



STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

January 9, 2018

Mr. Samuel D. Roberts
Commissioner
Office of Temporary and Disability Assistance
40 North Pearl Street
Albany, NY 12243

Re: 2016-BSE7-02

Dear Commissioner Roberts:

This is the second in a series of reports that will be issued to the Office of Temporary and Disability Assistance (OTDA) regarding our examination¹ of New York State Supplemental Program (SSP) payments, for which OTDA assumed administrative responsibility in 2014. The objective of these examinations is to determine the appropriateness of SSP payments made to State recipients during the period October 2014 through March 2016. At this time, we are reporting on the results of our examination of SSP payments made to New York State employees.

A. Results of Examination

We used data analytics to examine payments made to recipients and found OTDA processed payments to 14 State employees who were ineligible to receive benefits because the wages they earned exceeded the SSP income eligibility limits. The recipients received 105 payments totaling \$6,870 during the period October 2014 through March 2016. As of November 1, 2017, OTDA continued to pay one recipient, who was no longer on the State payroll, and was no longer paying 13 recipients, 11 of whom remained on the State payroll. Also, as a result of our findings, OTDA determined the daily file from the Social Security Administration contained incorrect income eligibility information for an additional 3,000 State SSP recipients. Officials planned to correct these 3,000 recipients' records.

For this examination, we limited our match of SSP recipients to full-time New York State employees whose earnings exceeded the SSP income eligibility limits. Had we included the entire New York State workforce, the individuals receiving benefits whose wages exceeded the income eligibility limits may be significantly higher.

¹ We performed our examination in accordance with the State Comptroller's authority set forth in Article V, Section 1 of the State Constitution, as well as Article II, Section 8, and Article VII, Section 111 of the State Finance Law.

We shared a draft report with OTDA officials and considered their comments (Attachment A) in preparing this final report. The comments of the State Comptroller on OTDA's response are included in Attachment B.

In response to the draft report, Officials agreed nine recipients were ineligible for SSP, but stated OTDA made the payments based on faulty data from the SSA. OTDA plans to recover the payments from the nine recipients. In contrast, Officials disagreed that they improperly paid benefits to the remaining five recipients because these recipients received Supplemental Security Income (SSI) benefits during the same period, which made them categorically eligible to receive SSP benefits.

OTDA Officials asserted Social Services Law § 209(1)(b) and Subpart 398-4 of the Regulations of the Department of Social Services require OTDA to pay SSP benefits based on the SSA's determination of recipients' eligibility for SSI. Officials interpret this to mean that as long as the SSA pays SSI benefits to a recipient, OTDA is required to pay SSP benefits, even if there is evidence that the SSA's determination may not be correct.

It is not clear why Officials would interpret the law and regulations in a manner that would prevent OTDA from taking action in those cases where OTDA has knowledge that the information provided by the SSA is inaccurate. We further question OTDA's position in light of language in:

- Social Services Law § 209(1)(b), which provides that a person "properly" receiving SSI benefits is eligible for SSP. We question whether a person with income in excess of the eligibility threshold is properly receiving SSI benefits.
- 18 NYCRR § 398-4.3, which expressly provides that OTDA can consider other information available in determining SSP eligibility. This information could include recipients' earnings. While our Office used the State's payroll data to identify recipients with earnings in excess of the SSP threshold, OTDA has the ability to access the New York State Department of Taxation and Finance's wage reporting system to identify recipients with potentially disqualifying incomes. This information is available to OTDA as provided for in Tax Law, § 171-a(3).

Despite sufficient, appropriate evidence that five recipients earned disqualifying incomes, officials continue to believe OTDA is required to pay in these circumstances.

OTDA officials told us they are developing a redetermination process to review eligibility requirements. This includes exploring the feasibility of using other sources to verify income eligibility, including, at our urging, the New York State Department of Taxation and Finance's wage reporting system. The wage reporting system includes wages for the entire NYS workforce

and would provide a more comprehensive source for identifying ineligible recipients. This process is in the planning stages as OTDA assesses where to concentrate its efforts.

