
**OFFICE OF
THE INSPECTOR GENERAL**

SOCIAL SECURITY ADMINISTRATION

**CONSERVED FUNDS FOR DECEASED
BENEFICIARIES WITH NON-RELATED
REPRESENTATIVE PAYEES**

March 2004

A-13-03-23085

EVALUATION REPORT



Mission

We improve SSA programs and operations and protect them against fraud, waste, and abuse by conducting independent and objective audits, evaluations, and investigations. We provide timely, useful, and reliable information and advice to Administration officials, the Congress, and the public.

Authority

The Inspector General Act created independent audit and investigative units, called the Office of Inspector General (OIG). The mission of the OIG, as spelled out in the Act, is to:

- Conduct and supervise independent and objective audits and investigations relating to agency programs and operations.**
- Promote economy, effectiveness, and efficiency within the agency.**
- Prevent and detect fraud, waste, and abuse in agency programs and operations.**
- Review and make recommendations regarding existing and proposed legislation and regulations relating to agency programs and operations.**
- Keep the agency head and the Congress fully and currently informed of problems in agency programs and operations.**

To ensure objectivity, the IG Act empowers the IG with:

- Independence to determine what reviews to perform.**
- Access to all information necessary for the reviews.**
- Authority to publish findings and recommendations based on the reviews.**

Vision

By conducting independent and objective audits, investigations, and evaluations, we are agents of positive change striving for continuous improvement in the Social Security Administration's programs, operations, and management and in our own office.



SOCIAL SECURITY

MEMORANDUM

Date: March 18, 2004

Refer To:

To: The Commissioner

From: Acting Inspector General

Subject: Conserved Funds for Deceased Beneficiaries with Non-Related Representative Payees (A-13-03-23085)

OBJECTIVE

Our objective was to assess the effectiveness of the Social Security Administration's (SSA) oversight of non-related representative payees¹ disposition of conserved funds for deceased beneficiaries.

BACKGROUND

SSA provides benefits to the most vulnerable members of society—the young, the elderly, and the disabled. Congress granted SSA the authority to appoint representative payees for those beneficiaries² judged incapable of managing benefit payments.³ Representative payees (organizations⁴ or individuals⁵) receive and manage

¹ We define non-related representative payees as organizations, institutions, and/or individuals that are not related to the beneficiary.

² For the purpose of this report, the term "beneficiary" is used generically for both Old-Age, Survivors and Disability Insurance and Supplemental Security Income recipients.

³ Sections 205(j) and 1631(a)(2)(A)(ii) of the Social Security Act, as amended (42 U.S.C. §§ 405(j) and 1383(a)(2)(A)(ii)).

⁴ Program Operations Manual System (POMS), GN 00501.013 states that an organizational representative payee includes social service agencies, institutions, or an official of a state or local government agency or a financial organization.

⁵ POMS, GN 00501.013 states that an individual representative payee includes someone that a beneficiary lives with or a family member or friend who does not live with the beneficiary. It could also be a lawyer, a legal guardian, or a volunteer for a Federal or non-profit agency.

payments on behalf of these beneficiaries. Specifically, representative payees use Old-Age, Survivors and Disability Insurance and Supplemental Security Income benefit payments for the beneficiary's needs.

Representative payees' duties are to⁶

- use benefit payments to meet the beneficiary's current and foreseeable needs,
- conserve and invest benefit payments not needed to meet the beneficiary's current needs,
- maintain accounting records,
- report events to SSA that may affect the beneficiary's entitlement or benefit payment amount,
- report any changes in circumstances that would affect performance as a representative payee, and
- provide SSA an annual Representative Payee Report accounting for how benefits were spent and invested.

