

How to protect the integrity of federal disability programs

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KEY FINDINGS

1

WASTE AND FRAUD
JEOPARDIZE FEDERAL DISABILITY
PROGRAM INTEGRITY.



2

BACKLOGS KEEP THE TRULY
NEEDY FROM RECEIVING TIMELY
BENEFITS AND KEEP THOSE
WHO CAN WORK OUT OF THE
WORKFORCE LONGER.



3

OVERPAYMENTS ARE
COMMON FOR THOSE
WHO ARE WORKING.



4

REGULATORY SOLUTIONS
EXIST TO IMPROVE
PROGRAM INTEGRITY.



BOTTOM LINE:

REDUCING WASTE, FRAUD, AND ABUSE IN THE DISABILITY
SYSTEM WILL STRENGTHEN SOCIAL SECURITY AND PROTECT
THE DISABILITY SYSTEM FOR THE TRULY NEEDY.

Background

The Social Security Administration (SSA) administers three programs under the Social Security Act. The first program is what most individuals think of when they hear Social Security—the Old-Age and Survivors Insurance (OASI) program. The OASI program was created in 1935 to provide retirement benefits to insured workers and their families through taxes on employers and workers.¹

The second program, created by Congress in 1956, is the Social Security Disability Insurance (SSDI) program. SSDI provides benefits to fully insured workers who become disabled and their families through Social Security taxes on workers and employers.² Workers' taxes are kept in the Social Security Disability Insurance Trust Fund, which is separate from the retirement trust fund. Workers must have worked in five of the last ten years and be fully insured to receive SSDI.³

As of December 2017, SSDI provided over 10 million people with benefits—including nearly 8.2 million working-age individuals with disabilities—costing taxpayers \$143 billion per year.⁴ Many of these individuals are eligible for Medicaid due to their disabilities and qualify for Medicare after 24 months.⁵

The third program, created in 1972, is the Supplemental Security Income (SSI) program. SSI is a welfare program that provides cash benefits to aged, blind, and disabled adults and children who have limited resources and income.⁶

Unlike SSDI, no work history is required for SSI recipients to receive benefits. In most states, SSI recipients are automatically eligible for Medicaid, and many are also eligible for food stamps.⁷

As of December 2017, SSI had more than eight million beneficiaries—including nearly five million working-age individuals.⁸ Total federal SSI payments cost roughly \$52 billion per year.⁹

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Waste and fraud jeopardize disability program integrity

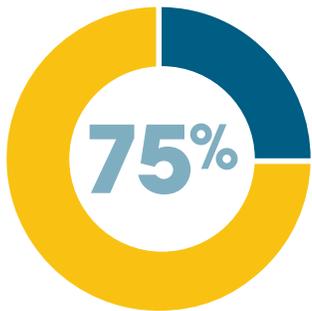
Given their size and complexity, federal disability programs are especially susceptible to misuse, misallocation, and outright fraud. Those who do not qualify and yet receive federal disability benefits jeopardize scarce resources for the truly disabled who depend on the program.

An eye-opening 2012 report by the Senate Homeland Security and Governmental Affairs Committee found that “more than a quarter of agency decisions failed to properly address insufficient, contradictory, or incomplete evidence.”¹¹ **This means that one-quarter of all disability claim decisions were flawed, increasing the likelihood that people who do not qualify for benefits are receiving them.**¹²

Testimony from a former SSA commissioner should give taxpayers significant concern as well. According to the remarks, just 60 percent of those receiving disability benefits could not reasonably be expected to go back to work.¹³ The testimony continued that the remaining 40 percent “would be ... a closer call,” noting that “there are certain types of cases that are more error-prone, more fraud-prone than others.”¹⁴

The Office of Inspector General (OIG) has also found that federal disability programs accounted for over 75 percent of all cases opened by the OIG within the SSA, including the much larger retirement program.¹⁵⁻¹⁶ To put this in perspective, the two disability programs had six times as many OIG cases opened as the retirement program, even though their enrollment was one-third the size of the retirement program.¹⁷

The bottom line is that reducing waste, fraud, and abuse in the disability system will strengthen Social Security and protect the disability system for the truly needy.