B. Background and Methodology

OTDA administers the New York SSP, which provides a supplemental benefit to SSI recipients and other qualified individuals. To be eligible for SSI, individuals must be at least 65 years old, blind or disabled, and have limited resources and income. Individuals who are eligible for SSI are automatically eligible for SSP benefits. Some New York State residents who meet all but the income requirements for SSI may qualify for SSP payments because SSP has a higher income eligibility threshold than SSI. If a recipient's income exceeds the SSP threshold, the recipient is no longer eligible to receive payments.

Historically, the SSA processed SSP payments to eligible New York State recipients on behalf of the State. Beginning in October 2014, OTDA assumed this responsibility from the SSA. Currently, OTDA processes SSP payments to approximately 700,000 recipients. Approximately 93 percent of these recipients also receive SSI payments.

OTDA relies on the SSA to verify income and determine recipient eligibility for nearly 650,000 SSP recipients who also receive SSI. The SSA provides OTDA with an electronic file daily to update recipients' income information. OTDA uses this to determine SSI recipients' continued eligibility for SSP benefits. For the more than 50,000 recipients who receive SSP payments only, OTDA obtains income and other resource information from a variety of sources to make eligibility determinations. These sources include (i) recipients' case workers, (ii) the recipients through self-certification, or (iii) the Welfare Management System, which is the State's repository of recipient information for multiple benefit programs.

To accomplish our examination objective, we used data analytics to identify SSP payment recipients whose New York State salaries exceeded the SSP income threshold. We also researched laws, rules and regulations applicable to SSI and SSP, and interviewed OTDA Officials to gain an understanding of SSP eligibility requirements and payment processing.

Recommendations

- 1) *Continue to develop a process for reliably verifying recipients' income eligibility, which may include other reliable sources of income data.*
- 2) *Timely notify the SSA of errors in recipients' income after New York verification such that the SSA may correct eligibility determinations, where appropriate.*

- 3) *Recover funds inappropriately paid to the State employees who were ineligible to receive benefits.*
- 4) *Confirm changes made to the files for the 3,000 recipients whose information was based on incorrect SSA data.*

We thank the management and staff of the Office of Temporary and Disability Assistance for the courtesies and cooperation extended to our auditors. We would appreciate your response to this report by February 9, 2018, indicating any actions planned or implemented to address the recommendations in this report.

Sincerely,

Bernard J. McHugh
Director of State Expenditures

Enc: Attachment A
Attachment B

cc: Jeff Gaskell, Assistant Deputy Commissioner
Kevin Kehmna, Director of Audit and Quality Control
Kathleen Murphy, Management Specialist 2



Office of Temporary and Disability Assistance

ANDREW M. CUOMO
Governor

SAMUEL D. ROBERTS
Commissioner

BARBARA C. GUINN
Executive Deputy Commissioner

August 24, 2017

Mr. Bernard J. McHugh
Director of State Expenditures
Office of the State Comptroller
Bureau of State Expenditures
110 State Street
Albany, NY 12236

RE: Draft Report 2016-BSE7-02

Dear Mr. McHugh:

The Office of Temporary and Disability Assistance (OTDA) has reviewed the Office of the State Comptroller's (OSC) Draft Report, 2016-BSE7-02, examining benefits payments by the New York State Supplement Program (SSP) made between October 2014 and March 2016. As set forth below, OTDA disagrees with OSC's findings regarding SSP payments made to New York State employees, and provides the following information in support of its position.

I. Background

The New York State Supplement Program (SSP) provides state-funded financial support to eligible aged, blind or disabled individuals, and until October of 2014 was part of the monthly benefit paid to most Supplemental Security Income (SSI) recipients.

Before October 1, 2014, New York State residents who received SSI and SSP benefits received one payment from the Social Security Administration (SSA) that combined the federal SSI benefit and the New York SSP benefit. On October 1, 2014, the State took over from SSA the administration of its SSP, at which time SSI/SSP recipients began to receive their federal SSI benefit and the state SSP benefit separately. By making SSP payments directly instead of paying federal SSA to do so, the State saves approximately \$90 million annually in administrative costs.