Representative payees who are no longer serving beneficiaries are required to forward any conserved funds to the Agency. SSA will make the conserved funds available, as appropriate, to either the new representative payee or the beneficiary.⁷

When a beneficiary dies, SSA informs the representative payee that any conserved funds belong to the deceased beneficiary's estate and should be forwarded to the legal representative for disposition under State law. If there is no legal representative, the representative payee should contact the State probate court in the State in which the beneficiary resides.⁸

RESULTS OF REVIEW

SSA has oversight policy for disposition of living beneficiaries' conserved funds by representative payees. However, SSA's oversight of the disposition of deceased beneficiaries' conserved funds needs improvement. SSA staff advised us that, under current policy, the Agency has no responsibility to determine the disposition of conserved funds for deceased beneficiaries. SSA did not determine whether non-related representative payees complied with SSA's instructions to forward conserved funds to the legal representatives for deceased beneficiaries' estates for

⁶ POMS, GN 00502.113B.

⁷ POMS, GN 00603.055.

⁸ POMS, GN 00603.100.

disposition under State law. For Fiscal Year (FY) 2002, non-related representative payees reported \$4.6 million in conserved funds for deceased beneficiaries to the Agency. The Agency does not determine whether these funds were disposed of appropriately.

SSA POLICY REQUIRES ROBUST MONITORING OF THE DISPOSITION OF LIVING BENEFICIARIES' CONSERVED FUNDS

SSA policy prescribes procedures to closely monitor the disposition of conserved funds of living beneficiaries served by representative payees. Agency policy states, "A representative payee who has conserved or invested funds for a beneficiary, but is no longer serving as payee for the beneficiary, must return the funds to SSA for reissuance to either the successor payee or to the beneficiary in direct payment."⁹

Each year, all representative payees (except for on-site institutions¹⁰) are required to submit Representative Payee Reports¹¹ accounting for the benefit payments received, used, and conserved for SSA beneficiaries and recipients. The Agency uses the information provided on these Reports to record the amounts conserved by the representative payee in the beneficiaries' and recipients' records.

In addition, if the representative payee cannot be located, dies, or is in the care of an institution or social agency, the Agency selects a new representative payee and arranges for the conserved funds to be returned to SSA.¹² SSA issues the conserved funds to the new representative payee.

SSA CAN IMPROVE ITS OVERSIGHT OF THE DISPOSITION OF DECEASED BENEFICIARIES' CONSERVED FUNDS

There is no specific oversight policy for the disposition of conserved funds by representative payees for deceased beneficiaries. However, SSA does have a responsibility for ensuring representative payees carry out their fiduciary duties after the beneficiary's death. As a steward of the programs administered by SSA, the Agency is accountable for safeguarding assets against fraud, waste, and abuse. The public must be confident that these programs are administered properly and funds are accurately collected, accounted for, and disbursed to the correct individuals for the appropriate amounts and use.

⁹ POMS, GN 00603.100.

¹⁰ SSA Publication No. 17-013, *Social Security: Guide for Organizational Representative Payees*, July 2001 states that state mental institutions that participate in the on-site review program and serve as representative payee for a number of beneficiaries are exempt from completing an annual report form.

¹¹ SSA-623, SSA-6230, or SSA-6233.

¹² POMS, GN 00603.110.

Office of Management and Budget Circular A-123, *Management Accountability and Control Standards*, states agencies must take systematic and proactive measures to develop and implement appropriate, cost-effective management controls. Management controls (internal controls) are policies and procedures used to reasonably ensure assets are safeguarded against waste, loss, unauthorized use, and misappropriation.¹³

SSA did not have adequate policies and procedures to determine whether non-related representative payees for deceased beneficiaries properly disposed of conserved funds. SSA’s policy states:

“If the terminating event is the death of the beneficiary, notify the payee and any former payee who was permitted to continue administering conserved benefits. Inform the payee(s) that the benefits. . . (including income earned on the benefits and any benefits he/she has conserved since his/her last accounting) belong to the deceased beneficiary’s estate. The benefits should be turned over to the legal representative of the beneficiary’s estate for disposition under State law.”¹⁴

In FY 2002, 10,315 representative payees reported to SSA about \$6.9 million in conserved funds for deceased beneficiaries (see Table 1). Of the 10,315 representative payees reporting conserved funds for the beneficiaries served, 6,785 were non-related representative payees. As of April 2003, non-related representative payees reported about \$4.6 million in conserved funds.¹⁵

Table 1. Related and Non-Related Representative Payees and Conserved Funds Reported for FY 2002

Type of Payee	Number of Representative Payees	Conserved Funds	Percentage of Total
Non-related			
OASDI	76	\$247,599	4
SSI	6,709	4,326,461	62
Subtotal Non-Related	6,785	4,574,060	66
Related			
OASDI	65	\$155,582	2
SSI	3,465	2,201,806	32
Subtotal Related	3,530	2,357,388	34
Totals	10,315	\$6,931,448	100

*Data obtained from SSA’s Supplemental Security Record and Old-Age, Survivors and Disability Insurance conserved fund file.

