. After the POMS revision (see response to recommendation #4), this information can be included in a POMS transmittal training session delivered through Interactive Video Teletraining.

OIG Contacts and Staff Acknowledgments

OIG Contacts

Tim Nee, Director, 212-264-5295

Victoria Abril, Audit Manager, 212-264-0504

Acknowledgments

In addition to those named above:

Denise Molloy, Program Analyst-in-Charge, 212-264-4215

Christine Hauss, Program Analyst, 212-264-5826

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