

U.S. Senate

Committee on Finance

Statement for the Record

Medicare and Social Security Benefits: Turning off the Spigot to Prisoners, Fugitives, the Deceased, and Other Ineligibles

**The Honorable James G. Huse, Jr.
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Good morning, Chairman Grassley and members of the Committee. Let me first thank you for the opportunity to speak with you today on a matter of immeasurable importance to the people of the United States—improper payments made by Federal agencies, including the Social Security Administration. As we fast approach the critical years during which SSA will pay out more in benefits than it receives from the current workforce in contributions, payment accuracy is more important than it has ever been.

This is not to say that we are addressing this issue for the first time. Shortly after SSA's independence and the creation of an Office of the Inspector General in 1995, Congress asked my predecessor to describe the internal and external challenges facing our office, then in its infancy. He identified four critical areas. One was payment accuracy. As our office has grown in the years since, payment accuracy has remained a primary focus.

One of the first issues we explored in the improper payment arena was the payment of benefits to prisoners. In an audit report issued less than a year after SSA independence, we found that SSA did not have the ability to identify all prisoners in detention, and that where improper payments to prisoners could be identified, such payments were not terminated in a timely manner. We estimated that the annual cost to SSA in erroneous payments to prisoners was \$48.8 million, and we recommended that SSA seek legislation to facilitate the exchange of information with Federal, state, and local prison authorities. Such legislation was enacted in 1999, removing the need for computer matching agreements between SSA and prison authorities. The elimination of this time-consuming process had an overwhelming effect; according to SSA statistics, payments to more than 69,000 prisoners were suspended in FY 2000, based on more than 260,000 prisoner alerts that were received in large part because of that legislation. Progress has been promising and the efficiency of this program should continue to improve as the 1999 legislation paves the way for even more expansive communication between SSA and prison authorities.

The area in which my office has made the most progress is that of Supplemental Security Income, or SSI, payments to fugitive felons. In 1996, Congress enacted legislation prohibiting the payment of SSI to fugitives from justice. That legislation required SSA to provide law enforcement officials with the current address, Social Security number, and photograph of any SSI recipient in fugitive status. In light of our status as a law enforcement organization, the Commissioner asked my office to perform this function, and we began investigating fugitive felon cases immediately.

In the years since we undertook this responsibility, we have worked with SSA on two fronts. First, we have worked with other Federal, state, and local law enforcement agencies to locate and apprehend wanted felons and we have notified SSA of each fugitive on SSI so that payments could be suspended. Second, we have worked both with SSA and with outside law enforcement agencies to expand our ability to identify fugitive felons for apprehension and payment suspension. In 1999, we entered into agreements with the U.S. Marshals Service and the FBI to expand our access to fugitive information. In 2000, we entered into a similar agreement with the National Criminal Information Center, and SSA agreed to pursue matching agreements with the states to provide us with state fugitive data—11 states and 2 major cities have already entered into such agreements, and more are in the pipeline.

Our efforts to increase the inbound flow of information have reaped immediate rewards. We have identified over 28,000 fugitives receiving SSI payments since the program's inception 4 years ago; almost half of those identifications occurred in FY 2000. As we expand our capabilities to obtain accurate fugitive information, we expect that number to continue to grow.

The savings are significant—more than \$34 million in FY 2000 alone. While it is this bottom line that is directly relevant to our mission, a critical fact is often overlooked. Our agents participated in the arrests of more than a thousand of the almost 14,000 fugitive felons identified in FY 2000. To maximize our resources, we focus our arrest activities on the most dangerous criminals. So, while the cost savings are significant, we think it even more important that we were instrumental in removing more than a thousand potentially violent criminals from the street. For example, a Michigan man wanted for allegedly shooting four people, one fatally, was recently arrested by one of our agents, as was a California man wanted for assault with a deadly weapon on a police officer. We also maximize our resources by making multiple arrests in a single operation. In Detroit, in the course of a three-day operation, we arrested 82 individuals wanted for offenses ranging from armed robbery to criminal sexual conduct. The savings effectuated by suspending SSI payments to these individuals is the topic of this hearing, and I don't wish to undersell its importance. But this Committee, and the public, should understand that this project goes beyond cost savings—it saves lives.