OTDA now issues approximately 672,000 SSP payments to needy individuals totaling about \$50 million each month. Approximately 95% of the payments are made via direct deposit, with the remaining 5% issued via paper check. The audit period of October 2014 through March of 2016 encompasses the first eighteen months after OTDA's takeover of the administration of the SSP from SSA.

Eligibility for SSP benefits is based upon an individual's eligibility for SSI. By law, OTDA is required to accept SSA's determination of individual eligibility for SSI in establishing eligibility for SSP (see Social Services Law §209(1)(b) and agency regulations at 18

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NYCRR § 398-4 and 18 NYCRR § 398-4.2). An individual's application for federal SSI benefits also serves as their application for SSP. Once eligibility for SSI is determined, the applicant is categorically eligible for SSP¹, and the federal government sends the relevant information to OTDA through a system known as the Statewide Data Exchange (SDX). Administration of the SSP program relies extensively on data received daily from the SSA via the SDX. The federal eligibility determinations and data feed allow the State to operate the SSP in a cost-effective manner.

It is important to note that this audit covered the first 18 months that OTDA began administering SSP. OTDA has already taken steps to improve upon the quality, accuracy and timeliness of the information received from the SSA and will continue to enhance practices, where appropriate.

II. OTDA Disagrees with Certain Findings and Lends Context to OSC's Remaining Claims

OSC contends that, during the audit period, fourteen (14) New York State employees improperly received SSP payments. This finding is incorrect.

First, 5 of the 14 employees cited as "incorrectly paid" by OSC, were in fact, properly paid. For each of the 14 employees OSC identified, OTDA conducted a full case review to determine eligibility for SSP benefits. That review demonstrates that five of those employees were, in fact, properly paid SSP benefits. As set forth above, once the federal government has determined that an applicant is eligible for SSI, he or she is categorically eligible for SSP. Such is the case with these five individuals, identified in Appendix A. The SDX demonstrates that these five individuals were in receipt of SSI for the entire period under review and were, therefore, eligible for SSP. Accordingly, OTDA requests OSC's amendment of report 2016-BSE7-02 to remove these five individuals from its findings.

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Second, to the extent there were any errors with respect to the remaining SSP payments, OTDA is not at fault. OTDA acknowledges that SSP payments totaling \$4,627 were improperly paid to nine employees -- two employees being ineligible for benefits during the entire audit period and seven employees being ineligible for benefits during portions of the audit period. However, OTDA made these payments in good faith and in reliance upon data provided by SSA to OTDA. OTDA is pursuing recoupment of those payments.

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Any errors in payment were not caused by OTDA but rather, inconsistent income information provided by the federal SSA to OTDA. As noted above, SSP eligibility is based on information received from the SSA via the SDX. If an individual is in receipt of SSI, OTDA does not conduct a separate SSP eligibility determination because the recipient is, by law, categorically eligible for SSP and receives the maximum SSP benefit based on the individual's living arrangement. If the individual has income which exceeds the SSI guidelines but is otherwise SSI-eligible, the SSP system conducts an eligibility determination based on the income information transmitted via the SDX.

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Our review of the nine individuals who received improper payments indicates that the federal SSA had incorrectly recorded the income for these nine cases as zero (0). OTDA's payment of SSP benefits to these individuals was based upon the federal SSA's faulty information. As soon as OSC brought this to our attention, SSP re-calculated eligibility for

¹ If an individual is not income-eligible for SSI, but meets the other criteria, he or she may still be eligible to receive SSP benefits. SSI and SSP have different income thresholds. Approximately 6% of those served by OTDA's SSP are SSP-only, and do not receive federal SSI benefits.

these nine cases, each of which is now receiving the benefits to which they are entitled based upon their corrected income.

