

Office of the Inspector General

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Effects of State Awarded Workers' Compensation Payments on Social Security Benefits

The attached final report presents the results of our review of Social Security Disability Insurance (DI) benefits paid to individuals who also receive State workers' compensation (WC) payments (A-04-96-61013). The objective of our audit was to review Social Security title II DI benefits for individuals receiving WC payments and the internal controls established over that process to ensure payment accuracy. The Social Security Act, section 224, requires that the combined benefit from DI and State WC be reduced to prevent situations where the disabled could receive more income in disability benefits than they were earning prior to becoming disabled.

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 Pamela J. Gardiner, Assistant Inspector General for Audit, at (410) 965-9700.

James G. Huse, Jr.

Attachment

**OFFICE OF
THE INSPECTOR GENERAL**

SOCIAL SECURITY ADMINISTRATION

**EFFECTS OF STATE AWARDED
WORKERS' COMPENSATION PAYMENTS
ON SOCIAL SECURITY BENEFITS**

September 1998

A-04-96-61013

AUDIT REPORT



EXECUTIVE SUMMARY

OBJECTIVE

The objective of this audit was to review Social Security title II Disability Insurance (DI) benefits paid to individuals who also receive workers' compensation (WC) payments and the internal controls established over that process to ensure payment accuracy.

BACKGROUND

The Social Security Administration (SSA) administers the Old-Age, Survivors and Disability Insurance (OASDI) program under title II of the Social Security Act (Act). Section 223 of the Act requires SSA to provide monthly Social Security DI benefits to individuals who are insured for disability insurance and meet specific disability requirements. Section 224 of the Act requires that the combined benefit from DI and WC be reduced (offset) so that the combined benefits do not exceed the larger of: 1) 80 percent of the worker's predisability earnings, or 2) the total family benefits allowable under Social Security before offset. By enacting the WC offset provision, Congress intended to prevent situations where disabled workers could receive more in disability benefits than they were earning prior to becoming disabled. As reported by the General Accounting Office (GAO),¹ Congress was concerned that, if placed in that situation, a beneficiary might not be motivated to actively seek rehabilitation.

To review title II disability benefits for individuals receiving State WC payments, we obtained a data extract from SSA that contained all master beneficiary records coded as having a State WC offset during the period January 1, 1993, through June 30, 1996. The data extract contained 183,881 cases who received an estimated \$6.326 billion in benefits through October 1997. We did not audit the SSA data base to verify that it contained all applicable State WC cases.

We reviewed the computation of monthly payments for 50 DI cases. For reporting purposes, the total effect of computational errors was calculated from the month of entitlement through October 1997. We performed our work at field offices (FO) in Atlanta and Tucker, Georgia; the central office in Baltimore, Maryland; and the program service center (PSC) located in Birmingham, Alabama. Our audit included an assessment of those internal controls established for the WC offset process. Audit field work was performed from February 1996 through March 1998.

RESULTS OF REVIEW

¹ "Better Case File Monitoring of the Workers' Compensation Offset Provision by SSA Could Save Millions" (GAO/HRD-83-90), September 30, 1983.

From January 1993 through June 1996, 183,881 State WC offset cases received an estimated \$6.326 billion in benefits from their month of entitlement through October 1997. From a review of cases², we identified an 82 percent error rate in SSA's computation of WC benefits having a potential total dollar error of \$526.7 million.

- **COMPUTATION OF TITLE II BENEFITS**

Title II benefits were inaccurately computed in compliance with WC offset requirements. For 41 of 50 cases reviewed, computational and procedural errors resulted in overpayments totaling \$209,451 and underpayments totaling \$77,009. For example, in three cases title II benefits were overpaid because DI claims were not offset for WC benefits. In other cases, WC information was either not verified at all, or not verified in a timely manner. The subsequent changes in WC benefits were not factored into the monthly DI payment. Also, when the beneficiary disclosed a lump sum settlement, title II benefits were not always reduced. There were eight cases where SSA adjusted individual monthly benefits contrary to established procedures in the Program Operations Manual System (POMS). Changes in total family benefits and cost of living adjustments were calculated inaccurately. Furthermore, procedures established to process triennial redeterminations often resulted in underpayment. Finally, the miscalculation of representative fees also adversely affected monthly benefits.

The computational errors occurred because of a lack of sufficient quality standard controls and management's emphasis on processing claims quickly to meet performance goals and backlogs. FO and PSC personnel lacked training in WC offset procedures which contributed to the problem. Claims representatives (CR) and claims authorizers (CA) were provided 3 and 16 hours of training, respectively. The most significant payment errors occurred because SSA relied on the beneficiaries to report reliable WC information and subsequent changes in WC benefits. Administrative law judges (ALJ) often awarded DI benefits on information provided by the claimant months earlier. As a result, the initial DI payments were calculated based on outdated information. SSA did not require that the WC information be reconfirmed with the claimant prior to providing benefits. As a result, title II disability benefits were inaccurately paid. Projecting the results of the 50 cases reviewed to 100 cases, about \$385.1 million in overpayments and \$141.6 million in underpayments may exist in the Master Beneficiary Record (MBR) for a total dollar error of \$526.7 million.

² We selected a random sample of 100 cases. Because of the difficulty in obtaining case files and WC verification, we have based our projections on the errors identified from our review of 50 cases for which we received folders. When we project, we are using the entire sample of 100 cases assuming that the remaining 50 cases, which we did not review, are correct. If we reviewed the remaining 50 cases, we would expect the projections of the errors to increase.

- **SSA CONTROL OVER THE WC OFFSET PROCESS**

SSA has a formal system for processing title II benefits, but our review disclosed that the process was flawed and oversight controls did not prevent the problems which caused payment errors nor did the controls correct the problems once discovered. The diary process did not provide assurance that WC issues were appropriately resolved. Records management was also a problem because files could not be readily located and were sometimes incomplete. When internal reviews identified significant deficiencies in the WC offset process, management did not always take corrective action. All of these conditions contributed to the high number of sample cases having payment errors. Finally, potential fraud cases were not referred to the Office of the Inspector General (OIG).

CONCLUSIONS AND RECOMMENDATIONS

Our audit confirmed the results of prior reports issued by GAO, the Department of Health and Human Services (HHS)/OIG, and the Office of Program and Integrity Reviews (OPIR).³ In 1983, GAO reported that insufficient case file monitoring cost SSA \$43.1 million in Fiscal Year (FY) 1981. OPIR reconfirmed GAO's concerns in a 1985 study. OPIR reported that diaries had not been resolved for 2 years after the date of adjudication in 86 of the 300 cases it reviewed. The result was an average overpayment of \$1,170 per case. The 1985 study recommended that SSA control diary alerts until the pending WC offset issues were resolved and management concurred. In 1991, OPIR reported that the 1985 recommendation was never implemented. In the 1991 follow-up analysis, OPIR emphasized that 6 years after its original recommendation, the situation had markedly worsened. In a 1997 report OPIR discussed SSA's failure to offset or impose offset when issuing the initial benefit payments. In particular, OPIR was concerned that SSA did not redevelop a case, after a favorable disability decision, where the original claim was filed months or even years earlier. As disclosed in our review, these adverse conditions still exist and little has been done to solve the WC offset problems and to prevent future payment errors.

We recommend that SSA recognize WC offset as a internal control weakness under the Federal Manager's Financial Integrity Act (FMFIA) and review cases in our sample to determine the proper benefit amount and take the required action. In addition, SSA should: emphasize timely referral of cases to OIG; increase front-end reviews of WC cases and continue to conduct back-end reviews on the high-risk area of WC offset; process WC offset cases through a specialized group of WC adjudicators and reviewers; attempt to identify diaries that may have been lost or not implemented; redevelop cases, after a favorable disability decision, where the original claim was filed months or years earlier; reverify, every 3 years, the status of WC especially in cases

³ On February 13, 1998, the Commissioner of Social Security renamed OPIR, the Office of Quality Assurance and Performance Assessment.

where WC was previously removed; consider offsetting at the state maximum in cases where WC verification is pending; revamp the records management system to better account for and maintain valuable documentation in support of claims paid; implement an MBR control to ensure that WC offset actions are taken prior to authorizing benefits; and, provide more training for adjudicators and reviewers assigned the responsibility of processing DI claims with WC offsets.

AGENCY COMMENTS

Overall the Agency agreed with or has taken action on 11 of the 13 reported recommendations. SSA recognized the complexity of WC cases and the fact that WC cases were prone to error. The Agency raised concerns with our definition of an error, the definition of overpayments, and the composition of our sample. SSA also rejected our recommendation to report the WC issue as a material internal control weakness under FMFIA and did not agree to always offset based on the State maximum. Irrespective of these concerns, SSA agreed there was a need to improve processing accuracy in WC cases and continues to explore ways to do so. SSA is pursuing data matching with the Department of Labor and direct access to State data bases.

