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United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

June 4, 2013

VIA ELECTRONIC TRANSMISSION

The Honorable Carolyn W. Colvin
Acting Commissioner
Social Security Administration
6401 Security Boulevard
Baltimore, MD 21235

Dear Ms. Colvin:

The Social Security Administration (SSA) plays a vital role as the Nation's primary income security Agency. With almost 65 million Americans on the Social Security rolls, you face the challenging task of administering over \$800 billion in benefits while protecting the integrity of SSA programs.¹

In April 2013, the SSA Office of the Inspector General (OIG) provided its Statement for the Record to the U.S. House of Representatives, Committee on Ways and Means, *Challenges Facing the Next Commissioner of Social Security*. In this statement, the OIG cites the importance of maintaining program integrity through the reduction of improper payments. In Fiscal Year (FY) 2012 alone, the SSA reported \$7.9 billion in improper payments from the Old Age, Survivor, and Disability Insurance (OASDI) and Supplemental Security Income (SSI) programs.² The OIG suspects this number to be even higher, asserting that unavoidable payments should also be considered improper.³ While the percentage of improper payments may seem minimal when compared to the total of overall benefits administered by the SSA, these improper payments still cost the taxpayers billions.

¹ *Service Delivery Challenges: Hearing before the H. Comm. On Appropriations, Subcomm. On Labor, Health and Human Services, Education and Related Agencies*, 113th Cong. (2013), (statement of Carolyn W. Colvin, Acting Commissioner, SSA), http://www.ssa.gov/legislation/testimony_031413.html.

² *Challenges Facing the Next Commissioner of Social Security: Hearing before the H. Comm. On Ways and Means, Subcomm. on Social Security*, 113th Cong. (2013), (statement of Patrick P. O'Carroll Jr., Insp. Gen. of Social Security), <http://oig.ssa.gov/sites/default/files/testimony/4-26-13%20COSS%20Challenges%20Written%20Testimony%20-%20FINAL.pdf>.

³ *Id.*

The Continuing Disability Review (CDR) and redetermination processes are the most important program integrity tools available to the SSA.⁴ These periodic reviews allow the SSA to evaluate a recipient's continued entitlement to OASDI or SSI benefits. If the review concludes that a beneficiary is no longer disabled or can engage in gainful work, the SSA benefits will end. According to SSA estimates, every \$1 spent for CDRs yields an estimated \$9 return on investment, while every \$1 spent for SSI redeterminations yields a \$6 return.⁵ Despite such favorable returns and OIG recommendations to allocate more resources to these reviews, the SSA seemingly has not made them a priority, accumulating a CDR backlog of 1.2 million cases.⁶

When employers and the Internal Revenue Service report wage and earnings information to the SSA, it is recorded in the Master Earnings File (MEF).⁷ In a 2004 audit, the OIG found that the SSA failed to conduct a CDR when earnings posted to the MEF (MEF) for 41% of disability beneficiaries in a test sample, despite opportunities to do so.⁸ Accordingly, the OIG projected \$3.15 billion in overpaid OASDI benefits resulting from unevaluated MEF wages, of which \$1.37 billion went undetected by the SSA.⁹ A 2009 follow-up audit revealed that, despite SSA's efforts, little progress was made. This audit identified an estimated \$1.3 billion in undetected overpayments due to unevaluated MEF wages.¹⁰ Perhaps more troubling, the audit revealed that the SSA conducted benefit recalculations for beneficiaries with wages posted, but failed to conduct a CDR to evaluate their continued eligibility for benefits.¹¹ All of these oversights by the SSA lead to taxpayers' money being mishandled.

Oversights such as these are troubling and have consequences beyond the improper payment of benefits. The OIG reported that the Department of Justice has declined to prosecute Social Security fraud related cases because the SSA had knowledge of an event that would have affected the subject's entitlement to benefits. The OIG provided the following examples:

- *Chicago Field Division* – An investigation resulting in a determination of losses totaling \$218,961 was declined by both the Criminal and Civil Divisions of the United States Attorney's Office (USAO), citing that the SSA was aware of the subject's work activity since 1999 yet continued to pay benefits. The USAO determined that the SSA was complicit because letters were sent each year notifying the subject of increases to his

⁴ 2013-2016 SSA Strategic Plan, <http://www.ssa.gov/asp/plan-2013-2016.pdf>.

⁵ Statement of Carolyn W. Colvin, Action Commissioner, SSA.

⁶ Statement of Patrick P. O'Carroll, Insp. Gen. of Social Security.

