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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

April 14, 2014

VIA ELECTRONIC TRANSMISSION

The Honorable Carolyn Colvin
Acting Commissioner
Social Security Administration
500 E Street, SW
Washington, DC 20024

Dear Commissioner Colvin:

Last week, the Washington Post reported that the Social Security Administration (SSA) was collecting delinquent debt without providing proper notice or verifying that the individual SSA was collecting payment from was the individual who incurred the debt. It appears that in certain cases, SSA is collecting money from children in order to pay for debts their parents incurred. In one case, Ms. Mary Grice's tax return was seized to pay for a debt from 1977 that "someone in the Grice family – [SSA is] not sure who." SSA has apparently not provided any documentation recording the overpayment.¹

Agencies have the right to try to collect debt that is owed to the government, but there is a rigorous process agencies must follow to ensure transparency and fairness. If an agency is unable to collect payment from the debtor, it may refer the debt to the Department of the Treasury for administrative offset. Through its Treasury Offset Program (TOP), the Treasury reduces or withholds certain payments, often a federal tax refund, to individuals who owe debts to the government.²

Before a creditor agency can refer a debt to TOP, it must provide 60 days' notice to the debtor. This notice requires a written notification of the nature and amount of the debt, the intention of the agency to collect the debt through administrative offset, and an explanation of the debtor's rights.³ The debtor's rights include being allowed to inspect, copy, and review records of the debt, as well as an opportunity to discuss repayment options before the debt is referred for offset. In Ms. Grice's case, she never received the notice and was told by SSA that the notice was sent to an address she had not used since 1979. It is worth noting that Ms. Grice is an employee of the federal government, and yet SSA did not bother to track down her current address.⁴

¹ Washington Post, "Social Security, Treasury Target Taxpayers for Their Parents' Decades-Old Debts," April 10, 2014.

² 26 U.S.C. 6402(d), 31 U.S.C. 3720A, 31 U.S.C. 3716.

³ Department of the Treasury Bureau of Fiscal Service, "Treasury Offset Program," accessed April 11, 2014.

⁴ Washington Post, "Social Security, Treasury Target Taxpayers for Their Parents' Decades-Old Debts."

It appears that SSA is not performing due diligence in notifying individuals or allowing them to inspect records of the debt they supposedly owe, which are violations of the law. Additionally, it appears that SSA is trying to collect debts from individuals when they did not incur the debt. In order for the Department of the Treasury to offset a payment to recover debt, the identification number of the person receiving the payment must match the identification number of the person who incurred the debt.⁵ It is unclear how the information could match if a debt was incurred under someone else's name, using someone else's identification number. This begs the question of whether the government is improperly collecting debt when the identification numbers do not match, or if SSA is transferring debts incurred by one individual to someone else's record.

Another question that is raised by the Washington Post is whether SSA can collect debt when the debtor is deceased. According to reports, agencies are using a 2008 amendment to the Debt Collection Improvement Act to go after debts owed by deceased individuals. The amendment eliminated a ten year statute of limitations on the government's authority to collect delinquent debt.⁶ However, it says nothing about allowing the government to offset payments from an individual to pay debts not in his or her name. It is unclear where the government has that authority.

Agencies should do their best to protect taxpayer dollars from misuse, and collect overpayments whenever possible. But SSA's actions raise serious questions about whether it is collecting debt properly or fairly.

In order to learn more about SSA's process for collecting delinquent debt, I ask that you please provide the following information:

- 1) Does the Social Security Administration have the authority to collect payment from someone to offset a debt that is not in his or her name? If yes, please describe all circumstances in which SSA has that authority and provide the statutory language granting that authority for each circumstance.
- 2) If a person dies with debt owed to SSA, can SSA collect that debt from others? If yes, please describe all circumstances in which SSA has that authority, and provide the statutory language granting that authority for each circumstance.
- 3) Does SSA ever collect or refer for offset a debt that someone in a family incurred, without SSA knowing who specifically owes the debt? If yes, please describe all circumstances in which SSA has that authority, and provide the statutory language granting that authority for each circumstance.

⁵ Department of the Treasury Bureau of Fiscal Service, "Treasury Offset Program (TOP)," accessed April 11, 2014.

⁶ P.L. 110-246, amendment to 31 U.S.C. 3716(e).

- 4) What information does SSA maintain on who owes a debt? Please specify whether SSA always keeps records of the type of debt, date the debt was incurred, the name of the individual who incurred the debt, and supporting documentation to verify the debt.
- 5) What information does SSA provide to an individual before referring debt for offset to show that an individual owes the debt?
- 6) When providing notice to individuals, what steps does SSA take to ensure that it uses correct contact information and that the notice was actually received?
- 7) Does SSA provide individuals with the opportunity to review records on the debt owed?
- 8) What information does SSA provide to the Department of the Treasury when referring debt for offset to show that an individual owes SSA a debt?
- 9) Has SSA ever transferred a debt incurred by one individual to a different individual's name in order to have the identification numbers match? If yes, please list how many times SSA has done this, please describe all circumstances in which SSA has this authority, and provide the statutory language granting authority for each circumstance.
- 10) If an individual claims that due process was not given to inform him or her that a debt was owed, what recourse does the individual have?
- 11) If an individual's payment was withheld to offset a debt that is not in the individual's name, what recourse does the individual have?
- 12) To date, how much money has SSA collected for debts in which the debtor is deceased?

Thank you for your cooperation and attention in this matter. I would appreciate a response by April 29, 2014. If you have any questions, please do not hesitate to contact Tegan Millspaw on my Judiciary Committee staff at (202) 224-5225.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Judiciary