SSA also provided a limited number of technical comments that have been considered and incorporated in this final report. The full text of SSA's comments is included in Appendix E.

OIG RESPONSE

We reported errors that resulted from beneficiaries providing incorrect or incomplete information, and cases where the errors would have subsequently been adjusted by SSA. SSA would prefer not to report these actions as errors or overpayments. Instead, SSA maintains that such errors are adjustments and would only affect the timing of the correct benefit payment.

We disagree with SSA and believe that for management to effectively evaluate the accuracy and reliability of its WC process, all errors should be disclosed regardless of whether the DI benefit error was later found and adjusted or caused by the beneficiary. Based on our analysis, the overall effect of errors in question is more far reaching than a timing difference. The failure to correctly pay DI benefits results in a loss of program dollars, a failure to meet the Agency's commitment to world-class service and fosters negative public opinion regarding the integrity and reliability of SSA's payment process.

SSA also contends that the number of appeal cases in our sample was high in relationship to the mix of all WC cases. We reviewed the relationship of appeal cases

to the 50 cases reviewed and to a 200 case sample that was randomly selected from the WC population. These relationships appear consistent and do not indicate that the case mix was aberrant.

The total number and dollar of errors identified during our review is considered significant when projected to the entire population of WC cases. This fact coupled with the knowledge that prior audits and reviews demonstrate a long history of problems relating to WC offset with little or no remedy, should encourage SSA to report the WC offset as a material internal control weakness under FMFIA. SSA should not base its reporting of a material weakness only on benefit outlays because this threshold is so large and would prevent significant program deficiencies from being reported.

Finally, we continue to recommend that SSA redevelop the alleged WC information prior to initial payments or offset based on the State WC maximum. In particular, this practice should be followed in appeal cases where applications are submitted months or years earlier. This would reduce the number of overpayments and the time and effort the Agency expends collecting DI overpayments.

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INTRODUCTION

OBJECTIVE

The objective of this audit was to review Social Security title II DI benefits paid to individuals who also receive WC payments and the internal controls established over that process to ensure payment accuracy.

BACKGROUND

SSA administers the OASDI program under title II of the Act. Section 223(a) of the Act requires SSA to provide monthly Social Security DI benefits to individuals who are insured for disability insurance and meet specific disability requirements.

Workers who are injured on the job may qualify for title II DI benefits. As a disabled worker, in addition to DI benefits, these individuals can also be eligible for benefits under Federal and State WC programs. This DI and WC overlap may result in a situation where workers receive more in disability benefit payments than they earned prior to becoming disabled.

WC Offset

Congress, concerned that those workers experiencing increased earnings under disability may not be motivated to actively seek rehabilitation, enacted the WC offset provision under section 224 of the Act. This provision required SSA to offset DI payments by any other disability benefit paid under any law or plan of the United States, a State, or political subdivision. This included benefits authorized under the Longshore and Harbor WC Act, Federal Employees Compensation Act, Federal Mine Safety and Health Act - Part C, and various State WC programs. In each instance, the DI benefit is the one reduced,⁴ unless the other disability payment originates from a State with a “reverse offset” law.

⁴ Total benefit payments, with respect to the worker, will not be reduced below the amount of the unreduced monthly Social Security benefit (primary insurance amount). Sections 224(a) and 224(d) of the Act.

Reverse Offset Provision

Prior to 1981, Congress allowed reverse offsets to prevent the inequity of a double offset when both SSA and a State would offset the benefits provided by each other. States which had passed reverse offset laws were allowed to reduce the amount of the State WC payment by the amount of the DI payment instead of SSA reducing the DI benefit. However, this approach had the effect of using Federal taxes to subsidize State WC. Therefore, GAO recommended, in a 1980 report,⁵ that Congress revoke the legislation authorizing States to reduce WC benefits. Congress later eliminated the reverse offset option for all States which had not already enacted laws as of February 18, 1981.⁶ Nevertheless, at that time, 14 States had reverse offset laws and they continue to use Social Security DI benefits to offset State WC benefits.

Provisional Payment Process

To implement provisions of section 224 of the Act,⁷ SSA inquires about WC during the application process. The claimant is asked whether he has filed or intends to file a WC claim and, if filed, the status of the claim. If a favorable disability determination is made, the provisional payment amount is determined, pending actual WC verification, by using either the amount alleged by the claimant or the State maximum rates listed in POMS. SSA will initially accept any supporting WC documentation to calculate the beginning provisional monthly DI payment.

This initial award (the first time a beneficiary receives any Social Security benefits), reduced for WC payments, can be processed at the FO or the PSCs which includes the Office of Disability and International Operations (ODIO).⁸ The PSCs and ODIO process ALJ rulings and postjudicative actions involving WC payment offsets. ODIO processes cases where the worker (primary beneficiary) is under age 55. The PSCs process those cases in which the primary beneficiary is 55 or older. The FOs usually process initial awards from the State Disability Determination Services and court rulings. Once a provisional payment is authorized, SSA will send a letter of notification to each beneficiary, explaining how a portion of the Social Security benefit was affected by the WC offset. The beneficiary is also advised that, once WC payments are verified, the WC offset could change resulting in a different SSA benefit amount. Under POMS, both the provisional and final DI benefits must be reduced so that the combined disability payment is no larger than: 1) 80 percent of the worker's predisability earnings

⁵ Report to the Chairman on the Committee on the Ways and Means House of Representatives of the United States, Legislation Authorizing States to Reduce Workers' Compensation Benefits Should Be Revoked, (GAO/HRD-80-31), March 6, 1980.

⁶ Omnibus Reconciliation Act of 1981, P. L. No. 97-35.

⁷ Section 224 (a1, a2, a5, a6, b, d, e, f) of the Act.

⁸ ODIO has been renamed the Office of Central Operations.

(average current monthly earnings [ACE]); or 2) the total family benefits (i.e., the sum of the individual's Social Security benefits payable to all others based upon his work record) before reduction.

WC Verification During Postadjudication

During the postadjudication process, SSA will solicit appropriate WC verification from the primary beneficiary and possibly his attorney. If the worker is unable to obtain the appropriate verification, SSA will send out third-party verification requests to:

1) insurance carriers, 2) State WC boards, 3) self-insured employers, and/or 4) the courts. SSA's policy is to establish 60 and 90-day diaries to follow up on cases where WC verification is pending and to continue to redevelop and rediary until WC is verified.

For any other postadjudication adjustment, SSA relies on the beneficiary to voluntarily report subsequent changes that could affect benefits (i.e., changes in WC payments). SSA needs to receive independent verification of any reported change prior to the current offset being modified. Without independent verification, the current benefit payment remains the same and the offset continues.

Appointed Representative Fees

Section 206(a) of the Act directs SSA to remit a portion of the claimant's benefit to appointed attorney representatives assisting a claimant during any or every step in the proceedings before SSA, i.e., initial determination; reconsideration; and hearing and/or Appeals Council Review. The appointed representative fees are limited to 25 percent of the past due benefits or \$4,000. The appointed representative fee may exceed \$4,000 if the representative appeals the fee award, files a fee petition, and persuades SSA to increase the fee.⁹ However, SSA pays no more than 25 percent of past due benefits to the appointed attorney. The appointed attorney must collect amounts in excess of 25 percent directly from the claimant or the auxiliaries.

Past due benefits are benefits accruing to the primary and all related beneficiaries under title II of the Act because of a favorable administrative determination or decision, up to, but not including, the month SSA effectuates the determination or decision. When calculating past due benefits, SSA must consider any WC offset amount. SSA excludes benefits that a claimant will not receive because of a deduction event. Therefore, the computation for reducing past due benefits by the WC payments has to be accurate in order for the attorney fee to be correctly calculated.

⁹ Section 2017, 2018 and 2019 of the SSA Handbook.

Protected Increases in DI Benefits

Beginning in June 1975, Social Security benefits were protected from increases in the cost of living through a cost of living allowance (COLA). COLA help maintain the purchasing power of DI beneficiaries once a person became eligible. Since 1983, the COLA has been effective in December of each year. COLAs are provided whenever the consumer price index rises.

POMS provides for adjustments to the total family benefit (TFB) if there is a change in family composition. The TFB is recomputed as if the new number of auxiliaries¹⁰ was entitled in the first possible month of offset. However, if an auxiliary no longer meets the eligibility requirements, the remaining auxiliaries receive a revised equal portion of the primary insurance amount (PIA). The TFB does not change because of a PIA recomputation or a COLA increase. According to section 224(a)(7) and (a)(8) of the Act, any increases in benefits are protected following the first month WC payments reduced the title II benefits.