To address this problem, OTDA has modified its SSP system so that income information provided by SSA via the SDX is not used in eligibility or benefit calculation for case records categorized as SSP-only.

III. OTDA's Response to the Draft Report's Recommendations

OSC issued four recommendations to OTDA in its Draft Report. Mindful of the disagreement as to certain findings, OTDA has begun addressing or otherwise plans to address these recommendations as follows.

Recommendation #1:

"Continue to develop a process for reliably determining recipients' income eligibility, which may include other reliable sources of income data."

Response:

This has been implemented. OTDA already revised policies and procedures to ensure that income eligibility is accurately determined. These revisions include:

- OTDA reviews Approval Notices for individuals categorized as SSP only- that is, situations where such individual is not eligible for SSI because they are over-income, but are still eligible for SSP. Each approval is reviewed to ensure that income eligibility has been determined accurately.
- As noted above, OTDA has modified its system so that income information provided by SSA via the SDX is not used in eligibility or benefit calculation for case records categorized as SSP-only.
- With respect to those applicants/recipients who are SSP-only, OTDA is now reviewing other data sources available to us (e.g., WRS, UI, TALX, and BENDEX) which may have income and resource information that we can use to verify the data relating to this subgroup.
- OTDA will continue to work with our federal partner to address identified SDX issues in a timely manner.

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Recommendation #2:

"Timely notify the federal Social Security Administration (SSA) concerning a recipient's income after New York determinations."

Response:

OTDA disagrees with this recommendation. While OTDA already works collaboratively to inform SSA about inconsistent SSA and OTDA income data, timely notification will not eliminate the problem of erroneous payments. The challenge here is that OTDA is required by law to abide by the SSI eligibility determination made by SSA, even if it is based on faulty information. Thus, timely notifications may assist SSA in keeping more

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accurate files, but timely notifications do not in of themselves result in improved payment accuracy.

Recommendation #3:

“Recover funds inappropriately paid to 14 state employees.”

Response:

- As a threshold matter, SSP benefits issued during the audit period totaled close to One Billion Dollars. The \$4,627 at issue here is an infinitesimal .0005% of total SSP benefits issued.
- Already implemented. As set forth above, payments were improperly paid in 9, not 14 cases. Requests for repayment have been sent to the nine (9) individuals found to be ineligible for all or a portion of the time period reviewed. OTDA will undertake all efforts necessary to recover these funds.

Recommendation #4:

“Confirm changes made to the income calculation for the 3,000 recipients whose information was based on incorrect SSA data.”

Response:

OTDA implemented a systematic adjustment which precludes the SSP system from accepting federal SSA income data once a record has been categorized as a State benefit only recipient. This fully addresses the issue related to the incorrect income information in the cases cited in this recommendation.

OTDA is currently reviewing the records for these recipients to ensure that benefits have been discontinued, or if applicable, continued with accurate income information.

In sum, the State’s takeover of the administration of the SSP program, which delivers important benefits to some of our most vulnerable and needy residents, has been a success. The program is both efficient and responsive to recipient needs, saving New York State taxpayers approximately \$90 million per year. OTDA continues to work with our federal partner and make changes to improve program efficiencies.

If you have any questions concerning our response to the draft report, please contact me at (518) 473-6035 or Kevin.Kehmna@otda.ny.gov.