FEDERAL DISABILITY PROGRAMS ACCOUNTED FOR OVER 75 PERCENT OF ALL CASES OPENED BY THE OIG WITHIN THE SSA

OVERPAYMENTS THREATEN PROGRAM INTEGRITY

Every year, SSA issues more than \$1 trillion in benefits to more than 70 million people.¹⁸ Given that fact, even the slightest error in payments can result in billions of dollars going to those who do not qualify for benefits.

Specific eligibility criteria are considered in order to continue receiving SSI or SSDI benefits. For SSI, overpayments may occur from income being higher than estimated, having more resources than the allowable limit, marital status changes, the recipient being no longer disabled, death, or SSA administrative errors.¹⁹ SSDI overpayments might occur if the recipient is earning above the allowed income and is not enrolled in a trial work period, if the person is no longer disabled, SSA fails to process changes in a timely manner, death, or other administrative errors.²⁰

Reducing improper payments and increasing overpayment recoveries is a key SSA objective, but there is much work to be done.²¹ The OIG reported that the agency “did not comply with all improper payment reporting requirements” or meet reduction targets for SSDI and SSI overpayments.²² While SSA initiated plans to meet the targets, the OIG found that there was no significant improvement in improper payments.²³

Between fiscal years 2013 and 2017, SSA overpaid an estimated \$8 billion.²⁴ One recent study found that SSA recorded approximately \$1.2 billion in new SSDI overpayments in 2015 but recovered just \$857 million—meaning nearly \$1 out of every \$3 overpaid went unrecovered.²⁵

SSI payments are even less accurate, with \$20 billion in overpayments—roughly seven percent of all SSI spending—between fiscal years 2013 and 2017.²⁶



**BETWEEN FISCAL
YEARS 2013 AND
2017, SSA OVERPAID
AN ESTIMATED
\$8 BILLION**

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THE DISABILITY SYSTEM IS VULNERABLE TO INTENTIONAL FRAUD

Much like other government welfare and benefit programs, the disability system is susceptible to not just waste and inefficiencies but also deliberate fraud. The more complex and complicated the program, the greater the chances for wasting taxpayer money and for people to cheat the system, harming the truly needy individuals that the system was intended to help.

Disability recipients often receive other welfare programs besides just federal disability benefits, meaning misuse, fraud, and misallocation have a spillover effect on other programs designed for the truly needy—including Medicaid and food stamps.²⁷ Some individuals receive both SSI and disability insurance and also both Medicare and Medicaid.²⁸ Because so few people ever leave the disability program, ensuring that only those that truly need it receive benefits is important for program sustainability.²⁹



SUE

WOMAN STEALS FROM THE TRULY NEEDY UNDER FAKE IDENTITY

An Illinois woman received SSI payments and food stamps for 13 years using a stolen Social Security number under a second identity.³⁰ She was sentenced to three years probation, which included six months' community confinement.³¹ She was also ordered to pay back over \$100,000 to SSA and nearly \$22,000 in stolen food stamps.³²



BILL

TREE TRIMMER CUTS INTO BENEFITS FOR TRULY NEEDY

In Nebraska, a 39-year-old man concealed his job with a tree trimming company where he worked for over seven years while also receiving SSI payments he was not entitled to.³³ The man was sentenced to six months in prison and three years supervised release, and he was ordered to pay back \$48,579.³⁴



JOHN

OHIO HOUSE FLIPPING FRAUDSTER

An Ohio man was sentenced to seven months in prison and three years of supervised release after he was found guilty of stealing disability benefits and workers' compensation funds.³⁵ The 57-year-old disability beneficiary concealed his home remodeling contractor work for nearly six years.³⁶ He was ordered to repay nearly \$78,000 in disability insurance funds and nearly \$168,000 from the Ohio Bureau of Workers' Compensation.³⁷



PHIL

DOCTORS, ATTORNEYS, AND JUDGES VIOLATE OATHS AND TAKE FROM DISABLED WORKERS

In May 2015, thousands of disability recipients in West Virginia and Kentucky received letters in the mail that their benefits were being suspended due to disability fraud.³⁸ The case involved doctors, attorneys, and administrative law judges who collaborated to overturn previous disability decisions without a hearing.³⁹ The case cost taxpayers \$500 million in unlawful disability benefits.⁴⁰ The attorney who was the mastermind behind the entire scheme tried to flee the country and is now set to serve 27 years in prison.⁴¹ This case is similar to a Puerto Rican disability fraud scheme where a doctor and 39 individuals were arrested for stealing \$100 million in disability insurance benefits.⁴²⁻⁴³