¹³ Office of Management and Budget Circular A-123, *Management Accountability and Control Standards*, Section II.

¹⁴ POMS, GN 00603.100.

¹⁵ We did not verify conserved fund balances.

SSA staff advised us that, under current policy, the Agency has no responsibility to determine the disposition of conserved funds for deceased beneficiaries. SSA's Office of Income Security Programs' management stated that independent verification of the disposition of conserved benefits by non-related representative payees for deceased beneficiaries is not required.

CONCLUSIONS AND RECOMMENDATIONS

SSA policy prescribes the disposition of living beneficiaries' conserved funds by representative payees. However, SSA needs to improve its oversight of the disposition of deceased beneficiaries' conserved funds by non-related representative payees. Improved oversight would provide assurance these conserved funds are forwarded to the legal representatives of the beneficiary's estate. We believe SSA has a responsibility to ensure that conserved funds are disposed of properly. Within the framework of its existing policy and procedures, SSA has opportunities to improve oversight of non-related representative payees' disposition of deceased beneficiaries' conserved funds.

We recommend SSA:

- 1.** Develop specific policy to define the oversight responsibilities of non-related representative payees' disposition of conserved funds after the death of a beneficiary.
- 2.** Modify its site review procedures to include reviews of deceased beneficiaries' conserved funds held by non-related representative payees.
- 3.** Remind non-related representative payees during site reviews of the policy for proper disposition of conserved funds for deceased beneficiaries.

AGENCY COMMENTS

SSA agreed with two of our three recommendations, but did not agree with our first recommendation. SSA stated, "Under the Social Security Act (the Act), SSA does not have an oversight responsibility *after* the death of a beneficiary, and therefore, our [the Agency's] authority is limited." However, SSA is taking action on all our recommendations. The full text of SSA's comments is included in Appendix B.

OIG RESPONSE

Although SSA disagreed with Recommendation 1, the Agency stated, it "will modify instructions to require our [the Agency's] reviewers, when conducting on-site reviews, to remind representative payees of the requirement to turn over conserved funds, and to ask representative payees if they have turned over conserved funds, to a deceased beneficiary's estate." SSA's actions are responsive to the intent of our recommendation.

OTHER MATTERS

During our audit of a representative payee, we determined SSA staff advised the representative payee to return to the Agency conserved funds belonging to deceased beneficiaries. This is contrary to existing SSA policy. SSA's policy states:

“If the terminating event is the death of the beneficiary, notify the payee and any former payee who was permitted to continue administering conserved benefits. Inform the payee(s) that the benefits...(including income earned on the benefits and any benefits he/she has conserved since his/her last accounting) belong to the deceased beneficiary's estate. The benefits should be turned over to the legal representative of the beneficiary's estate for disposition under State law.”¹⁶

On November 24, 2003, we reviewed the Master Beneficiary and Supplemental Security Records of 32 deceased beneficiaries served by the representative payee. The representative payee forwarded conserved funds totaling approximately \$10,820. Of the 32 deceased beneficiary records reviewed, \$1,510 of the conserved funds received was applied to an existing overpayment for 8 deceased beneficiaries and approximately \$4,130 for 10 deceased beneficiaries was still in the Agency's possession. We could not verify the disposition of \$5,180 in conserved funds for 17¹⁷ deceased beneficiaries.



Patrick P. O'Carroll, Jr.

¹⁶ POMS, GN 00603.100.

¹⁷ In three cases, the Agency applied a partial offset to an existing overpayment. We could not verify the disposition of the remaining balance.