Sincerely,



Kevin Kehmna, Director
Audit and Quality Improvement

Enclosures

State Comptroller's Office Comments on Auditee Response

1. Social Services Law § 209(1)(b) provides that a person “properly” receiving SSI benefits is eligible for SSP. As stated in our report, we question whether a person with income in excess of the SSI eligibility threshold is “properly” receiving benefits. Additionally, 18 NYCRR § 398-4.3 expressly provides that OTDA can consider other information available in determining SSP eligibility. This information could include recipients’ earnings. Our Office used the State’s payroll data to identify recipients with earnings in excess of the SSP threshold. Despite sufficient, appropriate evidence that five recipients earned disqualifying incomes, officials continue to believe OTDA is required to pay SSP benefits. It is not clear why Officials would interpret the law and regulations in a manner that would prevent OTDA from taking action in those cases where OTDA has knowledge that the information provided by the SSA is inaccurate.
2. Officials assert that OTDA is not at fault because staff relied on faulty SSA information. However, OTDA is responsible for ensuring SSP payments are just, correct and appropriate to pay. Accordingly, we recommend OTDA use other sources of income data to ensure payments are correct. As stated in our report, OTDA has the ability to access the New York State Department of Taxation and Finance’s wage reporting system to identify recipients with potentially disqualifying incomes. This information is available to OTDA as provided for in Tax Law § 171-a(3).
3. OTDA stated staff implemented a process to monitor income eligibility for SSP-only recipients. However, this process excludes a review of income eligibility for recipients that receive both SSP and SSI, which represents 93% of the nearly 700,000 recipient population. Our recommendation was intended for the entire population of SSP recipients.
4. OTDA stated staff currently work collaboratively with SSA to inform them about inconsistencies between SSA and OTDA income data. Officials maintain that timely notifying SSA will not eliminate the problem of erroneous payments. While it may not be feasible to eliminate erroneous payments, timely notification would serve to minimize them. As OTDA identifies recipients improperly receiving SSP benefits, such as New York State employees with disqualifying incomes, Officials should promptly notify SSA. With this new information, SSA could review its records and correct any inaccurate data that it may be using to determine recipient eligibility. As a result, SSA could more timely cease processing future payments to ineligible recipients and OTDA officials would have more assurance that the data they rely upon to process SSP payments is accurate.



ANDREW M. CUOMO
Governor

Office of Temporary and Disability Assistance

SAMUEL D. ROBERTS
Commissioner

BARBARA C. GUINN
Executive Deputy Commissioner

February 9, 2018

Mr. Bernard J. McHugh
Director of State Expenditures
Office of the State Comptroller
Bureau of State Expenditures
110 State Street
Albany, New York 12236

RE: Report 2016-BSE7-02

Dear Mr. McHugh:

The Office of Temporary and Disability Assistance (OTDA) has reviewed report 2016-BSE7-02 issued by the Office of State Comptroller (OSC) on January 9, 2018 (the Report), which examines payments made by the New York State Supplemental Program (SSP) during the period October 2014 through March 2016.

Since taking over SSP payments from the federal Social Security Administration (SSA) in October of 2014, OTDA has updated and enhanced its practices to improve data accuracy in order to prevent payments to such individuals. OSC's limited findings with respect to certain payments made to, or on behalf of individuals claimed to be over-income covers the first 18 months that OTDA administered SSP. Since that time, OTDA has taken steps to improve upon the quality, accuracy, and timeliness of the information received from SSA and will continue to enhance practices, where appropriate as the program proceeds.

Furthermore, OSC's findings resulted from a data match it conducted against a proprietary database. It is noted that OTDA does not currently have access to this data base and remains interested in exploring the cost effectiveness of accessing any system that may further enhance the accuracy of its data.

More specifically, OTDA responds to the Report as follows.

I. Background

The New York State SSP provides state-funded financial support to eligible aged, blind or disabled individuals; and until October of 2014 was part of the monthly benefit paid to most Supplemental Security Income (SSI) recipients. Before October 1, 2014, New York State residents who received SSI and SSP benefits received one payment from the SSA that combined the federal SSI benefit and the New York SSP benefit. On October 1, 2014, the State took over from SSA the administration of its SSP; at which time SSI/SSP recipients began to separately receive their federal SSI benefit and the state SSP benefit. By making SSP payments directly instead of paying the federal SSA to do so, OTDA saves the State approximately \$90 million annually in administrative costs.

OTDA now issues approximately 672,000 SSP payments to needy individuals totaling about \$50 million each month. Approximately 95% of the payments are made via direct deposit, with the remaining 5% issued via paper check.