**WAIT TIMES AND
BACKLOGS DELAY
BENEFITS FOR
TRULY DISABLED
INDIVIDUALS**

Backlogs keep the truly needy from receiving timely benefits and keep those who can work out of the workforce longer

SSA experiences backlogs at both disability determination and redetermination, which often lead to improper payments. While the agency has made significant progress on initial disability claims backlogs in recent years, more work is needed to reduce the potential for waste and fraud.⁴⁴

Until 2018, when the Trump administration eliminated the continuing disability reviews (CDR) backlog, the agency had hundreds of thousands of backlogged disability reviews, some that had not been revisited in over 15 years.⁴⁵

The disability hearing process experienced a 56 percent increase in wait times from 2010 to 2017—from under 12 months in 2010 to roughly 18 months in 2017, the last fiscal year of the Obama Presidency.⁴⁶ While pending hearings also increased during that time, pending hearings have significantly decreased since 2016 by approximately 30 percent.⁴⁷ The average wait time as of July 2019 has declined and is now just over 14.5 months.⁴⁸⁻⁴⁹

The longer appeals hearings take, the longer someone applying for disability—who may not even be approved for benefits—is out of the workforce. The same is true for someone that is having their disability status reconsidered. When those backlogs increase, someone who has improved medically remains on disability longer, taking resources from the truly needy. Higher wait times and backlogs also delay benefits for truly disabled individuals.

Overpayments are a problem for those who are working

The overall complexity of disability programs creates opportunities for overpayments for those in the disability system who are working. These overpayments can accrue for years if SSA does not competently gather working and resource data from disabled beneficiaries and can often accumulate to tens of thousands of dollars for a single individual.⁵⁰

Even in situations that seem easy to prevent, like earning more than the income limit between disability onset and approval onto the disability program, overpayments are possible.⁵¹ For example, individuals who engage in substantial gainful activity are not eligible for disability payments.⁵² However, a recent OIG investigation reported that the agency did not address applicants' income earned after their disability onset dates and before being allowed on the program in approximately 25 percent of cases, resulting in nearly 4,000 applicants receiving improper payments of over \$109 million.⁵³

Although federal law requires that those receiving disability benefits to report changes in their income in a timely manner to minimize overpayments, many never do.⁵⁴ Another OIG audit estimated taxpayers incorrectly paid more than \$571 million in disability benefits to more than 35,000 beneficiaries who were working.⁵⁵⁻⁵⁶



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Based on the sample, OIG auditors estimated that SSA incorrectly paid more than \$40 million in disability benefits because of its delayed processing.”

Overpayments are not just a result of beneficiaries not reporting changes—in many cases, the changes are simply not processed quickly enough to avoid an overpayment. That same OIG audit estimated that taxpayers incorrectly paid more than \$200 million because SSA failed to process disability reviews correctly or within its 45-day processing goal.⁵⁷ In fact, barely 25 percent of those found working had their files processed within the 45-day goal.⁵⁸ More than 40 percent had processing times longer than 90 days.⁵⁹ **Based on the sample, OIG auditors estimated that SSA incorrectly paid more than \$40 million in disability benefits because of its delayed processing.**⁶⁰

One shocking example in the report was that of a beneficiary who did not have her earnings processed for nearly 300 days after she reported returning to work.⁶¹ An overpayment of nearly \$8,000 was assessed.⁶² Had her file been processed within the 45-day goal, no overpayment would have occurred.⁶³ SSA waived the overpayment because of the delayed processing and the fact that the beneficiary had reported the earnings on time.⁶⁴ Needless processing delays increase the risk of not recovering improper payments because SSA cannot hold beneficiaries responsible for its own errors setting up more opportunities for waivers.⁶⁵

The OIG also reviews the processing of death reports for those receiving benefits. When SSA receives a death report, it is required to terminate the decedent’s benefits and initiate recovery for any overpayments.⁶⁶⁻⁶⁷ In the latest December 2018 report, the OIG estimates that up to \$10 million in improper payments occurred because SSA still needs to improve their process for resolving death records.⁶⁸

The GAO found that between 2005 through 2014, **the average overpayment amount for SSDI beneficiaries who received overpayments was effectively \$12,000.**⁶⁹ Another report found the average overpayment for SSDI beneficiaries was almost \$13,500, with some recipients receiving nearly \$70,000 in overpayments.⁷⁰

How to make the disability system more sustainable

In order to strengthen Social Security and protect public resources and disability benefits for the truly needy, both federal disability program needs to be reformed. The Trump administration has proposed several reforms to improve the integrity of the two federal disability programs.