Appendices

APPENDIX A - Acrynomns

APPENDIX B - Scope and Methodology

APPENDIX C - Agency Comments

APPENDIX D - OIG Contacts and Staff Acknowledgments

Acronyms

FY	Fiscal Year
OASDI	Old-Age, Survivors and Disability Insurance
OIG	Office of the Inspector General
POMS	Program Operations Manual System
SSA	Social Security Administration
SSI	Supplemental Security Income

Scope and Methodology

To accomplish our objective, we:

- Reviewed the *Program Operations Manual System*¹ and policies and procedures pertaining to the disposition of conserved funds for deceased beneficiaries.
- Interviewed Social Security Administration (SSA) personnel to obtain an understanding of the policies and procedures followed for disposition of conserved funds by non-related representative payees.
- Obtained from SSA's Supplemental Security Records and Old-Age, Survivors and Disability Insurance file containing benefits set aside by representative payees, a list of 10,315 deceased beneficiaries with conserved funds totaling \$6,931,448 for the period October 2001 through September 2002.

We did not assess the internal controls. Testing of internal controls was not required to meet the objective of this review. We did not determine the reliability of the computer processed data. However, we were able to use the data for their intended purpose. We obtained deceased beneficiaries' conserved fund balances from SSA's Supplemental Security Records and from Agency files used to capture Old-Age, Survivors and Disability Insurance benefits set aside by representative payees. Additionally, we obtained the Master Beneficiary and Supplemental Security Records of 32 deceased beneficiaries to determine whether conserved funds were returned and accepted by the Agency. We did not test for completeness, accuracy, or reliability. The data obtained were used to report the amount of conserved funds for deceased beneficiaries reported to, and received by, the Agency. Therefore, data reliability was not assessed to meet the objective of the evaluation.

The entity reviewed was the Office of Beneficiary and Determinations Services within the Office of Income Security Programs. We performed our evaluation from April through June 2003 in accordance with the *Quality Standards for Inspections* issued by the President's Council on Integrity and Efficiency.

¹Sections GN 00603.100 and NL 00703.204.

Agency Comments



SOCIAL SECURITY

MEMORANDUM

104-24-1066

Date: March 5, 2004

Refer To: S1J-3

To: James G. Huse, Jr.
Inspector General

From: Larry W. Dye /s/
Chief of Staff

Subject: Office of the Inspector General (OIG) Draft Report, "Conserved Funds for Deceased Beneficiaries With Non-Related Representative Payees" (A-13-03-23085)--INFORMATION

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

Please let us know if we can be of further assistance. Staff questions can be referred to Trudy Williams at extension 50380.

Attachment:
SSA Response
S1J-3:TWilliams 2/23/04

COMMENTS OF THE SOCIAL SECURITY ADMINISTRATION (SSA) ON THE OFFICE OF THE INSPECTOR GENERAL (OIG) DRAFT REPORT, “CONSERVED FUNDS FOR DECEASED BENEFICIARIES WITH NON-RELATED REPRESENTATIVE PAYEES” (A-13-03-23085)

Thank you for the opportunity to review and comment on the subject draft report. Our specific comments to each recommendation are provided below.

Recommendation 1

SSA should develop specific policy to define the oversight responsibilities of non-related representative payees' disposition of conserved funds after the death of a beneficiary.

SSA Comment

We disagree. Under the Social Security Act (the Act), SSA does not have an oversight responsibility *after* the death of a beneficiary, and therefore, our authority is limited. When we receive a report of death, the Program Operations Manual System (POMS) requires us to notify the representative payee (Rep Payee) that any conserved funds belong to the beneficiary's estate and should be forwarded to the estate for proper disposition. Conserved funds are property of the beneficiary and upon the death of a beneficiary State law governs the disposition of the beneficiary's property. The death of the beneficiary ends our oversight responsibilities, as we have no standing or authority in matters of the beneficiary's estate. However, we will modify instructions to require our reviewers, when conducting on-site reviews, to remind Rep Payees of the requirement to turn over conserved funds, and to ask Rep Payees if they have turned over conserved funds, to a deceased beneficiary's estate.

Recommendation 2

SSA should modify its site review procedures to include reviews of deceased beneficiaries' conserved funds held by non-related Rep Payees.