Eligibility for SSP benefits is based upon an individual's eligibility for SSI. By law, OTDA is required to accept SSA's determination of individual eligibility for SSI in establishing eligibility for SSP (see Social Services Law §209(1)(b) and agency regulations at 18 NYCRR §398-4 and NYCRR §398-4.2). An individual's application for federal SSI benefits also serves as their application for SSP. Once eligibility for SSI is determined, the applicant is categorically eligible for SSP, and the federal government sends the relevant information to OTDA through the Statewide Data Exchange (SDX). Administration of the SSP program relies extensively on data received daily from the SSA via the SDX. The federal eligibility determinations and data feed allows the state to operate the SSP in a cost-effective manner.

II. OTDA Response to the Report

OSC overstates OTDA's procedure for paying SSP benefits to recipients who receive SSI. Although New York State statute and regulation require that OTDA deem current SSI recipients as categorically income eligible and therefore not subject to a separate eligibility determination, it is not OTDA's policy to continue making payments to recipients known to have income over the state standard for the applicable living arrangement. In its response to the draft report, OTDA merely pointed out its need to rely upon SDX data along with the inherent limitations in that data set. Despite these limitations, OTDA conducts independent eligibility and benefit calculation based upon income information obtained from the recipient or other reliable sources, including the State Online Query (SOLQ) which is a federal application allowing real-time access to Social Security Number information. Where applicable, OTDA reports cases that appear to be over income to SSA in accordance with federal procedures.

OTDA has already taken action with respect to all four of the Report's recommendations as follows:

Recommendation #1: Continue to develop a process for reliably verifying recipients' income eligibility, which may include other reliable sources of income data.

OTDA Response: OTDA has several procedures to reliably verify income eligibility. All approval notices are reviewed prior to issuance to ensure that recipient income and eligibility have been correctly calculated and determined. The SSP system has been modified so that income information received via the SDX for records categorized as SSP-only is not used to calculate eligibility or benefits since this income information has been found to be out-of-date or inaccurate in many instances. OTDA conducts independent eligibility and benefit calculation based on income information obtained from the recipient or other reliable sources, including SOLQ.

OTDA continues to explore the potential use of third party verification matches that are currently available to OTDA for other programs, such as: Wage Reporting & Tracking System (WRTS), Unemployment Insurance benefit payment Information in the Benefit Claimant Inquiry system (BCIQ), TALX and Beneficiary Earnings and Data Exchange (BENDEX).

Recommendation #2: Timely notify the SSA of error in recipients' income after New York verification such that SSA may correct eligibility determinations, where appropriate.

OTDA Response: In accordance with SSA procedures, OTDA reports income discrepancies that impact recipient eligibility to SSA by completing and submitting a federal G-SSA 3911-U4 form to the SSA field and regional offices.

Recommendation #3: Recover funds inappropriately paid to the State employees who were ineligible to receive benefits.

OTDA Response: OTDA sent letters to all 9 recipients identified as overpaid, notifying each individual that these overpayments must be returned. To date, OTDA has received a full repayment of \$115 from one of these recipients, and is actively working to recover these funds from the remaining 8 cases.

Recommendation #4: Confirm changes made to the files for the 3,000 recipients whose income information was based on incorrect SSA data.

OTDA Response: OTDA has implemented a systematic adjustment which precludes the SSP system from accepting federal SSA income data once a record has been categorized as a SSP-only recipient. This change fully addresses the issue related to the incorrect income information in the cases cited in this recommendation. OTDA also generates reports and conducts reviews of SSP-only cases on an ongoing basis to ensure that income has been calculated correctly and benefits issued appropriately.

In closing, the NYS takeover of administration of the SSP program is operating successfully, delivering approximately \$50 million dollars in benefits each month to aged and disabled citizens on time and in a cost-effective manner. OTDA continues to make program and process improvements and to strengthen program integrity and oversight.

If you have any questions concerning our response to this report, please contact Kevin Kehmna at (518) 473-6035 or via email at Kevin.Kehmna@otda.ny.gov.

Sincerely,



Samuel D. Roberts
Commissioner