Triennial Redeterminations

If the WC offset remains in effect without any interruption, the case will be selected for a triennial redetermination in the 3rd year following the year the offset is imposed and each 3rd year thereafter. The periodic triennial redetermination a cost of living adjustment designed to help overcome, in part, the erosion in the earnings replacement value of disability benefits by taking into account inflationary increases in levels of earnings. Under section 224(f) of the Act, the triennial redetermination can never result in a decrease in the total amount of title II benefits payable based on the individual's earnings record and becomes effective in January of the redetermination year. The triennial redetermination does not involve direct contact with the beneficiary or a reassessment of WC benefits.

Example of WC Offset Calculation

The following example illustrates how a simple WC offset might reduce DI benefits.

A worker was earning \$1,652 (ACE) a month before becoming disabled. He is eligible to receive \$728 in total family DI benefits, and \$1,083 in monthly WC payments. According to section 224(a) of the Act, SSA takes the larger of the offset limit, which is 80 percent of the \$1,652 (\$1,321) or \$728 (DI Benefit), less the monthly WC payments, resulting in the DI payment being limited to \$238.

¹⁰ Auxiliaries are spouses and/or dependent child(ren).

DI benefit subject to offset	\$ 728
80 percent x \$1,652 (ACE)	<u>\$ 1,321</u>
Offset Limit (larger of \$728 or \$1,321)	\$ 1,321
Less: Workers Compensation	<u>(\$ 1,083)</u>
Amount of DI Payable	<u>\$ 238¹¹</u>

Prior Audit Reports

GAO, HHS/OIG, and SSA/OPIR have performed audits and reviews of the WC offset process. These audits identified problems very similar to the ones we are reporting.

In 1983, GAO issued a report¹² which indicated that better case file monitoring of WC offset could have saved SSA at least \$43.1 million in FY 1981. GAO reported that, in one-third of the cases reviewed, beneficiaries did not report WC benefits to SSA. For the other two-thirds, SSA failed to follow up on WC information in the case file. For a long-term solution, GAO recommended that SSA pursue the possibility of computer matching with the Department of Labor's WC files to identify individuals collecting Federal (public) disability benefits. GAO also recommended that SSA do a better job of case file development and review to identify offset cases. SSA indicated that it would enhance the case review process by requiring diaries to be set at 6-month intervals as a reminder to follow up on pending WC benefits. SSA also committed to perform quality control studies at district offices and PSCs, and to review the offset process.

HHS/OIG issued reports in 1991¹³ and 1993¹⁴ concerning WC offset. HHS/OIG reported that SSA had WC overpayments totaling \$35 million because WC was not reported. One reason for the errors was that SSA did not detect or properly code all WC cases.

HHS/OIG also concluded that the reverse offset laws should be eliminated and reiterated GAO's previous recommendation that Congress should rescind the law that allowed for reverse offset plans prior to 1981. SSA agreed with the importance of properly coding WC payments, but deferred action on rescinding the law pending completion of its own study. The SSA study, completed in April 1994, recommended to

¹¹ The WC offset computation can become more complicated if any one or all of the following must be considered: 1) mid-month WC rate adjustments; 2) termination of periodic WC payments; 3) lump sum WC payments with excludable medical and legal expenses; 4) adjustments to periodic WC payments due to rate changes; 5) periodic payments reduced due to attorney's expenses; 6) a family composition including a spouse and/or children; 7) family composition changes; 8) a lump sum and periodic payment occurring simultaneously; 9) triennial redetermination increases; and/or 10) COLA increases.

¹² "Better Case File Monitoring of the Workers' Compensation Offset Provision by Social Security Administration Could Save Millions" (GAO/HRD-83-90), September 30, 1983.

¹³ "Unreported Workers' Compensation Payments" (OEI-06-89-00900), November 1991.

¹⁴ "State Reverse Offset Laws for Disability Benefits" (OEI-06-89-00902), May 1993.

rescind reverse offset State exemptions. Since then, SSA has included a proposal to rescind the reverse offset provision in its annual package of proposed legislation sent to the House of Representatives, Committee on Ways and Means.

In response to the 1983 GAO report, SSA promised to perform quality control studies and to review the offset process. OPIR completed the agreed study in 1985.¹⁵ In this study, OPIR reported that diaries had not been resolved for 2 years after the date of adjudication in 86 of the 300 cases it reviewed. The result was an average overpayment of \$1,170 per case. The 1985 study recommended that SSA control diary alerts until the pending WC offset issues were resolved. However, in 1991,¹⁶ OPIR reported that although management concurred with the 1985 recommendation, it was never implemented. In a 1991 follow-up analysis, OPIR emphasized that 6 years after its original recommendation, the situation had markedly worsened. OPIR had examined 209 additional cases with offset issues pending resolution 2 years after adjudication. Out of the 209 cases reviewed, 144, or 68.9 percent, were still unresolved 2 years after adjudication. OPIR concluded that this increase in unresolved offset issues occurred because, in many instances, there was no follow-up contact with the beneficiary after establishing the one-time diary.

In 1997, OPIR issued another report¹⁷ that included disability-related, nonmedical issues, such as the incorrect handling of WC disability benefits. In this report, OPIR discussed SSA's failure to offset or impose offset when issuing the initial benefit payments. In particular, OPIR was concerned that SSA did not redevelop a case, after a favorable disability decision, when the original claim was filed months or even years earlier. OPIR stated that conditions existing at the time of a claim sometimes changed. For example, a claimant indicated that a WC offset was applicable in the original application, but later his WC payments changed. OPIR reported that errors often occurred when WC information on the original application was not updated prior to adjudication because, for most of these cases, the claim was awarded at the hearing level, and the WC issue was not revisited when the award was processed. OPIR concluded in its review of nonmedical issues, that WC issues accounted for the largest amount of dollar error in its sample. OPIR did not propose a recommendation to resolve this well-developed issue, nor did the Agency take any independent corrective action.

¹⁵ 1985 Workers' Compensation/Public Disability Benefits (WC/PDB) Study.

¹⁶ "Corrective Action Recommendation for Workers' Compensation/Public Disability Benefit Offset Cases" – ACTION, Report No. S6BA2.

¹⁷ "Results of Title II DI Claims Nonmedical Quality Probe" – ACTION, Report No. S1KG1.

SCOPE AND METHODOLOGY

To accomplish our objective, we reviewed the laws and regulations concerning the offset of DI benefits with WC payments, and related SSA policies and procedures in POMS; discussed the WC offset process with SSA's central office, regional, and FO personnel to obtain an understanding of how WC payments affect DI benefits; observed SSA personnel processing WC offset at FOs and ODIO; and viewed records storage operations at the Rolling Heights Megasite Facility. We also reviewed evaluations to determine what prior reportable conditions existed involving WC offset.

To test whether SSA reduced title II benefits for individuals receiving WC payments, we used an SSA data extract from the MBR identifying all beneficiary records with an offset indicator¹⁸ for State WC. We limited our review to those cases involving the offset of State managed WC benefits. We did not review other public disability benefits requiring offset under section 224 of the Act including both State and Federal public disability benefits, or any combination of State managed WC benefits and public disability benefits. The SSA extract contained 183,881 cases with State WC benefits covering the period from January 1993 through June 1996. We did not audit the data extract to determine whether it contained all the WC cases.

From the data extract, we selected a simple random sample of 100 cases. However, we were later forced to limit our review to 50 cases because, over a 7-month period from March through September 1997, SSA was only able to locate 67 of the initial 100 cases. After another 6 months, SSA located 18 more of the 33 outstanding cases for a total of 85 case files out of 100. In addition, for 18 out of the 50 cases reviewed, SSA did not verify WC. This required us to obtain the missing verification, in order to determine whether the WC offset was applied accurately from the month of entitlement through October 1997. As of March 1998, we were still missing WC verification for 13 of 18 cases.

Because of the difficulty in obtaining case files and WC verification, we have based our projections on the errors identified from our review of 50 cases. However, when we project, we are using the entire sample of 100 cases assuming that the remaining 50 cases, which were not reviewed, are correct. We also reduced the sample dollar error by approximately \$9,580 by eliminating errors made in fees paid to appointed representatives. Therefore, we consider the projected dollar errors and the dollar error rate presented in this report to be very conservative. If we were to review the remaining 50 cases in our sample, we would expect the projections to increase.

Because of the number and extent of the problems identified in the first 50 cases, we requested that SSA analyze 10 of the most difficult cases. SSA agreed with our

¹⁸ We selected those cases with an Offset Code for workers' compensation and an Offset Type identified as State workers' compensation.

analysis in 8 cases with only minor changes. We reclassified another case based on ODIO's recommendations; however, as a result, the case's dollar error actually increased. In the last case, we disagreed with the Agency's conclusion that acceptable WC verification was received.