SSA Comment

We agree. While the Act does not require this, we note that the new POMS provide that when selecting a sample of beneficiaries whose accounting records will be reviewed at an on site visit, SSA, if possible, will select some cases where the Rep Payee relationship ended. In the case of deceased beneficiaries, SSA will look for evidence that the Rep Payee turned over conserved funds to the legal representative of the beneficiary's estate. On February 2, 2004, we released an inter-component review draft (IRD) of a new POMS section with instructions for conducting site reviews. The IRD includes instructions for reviewers to check if the Rep Payee turned over conserved funds to a deceased beneficiary's estate. We expect the final POMS instructions to be released in the Summer of 2004.

Recommendation 3

SSA should remind non-related Rep Payees during site reviews of the policy for proper disposition of conserved funds for deceased beneficiaries.

SSA Comment

We agree. The POMS IRD also includes instructions for reviewers, during the site review, to remind the Rep Payee of SSA's policy for disposition of conserved funds for deceased beneficiaries.

Other Comments

On page 6 of the report, under "OTHER MATTER," OIG mentions that during their audit of a Rep Payee, they determined that SSA staff had advised the Rep Payee to return conserved funds of a deceased beneficiary to SSA. This is contrary to our policy. Current POMS instructions, GN 00603.055 - Transfer of Conserved Funds, state that a Rep Payee must return conserved funds to SSA for re-issuance to a successor payee or to a beneficiary in direct pay. In addition, POMS GN 00603.100 - Entitlement Terminated—Notice to be Given About Conserved Funds, provides instructions for handling conserved funds when the beneficiary has died. We will issue a reminder to SSA staff regarding policy differences for handling conserved funds for living versus deceased beneficiaries.

OIG Contacts and Staff Acknowledgments

OIG Contacts

Shirley E. Todd, Director, General Management Audit Division (410) 966-9365

Brian Karpe, Audit Manager, General Management (410) 966-1029

Acknowledgments

In addition to those named above:

Tracey Edwards, Senior Auditor

Kim Beauchamp, Writer/Editor

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Social Security Advisory Board

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The Office of Audit (OA) conducts comprehensive financial and performance audits of the Social Security Administration's (SSA) programs and makes recommendations to ensure that program objectives are achieved effectively and efficiently. Financial audits, required by the Chief Financial Officers' Act of 1990, assess whether SSA's financial statements fairly present the Agency's financial position, results of operations and cash flow. Performance audits review the economy, efficiency and effectiveness of SSA's programs. OA also conducts short-term management and program evaluations focused on issues of concern to SSA, Congress and the general public. Evaluations often focus on identifying and recommending ways to prevent and minimize program fraud and inefficiency, rather than detecting problems after they occur.

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The Office of Executive Operations (OEO) supports the Office of the Inspector General (OIG) by providing information resource management; systems security; and the coordination of budget, procurement, telecommunications, facilities and equipment, and human resources. In addition, this office is the focal point for the OIG's strategic planning function and the development and implementation of performance measures required by the Government Performance and Results Act. OEO is also responsible for performing internal reviews to ensure that OIG offices nationwide hold themselves to the same rigorous standards that we expect from SSA, as well as conducting investigations of OIG employees, when necessary. Finally, OEO administers OIG's public affairs, media, and interagency activities, coordinates responses to Congressional requests for information, and also communicates OIG's planned and current activities and their results to the Commissioner and Congress.

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The Office of Investigations (OI) conducts and coordinates investigative activity related to fraud, waste, abuse, and mismanagement of SSA programs and operations. This includes wrongdoing by applicants, beneficiaries, contractors, physicians, interpreters, representative payees, third parties, and by SSA employees in the performance of their duties. OI also conducts joint investigations with other Federal, State, and local law enforcement agencies.

Counsel to the Inspector General

The Counsel to the Inspector General provides legal advice and counsel to the Inspector General on various matters, including: 1) statutes, regulations, legislation, and policy directives governing the administration of SSA's programs; 2) investigative procedures and techniques; and 3) legal implications and conclusions to be drawn from audit and investigative material produced by the OIG. The Counsel's office also administers the civil monetary penalty program.