⁷ Social Security Administration, <http://www.socialsecurity.gov/policy/docs/ssb/v69n3/v69n3p29.html>.

⁸ SSA OIG Audit A-01-03-13019, Jul. 2004, Disabled Title II Beneficiaries with Earnings Reported on the Master Earnings File, <http://oig.ssa.gov/sites/default/files/audit/full/pdf/A-01-03-13019.pdf>.

⁹ Social Security Administration, <http://www.socialsecurity.gov/policy/docs/ssb/v69n3/v69n3p29.html>.

¹⁰ SSA OIG Audit A-01-08-28075, Apr. 2009, Follow-up on Disabled Title II Beneficiaries with Earnings Reported on the Master Earnings File, <http://oig.ssa.gov/sites/default/files/audit/full/pdf/A-01-08-28075.pdf>.

¹¹ *Id.*

monthly benefit amount due to additional contributions to the Trust Fund. From 2003 through 2010, the SSA initiated approximately six CDRs, but failed to complete them.

- *New York Field Division* – The USAO declined to prosecute a U.S. Postal Service employee who failed to disclose over \$93,000 in wages while receiving SSA benefits. The subject appeared in a Government Accountability Office report pertaining to Federal employees working and collecting SSA benefits. The subject contended that the SSA knew about his employment with the Postal Service and never told him he could not work. The subject provided the OIG with an SSA notice notifying him that his benefits were increasing due to income.
- *Denver Field Division* – The USAO dropped charges against an indicted subject who was overpaid \$102,911 in disability benefits as a result of work activity. The decision was made following the discovery of two online notices sent by the SSA to the subject in 2002 and 2003. According to the USAO, these notices “could have led him [the subject] to believe SSA knew about his employment and that he was entitled to benefits.”¹²

I was pleased to learn of your FY 2014 goal to conduct more than double the amount of CDRs completed in FY 2012.¹³ However, to accomplish this task, your FY 2014 budget request includes a legislative proposal to bolster SSA’s integrity initiatives through the creation of a Program Integrity Administrative Expenses (PIAE) account. The PIAE account will free integrity funding from the discretionary spending cap that governs SSA’s operational costs. You stated that this account will “provide a dependable stream of mandatory administrative funding for our key program integrity work, which would save billions of program dollars by allowing us to implement an aggressive plan to reduce our CDR backlog while maintaining a high level of SSI redeterminations.”¹⁴

While I applaud your efforts, I am concerned by the alternative should the PIAE account not be realized. Are contingency plans in place to address the CDR backlog of 1.2 million cases? You attest: “Without sufficient resources and trained staff, we cannot keep up with both service improvements and our important program integrity work.”¹⁵ So that I may better understand your comprehensive plans to address improper payments, please provide answers to the following:

1. Can the SSA meet its target goal of conducting 1.047 million medical CDRs in FY 2014 without PIAE account legislation?
 - a. If not, why not?
 - b. If not, what is the target number of CDRs the SSA will conduct for FY 2014?

¹² April 25, 2013, email from Social Security Administration, Office of the Inspector General to Committee Staff.

¹³ SSA Full Justification of Estimates For Appropriations Committee (FY2014 Budget Overview), Apr. 2013, <http://www.ssa.gov/budget/FY14Files/2014FJ.pdf>.

¹⁴ *Id.*

¹⁵ FY2014 Budget Overview.

- c. What is the estimated improper payment cost should the SSA reduce its CDR target?
2. What is the SSA policy for addressing wages posted to the MEF for disability beneficiaries?
3. Are disability recipient accounts flagged for immediate review when earnings are posted to the MEF?
 - a. If not, why not?
 - b. If so, why are they not reviewed in a timely manner as reported by OIG?
4. Since October 1, 2010, how many disability beneficiaries received benefit increase notifications due to wages posted to the MEF without receiving a subsequent CDR?
5. Does SSA have dedicated staff for reviewing and closing out the CDR backlog? If not, why not? If so, how many SSA employees?
6. In Fiscal Year 2012, SSA dedicated \$756 million toward program integrity efforts, which resulted in completing 443,233 full medical CDRs.¹⁶ Please provide an explanation of the costs associated with conducting a medical CDR and a work CDR.

Thank you in advance for your prompt attention to these matters. I would appreciate receiving a response by no later than June 18, 2013. Should you have any questions, please contact Erika Smith of my staff at (202) 224-5225.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Judiciary

¹⁶ Social Security Administration, <http://www.socialsecurity.gov/improperpayments/index.html>.