INCREASE THE MINIMUM OVERPAYMENT COLLECTION AMOUNT FOR SSDI

Currently, SSA will send a notice of overpayment to the SSDI beneficiary explaining the reason for the overpayment, different options for repayment, and the process for appealing the overpayment.⁷¹ The agency will collect 100 percent of a disability recipient's monthly benefit unless the beneficiary asks for a lesser withholding amount.⁷² The minimum amount that SSA will agree to as a payment from overpaid SSDI beneficiaries is \$10.⁷³ This minimum threshold has not been updated since it was established in 1960.⁷⁴ The Trump administration has proposed to increase the amount to 10 percent of the individual's monthly benefit.⁷⁵⁻⁷⁶ This change would increase collections of improper payments by \$1.4 billion over the next 10 years.⁷⁷ Increasing this minimum withholding amount would align SSDI with SSI, recover payments more quickly, and protect Social Security trust funds.⁷⁸

INCREASE THE FREQUENCY OF CONTINUING DISABILITY REVIEWS

Identifying the medical improvement of those receiving disability benefits at the earliest point possible will also help to reduce overpayments and help move those who are no longer disabled out of dependency and back to work. The Trump administration has proposed to add an additional category to the three current categories used to determine how often someone on disability would have their case reviewed.⁷⁹

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**THE CURRENT SSA
DEBT MANAGEMENT
SYSTEM PERMITS
WAIVERS OVER
\$1,000 WITHOUT
REVIEW OR
DETECTION BY
MANAGERS**

**USE ALL AVAILABLE DEATH, WAGE, AND PAYROLL
DATA TO REDUCE OVERPAYMENTS**

Promptly terminating disability benefits when someone dies or begins earning above any income limits prevents overpayments and protects sustainability of the disability system. In 2015, Congress granted SSA the authority to access real-time electronic payroll information to help reduce improper payments and improve program administration—but this authority was never exercised.⁸⁰ Until the agency begins using this data, it will be forced to continue to rely heavily on self-reported information, which is a significant cause of overpayments.⁸¹

Congress could improve this process further by authorizing SSA to share its full death file with other federal agencies, helping reduce improper payments across all other welfare programs.⁸²

**PROHIBIT SSA STAFF FROM APPROVING
WAIVERS GREATER THAN \$1,000 WITHOUT
APPROVAL**

Recovering overpayments strengthens Social Security and helps protect the disability system for the truly needy. Currently, a disability recipient who has received an overpayment must request to have their overpayment waived if they cannot afford to pay the money back or if they believe the overpayment was not their fault.⁸³ SSA policy states that debt specialists can only waive amounts less than \$1,000.⁸⁴ The current SSA debt management system permits waivers over \$1,000 without review or detection by managers.⁸⁵ SSA could address this problem by updating its debt management system to prevent staff from waiving overpayment amounts greater than \$1,000 without review by managers.⁸⁶

ACTIVELY REVIEW PUBLIC SOCIAL NETWORKING WEBSITES TO DISCOVER FRAUD

SSA disability determination specialists should be allowed to search for and access public social networking websites to check for fraud throughout any course of the disability determination or redetermination process. The Trump administration should move forward with a proposal to allow the agency to implement this into their evaluation practices.⁸⁷ The agency already uses social media information to evaluate the accuracy of beneficiary's symptoms when there is an investigation that includes social media data corroborating the investigative findings.⁸⁸ While this will by no means prevent or stop all deliberate fraud, it will certainly catch and remove those who are openly defrauding the disability system, preserving scarce resources for those who qualify for and rely on the program.

Millions of working-age Americans report a disability each year. While these reforms alone will not fix all problems facing the disability system, they are critical steps to improving the integrity of both SSDI and SSI, saving taxpayers billions of dollars, strengthening Social Security, and protecting resources for the truly disabled who can no longer work.

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