Our audit included an evaluation of existing controls, policies and procedures specifically related to DI calculations involving State WC offset. The findings in our report include any control weaknesses identified during the audit and our recommendations to correct the deficiencies, where appropriate. Site visits were performed at the following locations: Atlanta and Tucker, Georgia; Baltimore, Maryland; and Birmingham, Alabama.

Other issues did come to our attention that we believe warrant further audit effort. For example, we believe that issues surrounding the calculation and payment of appointed attorney representative fees are sufficiently material to warrant a separate review. Also, additional audit work needs to be performed to determine whether beneficiaries reported workers' compensation payments to SSA. Since these issues are not directly related to the objective of this audit, they will be developed and reported, separately. Audit field work was performed from February 1996 through March 1998. This audit was conducted in accordance with generally accepted government auditing standards.

RESULTS OF REVIEW

DI benefits were not accurately computed in compliance with WC offset requirements. In 41 of 50 cases reviewed (some with multiple errors), there were 65 payment errors resulting in overpayments totaling \$209,451 and underpayments totaling \$77,009. While SSA had a formal system for processing title II benefits, the process was flawed and oversight controls lacked a quality standard to detect problems which caused payment errors. As a result, title II disability benefits were not accurately paid. Projecting our sample results, errors totaling \$385.1 million in overpayments and \$141.6 million in underpayments may exist in the MBR for a total dollar error of \$526.7 million in 75,391 cases. We estimate that the percent of dollar error, when compared to what should have been paid, was 8.66 percent of the \$6.326 billion in title II benefits.

COMPUTATION OF TITLE II BENEFITS

From January 1993 through June 1996, 183,881 State WC offset cases received an estimated \$6.326 billion in benefits from their month of entitlement through October 1997. However, our review showed that a large portion of these benefits were not computed correctly resulting in a potential dollar error of \$526.7 million when projected to the universe of 183,881 cases. These miscalculations resulted from a variety of procedural errors which occurred during the application and postadjudication process. The following chart shows the payment accuracy rates for cases sampled.

ACCURACY OF PAYMENTS FOR SAMPLE CASES

CASES	TOTAL CASES REVIEWED	PERCENT OF CASES
CASES WITH ERRORS	41	82%
CASES WITHOUT ERRORS	9	18%
TOTAL CASES	50	100%

Based on POMS, a risk of an erroneous payment is greater while WC verification is pending. However, our analysis disclosed that a high-risk existed for an erroneous payment regardless of whether WC was verified, or not verified. To demonstrate this, the following table shows the types of payment errors found in the sampled cases.

TYPE OF PAYMENT ERRORS

<i>ERROR DESCRIPTION</i>	<i>NUMBER OF PAYMENT ERRORS</i>	<i>PERCENT OF PAYMENT ERRORS</i>
Initial Benefits Not Reduced	3	4.7%
WC Not Verified Timely ^A	13	20.0%
Adjustments in Benefits Not Appropriate or Inaccurate	15	23.0%
Mishandled Lump Sums ^B	6	9.2%
Benefits Adjusted Contrary to POMS	8	12.3%
Triennial Redetermination Untimely	10	15.4%
Appointed Representative Fee ^B	10	15.4%
TOTAL ERRORS	65	100.0%
<p>A. SSA did not verify WC payments in 18 cases. We requested that SSA obtain the WC verification. As of March 1998, we had WC verification on 5 of the 18 cases.</p> <p>B. The delayed verification of WC may also have contributed to payment errors.</p>		

Because of the large number of errors identified in the sampled WC cases (\$526.7 million total dollar error), we consider the overall weaknesses identified in the WC offset process to be material under FMFIA. SSA has not effectively implemented the WC offset provisions as adopted in its mission statement.¹⁹ In addition, as discussed below, the current process has produced a variety of payments errors that could affect the overall accuracy of thousands of title II disability benefit payments.

Timely Verification of WC Payments

WC payment information must be verified to assure the accurate computation of title II benefits. WC verification was obtained for 32 of the 50 cases reviewed. In 13 of the 32 cases, WC verification was received timely. For the remaining 18 cases, WC verification was not obtained and benefits continued to be offset based on the initial unverified information provided by the claimant or the claimant's attorney. As of March 1998, we were successful in obtaining WC verification for 5 of these 18 cases. In each of these cases and in 5 of the 32 cases, payment errors totaling \$33,198 occurred because the verified WC amount differed from that used in calculating the provisional benefit amount. For 37 cases, overall delays ranged from 1 to 71 months allowing payment errors to continue for the same period before correction. By not verifying WC information timely, SSA caused incorrect payment amounts totaling \$51,908 through October 1997.

Per POMS, SSA is not required to verify WC information until the claimant receives a favorable disability decision. When a disability claim is adjudicated, SSA contacts the

¹⁹ Mission Statement: To administer national Social Security programs prescribed by legislation in an equitable, effective, efficient, and caring manner.

claimant, "postadjudicatively" for the WC verification. If WC verification is not readily available, SSA is required to initially offset the monthly DI benefit based on either the alleged amount or the State maximum. When obtaining WC verification, the worker/beneficiary should always be the first source. According to POMS, the worker's attorney can only be used as a source if the attorney provides award notices, settlement agreements, and/or a statement on the amount of the legal fee which confirms the amount of the WC award. If SSA is unable to obtain the information from the worker or the attorney, SSA can request third-party verification, i.e., from State WC agencies. However, in cases where the file documentation contained conflicting information, State WC boards and/or the insurance carriers were not always contacted to resolve the conflict. Additional verification and explanation was not requested from the worker which resulted in unnecessary delays.

In at least 18 of the cases, either WC verification was not obtained or the case worker accepted inappropriate WC verification and failed to rediary and redevelop as required under POMS until the WC issue was resolved. In one case, title II benefits were reduced using information that the worker's attorney submitted which was neither a court settlement nor an award notice. SSA used this documentation as verification and adjusted the DI benefit using the attorney's alleged amount. While this would be an appropriate tactic to estimate the provisional DI benefit, appropriate WC verification should have been subsequently obtained. The case worker should have established a diary to indicate that WC verification was still pending. The case should have been redeveloped and rediaried until WC verification was obtained and the correct monthly benefit calculated.

Overall, 37 of the 50 cases we reviewed showed delays ranging from 1 to 71 months when obtaining WC verification. As of October 1997, it took an average of 22.5 months, from the date a case was adjudicated or when SSA became aware of WC payments until WC verification was received. Out of the 37 cases 23 were ALJ cases that, on average, took 22.6 months following the ALJ decision or when SSA became aware of WC payments to obtain the needed WC verification. The remaining 14 cases took an average of 22.3 months following adjudication or when SSA became aware of the WC payments to obtain WC verification.

If SSA had verified WC payment information timely, it could have prevented those situations where a disabled worker might: 1) receive more in disability benefits than the disabled worker was earning prior to becoming disabled; or 2) receive more, or less, in monthly benefits than the disabled worker was entitled because the estimated amount of WC payments provided was incorrect or subsequently changed. Without timely confirmation of WC benefits, accurate monthly DI benefits cannot be assured.

Reduction of Title II Disability Benefits for State WC Benefits

In 3 of 50 cases, title II benefits were overpaid because DI claims were not offset for WC benefits. In two of the cases, file documentation indicated that the claimant alleged receiving WC payments, but SSA did not compute and reduce the initial DI benefits. In the third case, SSA did compute a WC offset, but this data was not used to offset the initial DI benefit. SSA eventually discovered these errors but not until \$35,555 in DI benefits were overpaid.

Under section 224 of the Act, once SSA determined that a WC offset was applicable,²⁰ the DI benefit should have been reduced prior to releasing the first monthly payment following the favorable disability decision. If available, SSA should use the verified WC amount to calculate the title II benefit reduction. If WC verification is not immediately available, SSA will use either the amount alleged by the claimant or the State maximum amount to calculate the initial offset. Anytime a claimant is receiving WC payments, the DI benefit must be offset.

Subsequent Changes in WC Payments

Subsequent changes in State WC benefits that directly affected DI benefits were either not identified or, if identified, incorrectly adjusted in 15 of the 50 cases. In 6 of the 50 cases, the beneficiaries failed to report changes in State WC benefits, which resulted in payment errors of \$61,369. In another seven cases, when changes in State WC benefits were reported, adjustments to the DI benefit were not correct, resulting in overpayments of \$12,081 and underpayments of \$17,171. In the last two cases, WC offset was removed without supporting documentation resulting in \$9,442 in overpayments. These monthly DI payment errors were caused, in part, because subsequent changes in WC payments were not identified and addressed. In addition, a lack of quality standards and controls contributed to SSA's inability to detect these errors.