The fugitive non-payment legislation passed in 1996, however, addresses only half of the issue. Only SSI recipients are barred from receiving benefits while in fugitive status. Fugitives continue to legally receive retirement, survivors, and disability insurance from SSA under title II of the Social Security Act. Further, these fugitives continue to enjoy Privacy Act protections that prohibit SSA and my office from providing law enforcement officials with the information necessary to locate and apprehend them. This disparity between title II and title XVI has been justified on several grounds, and it is not my place to make the policy determination that must be made. It is, however, my place to point out the costs of having the Federal government finance felons' attempts to elude capture, both in terms of losses to the Social Security trust fund and in terms of public safety.

An audit report issued by my office found that the trust fund would have saved at least \$108 million dollars had the 1996 legislation included both title XVI and title II benefits in its prohibition. Moreover, the report found that the trust fund loses \$39 million a year as a result of the disparity in treatment between the two types of benefits. As I stated earlier, this waste of Federal funds goes to the heart of our mission, and our inability to stop these payments is

frustrating. What is more frustrating to us as a law enforcement organization is that these benefits were paid to some 17,300 fugitives, many of whom could have been apprehended had my office been able to provide law enforcement agencies with felons' addresses. The loss of money is disturbing; the thousands of criminals that could have been incarcerated but remain free is worse. Congress may want to consider legislation, this session, that will permit us to treat felons as felons, regardless of the types of Social Security benefits they are using to finance their flight from justice. However, I must caution the Committee that if this legislation is enacted, a significant amount of resources would be needed to continue to ensure the integrity of the matching and validation process.

A third area of improper payments that we have addressed is that of deceased beneficiaries. Our Office of Audit recently issued a draft report dealing with deceased auxiliary beneficiaries—deceased dependents of living beneficiaries who continue to receive benefits after death. In this report, we matched all 11.7 million auxiliary beneficiaries against SSA's Master Death File and found that SSA had paid an estimated 881 deceased auxiliary beneficiaries \$31 million in OASDI benefits after their dates of death. Another draft report examines the system SSA uses to keep its death records up-to-date to ensure that benefits are terminated as soon as possible after a beneficiary's death. Both audits indicate that while progress has been made, much remains to be done in ensuring that benefits do not continue to be paid to the deceased.

In the interim, our Office of Investigations continues to pursue the most egregious cases—instances in which a beneficiary has died and a friend, family member, or representative payee conceals the death in order to steal the deceased's benefits. In the first quarter of FY 2001, we have already opened 128 such cases. By way of example, a Georgia man acting as representative payee for two Social Security beneficiaries was recently sentenced to 18 months in Federal prison for failing to report the death of both of his charges—he collected over \$133,000 in benefits after their deaths. In Tennessee, a woman who failed to report her mother's 1983 death was sentenced to 13 months' confinement, and ordered to repay the more than \$184,000 that she stole over the 17 years following her mother's death.

These cases highlight the need for better communication between SSA and the appropriate Federal, state, local, and private sources that can provide information concerning the deaths of SSA beneficiaries. Our Audit Reports provide useful recommendations, and I am confident that SSA will continue to improve its processes in this area. While it does so, we will continue to pursue those who conceal the deaths of beneficiaries in order to profit at SSA's expense.