POMS states that, after the WC offset is initially imposed, any change in the WC payment rate requires a recalculation of benefits. A recalculation is required when SSA receives documentation indicating that a State WC case is closed and there will be no further WC payments or awards, or when the WC payment rate otherwise changes. Depending on the change, the new offset computation may result in either an increase or decrease in total benefits payable to the family. SSA relies totally on the beneficiary to report any subsequent changes in State WC benefits.

²⁰ A WC offset may not be applicable if the based on a high ACE or if WC benefits are from a reverse offset State.

In the six cases where SSA previously verified WC, we obtained subsequent verification indicating the WC rate had changed in 4 of the 6 cases resulting in payment errors totaling \$2,096. In the remaining 2 cases, SSA overpaid benefits totaling \$59,273. One of the case's documentation indicated, after adjudication, a subsequent disability claim resulted in the claimant receiving State WC payments. In the remaining case, the case documentation indicated the benefits ended. Subsequent verification indicated that WC payments continued for over 1 year after the WC offset was removed and then a lump sum was awarded. In all six cases, the beneficiaries failed to notify SSA of the change in WC benefits.

In seven of the other nine cases, even after case workers obtained documentation to support subsequent State WC payment changes, the changes made to the monthly DI benefit were incorrect. This resulted in overpayments totaling \$12,081 and underpayments totaling \$17,171. For example, in one instance, there was an adjustment to a claimant's payment rate where partial payments were received for 2 months with no WC payments in another month. The DI benefit was offset for the entire 3 months. Per POMS, if WC payments are not received for the entire month, recalculating the offset requires SSA to reduce the monthly DI benefit pro rated by the number of days during the month when WC payments were received. In another case, the WC payments ended during the month. The DI payment was reduced for the entire month. Again, the benefits should have been reduced only by the number of days in the month WC payments were received. In one more case, documentation indicated that a WC rate change occurred but the monthly benefit was not adjusted. For two other cases, WC offsets were removed, but there was no documentation in the case file to support the removal resulting in overpayments totaling \$9,442. To prevent future payment errors, changes in State WC benefits should be closely monitored and, once discovered, accurately applied to ensure that the monthly DI benefits are appropriately adjusted.

Lump Sum WC Settlements Impact Title II Benefits

Monthly DI benefit payments were not correctly computed for six cases when lump sum WC payments were involved. In one case, there were errors in computing the lump sum offset that resulted in an underpayment. In another case, the case worker did not offset DI benefits when the beneficiary disclosed a lump sum WC payment. In one more case, there was a delay in removing the lump sum offset that resulted in an underpayment. In another case, a payment error occurred because the implementation of the offset was delayed. In one more case, SSA incorrectly offset a periodic payment like a lump sum settlement. In yet another case, SSA without justification selected a method that did not pay the highest total family benefit. The resulting errors in these cases totaled \$17,442 in overpayments and \$9,403 in underpayments. These errors occurred because appropriate action or follow-up action was not taken. For example, case workers should have followed up to execute the delayed WC offset, and

accurately and timely removed lump sum offsets when an offset is terminated. In these six cases, the lack of case follow up and quality assurance review resulted in a total dollar error of \$26,845.

The process of reducing DI benefits by the amount of the lump sum requires SSA to begin the offset based on the period specified in the award. If this is not disclosed and periodic payments are awarded prior to the lump sum, offset should begin the day after the periodic payments end. If periodic payments are not involved, SSA should use the date on the lump sum settlement to begin the offset. The total lump sum benefits used in the offset calculation may be reduced for attorney, medical, and miscellaneous expenses that were included in the award settlement.

The lump sum should be prorated, by comparing three methods, and selecting the one method that is most beneficial to the entire family. The differences among the methods are that one delays the imposition of the offset, another reduces the weekly rate based on a percentage of the expenses, and the last removes the offset at the earliest possible time. In most instances, the method that pays the most total family benefits will be selected. These exceptions include when imposition is delayed and an overpayment occurs, there is a future effect of a reverse offset situation, or the worker is terminally ill. The case worker must set diaries for any unresolved issues in the offset process, i.e., when an action needs to be taken at a later date. However, in 6 of the 50 cases we reviewed, the necessary follow-up actions were not taken or quality assurance reviews were not performed which resulted in incorrect monthly DI benefit payments.

Compliance with POMS

In 8 of the 50 cases, individual monthly benefit amounts were adjusted contrary to provisions in POMS. In one case, the monthly benefits of an individual were incorrectly adjusted when a change occurred in her PIA following the initial offset. We found seven other cases where the COLA was inaccurately calculated. COLAs are protected increases in benefits; however, COLAs were inaccurately calculated based on changes in the family composition in five of the seven cases. In the sixth case, the beneficiary was not paid an increase in benefits due to a COLA adjustment. In the seventh case, the COLA was not adjusted proportionally to the total family benefit. Errors in calculating the COLA adjustments resulted in both overpayments and underpayments totaling \$15,771. These DI payment errors were caused, in part, because there was a lack of quality standards to detect these errors.

Timely Triennial Redeterminations Prevent Underpayments

Of the 50 cases, 22 required triennial redeterminations. Triennial redeterminations in 15 out of 22 cases were not completed timely. For 10 of the 15 cases, underpayments

resulted totaling \$8,501. For the remaining seven cases reviewed, we could not exact the time it took to make the triennial redetermination because the documentation was not dated and signed; or there was no documentation; or there was no increase in benefits. We could not establish, nor did SSA establish, that all the triennial redeterminations were accurately completed.

SSA is required to complete a triennial redetermination on identified DI cases. Triennial redeterminations are another type of cost of living adjustment designed to help overcome, in part, the erosion in the earnings replacement value of disability benefits. The triennial redetermination can never result in a decrease in the total amount of title II benefits payable based on the individual's earning record and becomes effective in January of the redetermination year. However, the actual time it took SSA to complete these triennial reviews ranged from 3 to 46 months past the January effective date. By not performing timely triennials, beneficiaries did not receive the level of service expected when Congress enacted the triennial redetermination provision.

Historically, the test file that identifies the disability cases meeting the criteria for the January triennial redetermination has not been created until March of the same calendar year. Because the triennial review requires a series of validation tests, the system release and implementation did not actually occur until mid to late May. Therefore, SSA normally could not begin to process the cases selected until sometime in June. This was 6 months after the January effective date. Also, because SSA did not establish a time limit to complete the triennials, some reviews were often delayed for several more months.

SSA officials informed the audit team that the MBR did not have any limitations which would prevent the test file from being completed earlier than mid to late May. In fact, staff indicated it was possible to perform the initial testing of the extract during November or December with the final extract available in February - the month following the January effective date. If SSA would place a time limit on completing triennial redeterminations, it would be possible to have the triennials completed 2 to 4 months following the January effective date.

While triennial redeterminations currently remain a requirement, in its 1996 legislative proposal, SSA recommended that triennial redeterminations be discontinued. SSA recommended this change because triennial redeterminations act as a type of COLA. The legislation that created the triennial redeterminations was enacted before the automatic COLA and, in SSA's opinion, the triennial redetermination largely duplicates the automatic annual COLA, which is protected from offset. Thus far, Congress has not acted to rescind the triennial redetermination requirement.

Appointed Representative Fees Impact the Monthly DI Benefit

Based on our analysis in 8 of the 32 cases, the appointed attorney representative fee paid was in error which adversely affected the workers' title II benefits. When a worker enters into a fee agreement or petition with an appointed attorney representative, SSA redirects a portion of the claimant's past due benefits to the attorney representative. The fee is usually associated with a percentage (maximum of 25 percent)²¹ of the worker's past due benefits. Past due benefits are defined as benefits from the month of entitlement up to the month prior to effectuating a favorable disability decision. Therefore, SSA must verify WC payments and calculate the WC offset reduction prior to calculating and paying the appointed representative fees on past due benefits. Nevertheless, in these eight cases, SSA did not verify WC timely to accurately determine past due benefits and, without the accurate calculation of past due benefits, the resulting appointed attorney representative fees were incorrectly paid.

Training Needed to Effectively Implement WC Offset Provisions

FO and PSC personnel lack the expertise needed to effectively implement the WC offset provision which is considered a cumbersome, complex, and confusing topic. Currently, SSA only provides 3 hours of training for the CRs and 16 hours of training for the CAs. SSA expects that following this training, managers at the FOs and PSCs will assign personnel to provide on-the-job-training and mentoring. However, based on the number of errors found in the 50 cases we sampled, it was evident that this training was insufficient. CRs and CAs processing claims either did not have a proficient knowledge of the established WC offset process or did not have enough time to effectuate that process.

Operational Goals Affect WC Cases

ODIO management operates in a manner to expedite the processing of cases. This requires staff to process the more complex workload, such as WC cases, in the same timeframe as less complex workloads. This adversely affects the accuracy of the DI benefit. At one time, POMS stated that:

“Adjudication is a delicate and complex job. If allowed to degenerate into an assembly line process, it can be dull and routine and lose much of its value, to the detriment of the claimant and SSA. If, on the other hand, each case is handled individually, as it should be *-on its merits-* it can be rewarding to the adjudicator, and it will result in work of a higher quality.”²²

While this cite was removed from POMS, the delicacy and complexity of processing title II benefits involving WC payments remained unchanged. Nevertheless, the

²¹ Fee agreements are 25 percent of past due benefits not to exceed \$4,000. Appealed fee agreements and fee petitions can exceed \$4,000 but SSA will not pay more than 25 percent of past due benefits.

²² POMS section 4501b.

management environment emphasized managing workloads which lacked a quality standard control. The result had an adverse impact on the quality of the actions taken when calculating WC benefit payments.

For example, ODIO managed its cases by aging pending case actions and working those on a first-in-first-out basis. Under this procedure, the oldest pending actions were worked first. WC actions can require at least three actions involving the CA, benefit authorizer (BA), and typist. ODIO measured performance by counting, among other measures, the number of actions completed, the time it took to complete the action, and the remaining backlog. The overall objective was to timely process pending actions to effectively manage the existing backlog. For example, the overall CA backlog was expected to remain at less than 30 days. In addition, there were other measures that CAs had to address such as working all ALJ decisions, which includes WC offset, in less than 10 days. To meet these measures, CAs were conscious of the amount of time it took to process an individual action. BAs and typists had other individual production measures keyed on their ability to timely process pending actions.

WC actions, by their nature, adversely affected management's measures because they were time consuming. Based on our observations, management was not considering the complexity of working WC offsets when evaluating performance under this time-driven management process. The emphasis put on the ability of CAs and BAs to complete actions and maintain an acceptable backlog did not take into consideration the quality of the work. As shown in this report, the loss of quality resulted in undetected payment errors. Consequently, the WC offset process lost much of its value to the detriment of SSA (estimated overpayments \$385.1 million) and to the claimants (estimated underpayments \$141.6 million).

SSA CONTROLS OVER THE WC OFFSET PROCESS

SSA had a formal system for processing title II benefits but our review disclosed that the oversight controls established were often weak and lacked the ability to prevent and detect payment errors. We found that the diary process did not provide assurance that WC issues were appropriately resolved. Record management was also a problem. There was a general lack of supervisory review over the processing of WC cases, and procedures failed to assure that potential fraud cases were referred to OIG. Even when errors were detected (12 cases in our sample, totaling \$85,966), SSA's ability to collect the overpayments was hindered because of the beneficiaries' inability to pay. However, there were 23 cases in our sample with overpayment errors that went undetected. These cases had a combined total dollar error which amounted to an additional \$123,485 in overpayments for a sample total of \$209,451. However, underpayments were equally as troublesome because beneficiaries were deprived benefits to which

they were entitled. There were 23 cases in our sample where beneficiaries were underpaid a total of \$77,009. In 10 cases, beneficiaries were underpaid amounts in excess of \$1,000 each for a total of \$72,952.

Diary Process Intended to Ensure Appropriate Resolution of WC Issues

SSA's diary process was ineffective in assuring that outstanding WC issues were appropriately resolved. The diary process that existed during the period under review was a manual process. If any of the procedures for establishing a diary were not completed, or not completed accurately, the diary might not exist, or might exist but not be responded to as required. We found a case where one beneficiary was overpaid when a postponed lump sum was not offset timely and another beneficiary was underpaid when a lump sum was not removed on its scheduled termination date. In both of these cases, we could not determine whether diaries were established. In other cases where diaries were established, we could not always determine what action was taken, if any, to resolve the pending issue.

Records Location and Maintenance

ODIO could not readily locate case files which could inhibit the resolution of outstanding WC issues and the calculation of correct monthly DI benefits. Also, case files may be incomplete due to poor records management practices. Given 13 months, SSA was only able to locate 85 of the 100 case files we requested. SSA established a Megasite (record) storage facility to track and maintain all disability case files for individuals under age 55. SSA indicated that it was difficult to obtain files because the tracking system was not always accurate and up-to-date. The inability to locate 15 percent (15 of 100 cases) of a random sample of records is cause for concern. In addition, the fact that an estimated 1.9 million documents were awaiting filing at the Megasite raises questions about SSA's file maintenance practices. The fact that WC case files did not have appropriate WC verification may be directly related to this filing problem.

The intent of the Megasite was to make the process of obtaining files more efficient. In the course of obtaining a case file, a file request is made to the last holder of record. However, if the case file is actually located somewhere other than where the tracking system indicates, no one would respond to the case file request until the file's current site records its location. From SSA's extract of 183,881 State WC offset cases provided in March 1997, we requested SSA to provide 100 case files for audit. During the 7 months from March 1997 through September 1997, SSA was only able to locate 67 of the initial 100 case files. From October 1997 through March 1998, an additional 6 months, SSA located 18 of the remaining 33 cases for a total of 85 out of the 100 case files sampled.

ODIO will offset using the provisional WC payments and process the case to initialize

benefit payments. Usually, the case is then forwarded to the Megasite. At a later date, ODIO should receive the WC verification. ODIO will then make any appropriate adjustments which can generate additional documentation, i.e., form SSA-1203. Once finished, ODIO sends the WC verification and any additional offset documentation to the Megasite. The Megasite should associate this verification and documentation with the case file. However, while SSA may have obtained appropriate WC verification, it was not being associated with the case file during postadjudication. While the Megasite off-site storage facility was responsible for associating WC verification and SSA forms with the disability case files for individuals under the age of 55,²³ it was not being routinely accomplished.

During our visit to the Megasite in December 1997, we observed bundles containing thousands of documents, located in a general unrestricted work area open to all staff, which were waiting to be filed. We observed that this area had an active flow of staff traffic. Staff at the Megasite indicated that these bundles represented all types of information which included WC verification and documentation sent to the Megasite to be associated with the case files. The Megasite estimated that 1.9 million documents currently needed to be filed. The backlog existed because the Megasite did not have an established process that routinely associated the bundles of information with the appropriate case file. Therefore, some of the WC case files we reviewed could be incomplete.

Supervisory Review of WC Offset Process

Supervisory review should play an important part in assuring the quality and accuracy of the service provided in WC cases. However, SSA has not established an adequate measure to assure the quality of the front-line process. The only front-line supervisory review planned was one case file review per month per adjudicator. However, the chance that the one case would be a WC offset case was remote. We found no file documentation that evidenced any routine supervisory quality assurance review of the WC offset process.

WC Quality Assurance Reviews

OPIR has performed several reviews involving nonmedical DI benefits, including WC. As discussed below, these reviews performed 1, 7, and 13 years earlier evidenced some of the same conditions which are presented in this report. Nevertheless, the conditions persist and, as reported, significant DI overpayments and underpayments occurred because corrective actions were not taken.

²³ Age 55 effective November 1997.

In 1985, OPIR completed a study²⁴ in response to a 1983 GAO report where SSA promised to perform a quality control studies and to review the processing of potential WC offsets. In the 1985 study, OPIR reported that diaries involving pending WC issues had not been resolved for 2 years after the date of adjudication in 86 of the 300 cases it reviewed for an average overpayment of \$1,170 per case. OPIR recommended that SSA control diary alerts until the pending WC offset issues were resolved. However, in 1991,²⁵ OPIR reported that management concurred with the 1985 recommendation, but did not implement necessary corrective actions. OPIR reported that 6 years after its 1985 recommendation, the situation had markedly worsened. OPIR had examined 209 additional cases with offset issues pending resolution 2 years after adjudication. Out of the 209 cases, 144, or 68.9 percent, were still unresolved. OPIR concluded that this 40.3 percent increase in unresolved offset issues occurred because, in many instances, there was no follow-up contact with the beneficiary after establishing the one-time diary.

In 1997, OPIR issued another report²⁶ that included disability related, nonmedical issues, such as the incorrect handling of WC disability benefits. In this report, OPIR discussed SSA's failure to offset or impose offset when issuing the initial benefit payments. In particular, OPIR was concerned that SSA did not redevelop a case, after a favorable disability decision, where the original claim was filed months or even years earlier. OPIR stated that conditions existing at the time of a claim sometimes changed. For example, where a claimant indicated that a WC offset was applicable in the original application but later his WC payments changed. OPIR reported that errors often occurred when WC information on the original application was not updated prior to adjudication because, for most of these cases, the claim was awarded at the hearing level, and the WC issue was not revisited when the award was processed. OPIR concluded in its review of nonmedical issues, that WC issues accounted for the largest amount of dollar error in its sample. While this issue was well developed, OPIR did not propose a recommendation to resolve this issue, nor did the Agency take any corrective independent action.