A fourth improper payment issue that my office is monitoring involves payments to child beneficiaries who are over age 18 and are no longer full-time students. Generally, the children of retired, deceased or disabled beneficiaries who remain full-time students are entitled to benefits until they reach age 19 or complete their secondary education, whichever occurs first. In an audit issued September 30, 1999, we found that SSA was not adequately monitoring student enrollment status, resulting in improper or unsupported payments totaling at least \$21.5 million a year. As a result, we recommended that SSA request assistance from school officials in identifying and reporting any changes in student attendance that could affect benefits. In addition, SSA is complying with our recommendation to better train those SSA employees who monitor student beneficiaries. This should ensure that proper supporting documentation of student status is developed and retained throughout each student's entitlement period. I am

optimistic that such measures will reduce the Agency's vulnerability to persons who misrepresent school attendance in order to continue to receive benefits to which they are not entitled.

The final improper payment issue that I will discuss today relates to Disability Insurance benefits paid to persons who also receive state workers' compensation payments. In general, the Social Security Act requires SSA benefits to be offset for beneficiaries who receive state-administered benefits. This reduction in benefits prevents a disabled worker from receiving more in disability payments than he or she earned prior to becoming disabled. Without this offset, injured workers might be disinclined to aggressively seek the rehabilitation necessary to return to work. Because SSA does not have direct access to state workers' compensation databases, the Agency primarily relies on beneficiaries to voluntarily report changes in workers' compensation benefits.

In recent audit reports issued in September 1998 and November 1999, my office found that unreported receipt of, changes in, or termination of Workers' Compensation benefits resulted in substantial payment inaccuracies, including an estimated \$214.4 million in overpayments and \$111.4 million in underpayments. In response to our reports, SSA performed its own studies and found for this period a total estimated past and future error of \$1.07 billion in underpayments and \$261 million in overpayments. As a result, SSA formed a workgroup to develop a plan to significantly improve its payment accuracy involving Workers' Compensation offsets. While we are cognizant of the fact that SSA has devoted significant resources to close out the first population of about 61,000 cases in approximately 21 months, we know there remain thousands of cases to be reviewed. I believe it is important that SSA devote sufficient resources to resolve these cases in as expeditious a manner as possible.

Of the cases SSA has already reviewed, there were about 250 beneficiaries who were each underpaid more than \$30,000—a total of \$10.7 million in underpayments. One of these individuals failed to be paid \$450 in monthly benefits for fifteen and a half years. Additionally, there were several cases where individuals were underpaid more than \$65,000.

Under SSA's current approach to the Workers' Compensation closeout, it will take years to complete the planned actions. During this extended period, while SSA is identifying and rectifying errors, overpayments will continue to accumulate, and underpayments will build, causing hardships for many beneficiaries. In the end, SSA will find that many of the affected beneficiaries have died. In these cases, beneficiaries will have been deprived of benefits while they were alive or paid excess benefits that may now never be reclaimed. In one case, a beneficiary was underpaid approximately \$65,000; the error was discovered in April 2000, but the insured had died four months earlier. While the underpayment was remitted to his surviving spouse, the beneficiary was deprived of his full monthly benefit for almost seven years prior to his death.

There have, however, been encouraging developments. SSA has complied with recommendations from GAO and from my office to pursue data matching agreements with the Department of Labor and individual states. An agreement with Texas, which we identified as the state with the third-highest workers' compensation rate, was executed and a pilot project is underway to ensure that the SSA benefits of Texas workers' compensation recipients are being properly offset. Additional states will follow once this pilot project proves successful. Moreover,

an agreement with the Department of Labor, recommended in a 1983 GAO report, is anticipated to produce useful data this summer.

These five areas constitute some of our most significant work in the realm of payment accuracy. But in a sense, everything that the OIG does on a daily basis, from investigating Social Security number misuse to imposing civil monetary penalties, has a direct impact on payment accuracy. For the past six years, we have been the overseers of the Trust Fund, and in that short time, have had a significant impact on payment accuracy and all aspects of SSA's programs and operations. We enjoy a productive working relationship with SSA officials, the Congress, and the Administration, and look forward to continuing to protect SSA and its beneficiaries from fraud, waste, and abuse in the years to come. Thank you for the opportunity to be here today, and I'd be happy to address any questions the committee might have.