OPIR reviews are an integral part of SSA's management control over operations. When OPIR identifies significant adverse conditions as discussed above, SSA management should take appropriate corrective actions to resolve the reported problems. WC issues should remain a major focus in OPIR's annual quality assurance process to assure that the problems identified in this report, and OPIR's prior reports are corrected.

²⁴ 1985 Workers' Compensation/Public Disability Benefits (WC/PDB) Study.

²⁵ "Corrective Action Recommendation for WC/PDB Offset Cases" – ACTION, Report No. S6BA2.

²⁶ "Results of Title II DI Claims Nonmedical Quality Probe" – ACTION, Report No. S1KG1.

Overpayment Recovery

As discussed, WC errors generally went undetected by formal oversight systems. However, even when discovered, SSA often was unable to collect overpayments. For example, SSA's ability to recover funds on 12 cases in our sample having \$85,966 in overpayments, as of October 1997, was limited. SSA waived \$9,268 in overpayments and recovered \$32,445 as of October 1997. However, \$44,253 in overpayments remained outstanding. Recovery is difficult for WC overpayments because the beneficiaries involved often do not have the financial ability to repay. When we projected the funds which were waived and recovered to what we estimate SSA would find in the total population based on the 12 cases discussed above, SSA would resolve only about \$76.7 million (48.5 percent) of \$158.0 million identified in overpayments. If we compare the total overpayments which would be waived or recovered by SSA (\$76.7 million) to the projected \$385.1 million in total overpayments estimated from our total sample, SSA would have resolved only 20 percent. This could potentially leave \$308.4 million dollars in overpayments outstanding. Hence, the importance of establishing sufficient management control is to prevent overpayments in the first place.

Refer Potential Fraud to OIG

ODIO did not have adequate controls to ensure that three cases involving potential false statements, which cost the SSA trust fund \$39,310, were referred to SSA/OIG. All cases that may involve fraudulent activity should be referred directly to OIG for investigation. It is OIG who has the responsibility for all matters related to fraud; therefore, failing to refer potential fraud cases hinders SSA's ability to deter inaccurate disclosures by applicants and affects the OIG investigative process.

For example in one of the cases, the claimant's application for SSA benefits stated that she was not receiving WC benefits because her case was under appeal with the State. Therefore, SSA did not apply an offset to the monthly DI benefit for State WC payments. While this was an appropriate response, it took 24 months after initializing benefit payments to receive the verification. Once received, the WC verification indicated that the claimant was receiving WC payments at the time of her application. The impact was a \$12,584 overpayment. The claimant later requested a waiver that ODIO denied. The beneficiary then claimed financial hardship and ODIO agreed to accept repayment by deducting \$75 each month from the claimant's benefit payments beginning February 1997. As of October 1997, SSA has only recovered \$675 of this overpayment. Based on the agreement, it will take SSA 14 years to recover the amount of the overpayment.

ODIO concluded that the claimant indicated the WC case was under appeal and agreed to promptly report any receipt of WC during the application process. Later, the beneficiary reported WC payments but did not provide verification. The beneficiary

failed to comply with SSA's request to provide WC verification. ODIO finally obtained verification through a third-party request which documented that the beneficiary was receiving WC payments when the beneficiary applied for title II benefits. The beneficiary did not provide the WC verification timely, and SSA determined that the beneficiary was at fault for causing the overpayment. In addition, we requested SSA to reverify the WC payments. SSA was able to find an additional \$83,250 in a third-party lump sum settlement which the beneficiary had failed to report. For the remaining two cases, one beneficiary indicated that the WC payments ended prior to entitlement. However, subsequent documentation indicated the beneficiary was receiving payments when the beneficiary applied. The other case involves documentation indicating WC payments had been denied and no appeal was pending. However, this document was not signed nor dated. Therefore, we contacted the State and verified that this beneficiary was currently receiving WC benefits.

Based on the documentation in the case folders, there was sufficient evidence of potential fraud for SSA to refer two of these cases directly to the OIG for investigation. In the third case, we found the evidence to support the removal of WC offset inadequate that raised questions regarding the authenticity of the documentation. SSA indicated that the authenticity of documentation would normally not be questioned. Therefore, SSA would neither have identified an overpayment nor referred this case to the OIG for investigation. SSA's policy requires that files contain adequate verification to support the removal of WC offset. In this case, the verification did not meet the Agency's policy. ODIO should not grant waivers or arrange settlements until OIG has an opportunity to complete a review of each potential fraud case.

CONCLUSIONS AND RECOMMENDATIONS

Our audit of WC offset cases disclosed that WC was not accurately offset 82 percent of the time because SSA: 1) failed to obtain WC verification or received it untimely; 2) failed to accurately adjust for changes in WC payments; 3) used incomplete or inaccurate processes when reducing DI benefits for WC lump sum settlements; 4) did not comply with POMS when making postadjudication adjustments; 5) completed required triennial redeterminations untimely; and, 6) miscalculated appointed representative fees. These problems occurred because SSA's control process was ineffective not only in preventing errors, but in detecting and correcting errors. SSA was ineffective in resolving those overpayments that were discovered. Finally, we found two cases, involving potential fraudulent actions, which SSA did not refer to OIG.

As a result, WC offset errors occurred which resulted in a potential total dollar error of \$526.7 million. This total consists of \$385.1 million in overpayments, much of which may never be recovered, and \$141.6 million in underpayments that must now be paid to beneficiaries. In effect, SSA has not assured that WC payments are effectively offset against DI benefits.

We recommend that SSA:

1. Recognize and identify WC offset as a reportable internal control weakness under FMFIA, including its significant \$526.7 million effect on the MBR, and the shortcomings in the administration and processing of workers' compensation offsets.
2. Review cases in our sample to determine the proper benefit amount and take the required actions on the \$209,451 overpayments and \$77,009 underpayments.
3. Emphasize timely referrals of cases to OIG where criminal or civil fraud is suspected.
4. Increase front-end reviews to more than one case per adjudicator each month. On the back-end, OPIR should continue to conduct reviews on the high-risk areas of WC Offset. The reviews should include the controls established to reduce high-risk, as well as a review on the accuracy of WC offset payments.
5. Establish a specialized group of WC adjudicators and reviewers to process the highly complicated WC offset claims.
6. Attempt to identify diaries that may have been lost or not implemented for the

183,881 WC cases in order for WC to be properly offset.

7. Require that cases be redeveloped, after a favorable disability decision, where the original claim was filed months or even years earlier.
8. Strengthen controls by requiring, every 3 years, a reverification of the status of State WC, especially in cases where there has been a prior removal of a WC offset.
9. Change the current regulation allowing the calculation of the WC offset against the initial DI benefits based on an alleged amount provided by the claimant. The regulations should require that, in cases when WC has not been verified prior to initial payment, the offset should always be calculated based on the State WC maximum. This change would provide an incentive for the claimant to produce timely WC verification to SSA and significantly reduce the number of overpayments that are now occurring.
10. Determine why the case file tracking system is unreliable in locating critical SSA records in a timely manner.
11. Revise the Megasite records policy regarding the filing of supplemental information in case files. Filing should be performed in a timely manner.
12. Implement an MBR control whereby action must be taken on the WC offset indicators prior to authorizing benefits.
13. Strengthen quality assurance programs and training to reduce potential program errors by: 1) following POMS procedures that were established to process State WC payment offsets; 2) being proactive in obtaining WC verification and accurately calculating benefits; 3) minimizing the number of cases sent to ODIO without WC verified; 4) expediting the processing of the system extracts for triennial redeterminations earlier in the year; 5) establishing a time period in which triennials should be completed and prioritize the workload so that all triennials are completed timely and accurately; and, 6) assuring COLAs are calculated accurately.

AGENCY COMMENTS

SSA recognized the complexity of WC cases and the fact that WC cases were prone to error. However, SSA raised concerns in four areas. First SSA was concerned with our definition of an error. The Agency took the position that an error should not be reported if there was an adjustment action or in cases where a beneficiary failed to report information. Second, SSA contended that the percentage of appeal cases in our

sample was higher than the percentage of appeal cases in the total WC population and; therefore, the dollar error reported was inflated. Third, SSA rejected our recommendation to report the WC offset issue as a material internal control weakness under FMFIA. SSA maintained that the dollar amount involved was insignificant, in terms of percentage of benefit outlays. Also, with efforts underway to reduce errors, SSA would not report the WC offset as a material weakness. Fourth, SSA did not agree that the WC offset should always be calculated based on the State WC maximum or reverified before establishing the initial DI benefit. SSA's experience was that this could cause more incorrect payments.

Overall the Agency agreed with or has taken action on 11 of the 13 reported recommendations. SSA also provided a limited number of technical comments that were considered and incorporated in the final report. The full text of SSA's comments is included in Appendix E.

OIG RESPONSE

During the comment period, SSA requested a meeting to provide us with an understanding of its policy on reporting errors. SSA's payment policy is to establish the DI benefit based on information obtained during the initial application and adjust the benefit later when changes in WC payments are identified. SSA believes this system will pay the beneficiary quicker and its internal controls will identify and correct benefit payment errors. As a result, the Agency maintains the only effect on the program is the timing of the correct payment. We agree that this policy would be appropriate for payment systems that have a high volume, low risk of error, and strong internal controls. Unfortunately, WC cases do not fit in this category. By SSA's own admission, WC cases are highly complex and error prone. Our results corroborate this assessment. A "pay now adjust later system" has not proven to be successful since our review disclosed payments with an 82 percent error rate. SSA's controls were not sufficient to detect these errors.

SSA's policy for reporting errors conflicts with the way we have reported errors in this report. SSA believes that errors should not be reported when, an adjustment action takes place or the beneficiary failed to report information. However, we believe that to evaluate the accuracy and reliability of its process, all payments issued in error should be disclosed regardless of whether the payment was later adjusted or not. Based on our analysis, the effect of the errors which SSA would not report is more far reaching than a timing difference. The failure to pay the appropriate DI benefit amounts result in a loss of program dollars, a failure to meet its commitment to world-class service, and imposes negative public opinion on the integrity and reliability of SSA's payment process.

Our review detected total errors of \$286,460²⁷ out of which \$85,966²⁸ represented overpayments identified by SSA. At the completion of our fieldwork, SSA had recovered only \$32,445 with the remaining amounts of \$9,268 waived, \$18,484 in reconsideration or waiver status for over 2 years, and \$25,769 in payment plans extending between 3 to 17 years. In addition to the overpayments, there was \$77,009 in underpayments.

Of the \$286,460 in errors, \$51,710 was the result of weak procedural policy. It was typical for SSA to base its payment on information obtained at the time of application even when the case has been under appeal for 2 years. Although SSA processed these cases according to its existing policy, a change in policy or controls would have prevented or lessened the overpayment amounts. For example, in one case, SSA did not offset at the initial award because the claimant indicated WC was pending at the time of application. Sixteen months after the claim was filed, SSA reached a fully favorable disability decision and issued full benefits covering the month of entitlement through the month of the initial award. If prior to issuing this award, SSA had contacted the beneficiary, he could have informed SSA he was receiving WC payments and thereby avoided the \$11,218 overpayment. It will take SSA over 5 years to recover this overpayment.

The positive effect of paying a beneficiary quicker and adjusting the payment later should be balanced with the negative effect on the beneficiary and the perception of the public that SSA does not process claims accurately. Individually, a beneficiary who has to repay an \$11,218 overpayment, or collectively, the perception of all beneficiaries who are affected by a process that results in an 82 percent error rate, should require management to review its existing payment policy and take corrective action.

SSA contends that the number of appeal cases in our sample is high in relation to the mix of all WC cases. In subsequent conversations with SSA's management, the case mix of the WC population was presented as 20 percent appeal cases. This is important because the effect of a higher case mix would result in an inflated dollar error since appeals cases produce higher dollar errors. We have reviewed the relationship of appeal cases to the 50 cases reviewed and to a 200 case sample from the population. We found that 34 of the 50 cases (68 percent) were appealed while 131 of the 200 cases (66 percent) were also appealed. These relationships appear consistent and do not indicate that the mix of cases is aberrant. We have asked for documentation to support the Agency's claim of a lower case mix. Specifically, we requested computer

²⁷ This represents a total of \$209,451 in overpayment errors and \$77,009 in underpayment errors.

²⁸ The difference between the total overpayments of \$209,451 and the \$85,966 is \$123,485 that represents additional overpayments identified during our audit.

printouts, manual analysis, or other supporting documentation including systems validation used for management's assertion. However, SSA's has not provided any documentation for us to analyze.

SSA rejected our recommendation to report the WC offset issue as a material internal control weakness under FMFIA. SSA contends that if one considers total benefit outlays and the Agency's efforts underway to reduce errors, the \$526.7 million is not material. Nevertheless, we continue to believe that WC offsets should be reported under FMFIA. Doing so would demonstrate that SSA places a high commitment on paying benefits accurately in line with its pledge to provide world-class service.

In determining whether to report WC offset under FMFIA, the Agency should consider that the dollar errors reported are very conservative. Because of the difficulty encountered in obtaining case files and the number of payment problems identified, we limited our actual review to 50 cases. Nevertheless, when we projected our sample results to the entire universe of 183,881 WC cases, we based those projections on our sample size of 100 cases. Using this methodology, OIG is accepting 50 cases as being totally correct which makes the projections in the report extremely conservative. The projections are conservative because, based on the number of problems found in the 50 cases, the probability that the remaining 50 cases are free from error is remote.

The Agency should also consider that prior audits and reviews have demonstrated a long history of payment errors relating to WC offset with little or no success by management to lower the error rate. GAO first reported WC offset problems in 1983 citing its findings as a material weakness. HHS/OIG repeated similar findings in 1991 and 1993. SSA's internal evaluators (OPIR) followed up on the GAO study in 1985 confirming that WC problems existed. In 1991, OPIR concluded that WC offset conditions worsened. In 1997, OPIR again reported on a variety of WC offset problems without resolution. Most of these issues are closely related to, or identical to issues contained in this report.

Therefore, SSA should not benchmark reportable material weaknesses only against benefit outlays. Although SSA has not defined what this benchmark amount would be, the materiality base for financial statement reporting ranges from about \$4 to \$12 billion. This threshold seems to be an extremely high standard for management to apply when reporting on material conditions that effect the efficiency and effectiveness of program operations.

APPENDICES

ATTRIBUTES APPRAISAL

Total Cases with Computational Errors

Total Population	183,881
Total Sample Size	100 ¹
Number of Cases with the Social Security Administration (SSA) Benefit Computation Errors	41
Projection of Cases in Total Population with SSA Benefit Computation Errors	75,391

CONFIDENCE LEVEL 90 percent confident that the actual number of cases in the total population with SSA benefit computation errors is between 60,130 and 91,405

¹ We selected a random sample of 100 cases. Because of the difficulty in obtaining case files and WC verification, we have based our projections on the errors identified from our review of 50 cases for which we received folders. When we project, we are using the entire sample of 100 cases assuming that the remaining 50 cases, which we did not review, are correct. If we reviewed the remaining 50 cases, we would expect the projections of the errors to increase.

VARIABLES APPRAISAL

Total Dollar Error in the Master Beneficiary Records

Total Dollar Error in Sample of 100 Cases	\$ 286,459.99
Total Sample Size	100
Average Total Dollar in Error	\$ 2,864.5999
Total Population	183,881
Value of Projected Computation Errors to the Total Population of Title II Benefits Paid	\$ 526,745,494

CONFIDENCE LEVEL 90 percent confident that the actual value of all dollars in error in the total population of title II benefits paid is between \$332,179,583 and \$721,311,406.

NONSTATISTICAL APPRAISAL

Total Projected Dollars Overpaid

Total Dollars Overpaid in the Sample	\$	209,450.54
Number of Cases in Sample		100
Average Dollars Overpaid for Each Case in Sample	\$	2,094.5054
Number of Cases in Total Population		183,881
Total Projected Dollars Overpaid (\$2,094.5054 x 183,881)	\$	385,139,747

Total Projected Dollars Underpaid

Total Dollars Underpaid in the Sample	\$	77,009.45
Number of Cases in Sample		100
Average Dollars Underpaid for Each Case in Sample	\$	770.0945
Number of Cases in Total Population		183,881
Total Projected Dollars Underpaid (\$770.0945 x 183,881)	\$	141,605,747

APPENDIX C

Total Projected Title II Benefits Paid

Total Benefits Paid to Primary Number Holder and Auxiliaries in 50 Sample Cases	\$	1,720,232.50
Number of Cases in Sample		50
Average Benefits Paid Per Sample Item	\$	34,404.6500
Number of Cases in Total Population		183,881
Total Projected Title II Benefits for Total Population (\$34,404.6500 x 183,881)	\$	6,326,361,447¹

Percent of Dollars in Error, When Compared to What Should Have Been Paid

Using the Social Security Administration's Index Dollar Accuracy Formula:

(Overpayments + Underpayments)

(Projected Title II Benefits Paid - Overpayments + Underpayments)

$$\begin{array}{r} \$ \frac{385,139,747 + 141,605,747}{6,326,361,447 - 385,139,747 + 141,605,747} = \$ \frac{526,745,494}{6,082,827,447} \end{array}$$

= .086595502 or 8.66 percent

¹ This is a nonstatistical estimate. Due to time considerations, we did not determine the benefits paid on the 50 sample cases not reviewed.

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SSA COMMENTS

SSA ORGANIZATIONAL CHART
