



Office of the Inspector General

SOCIAL SECURITY ADMINISTRATION

Informational Report

Beneficiaries with Medical Improvement Not Expected Who Died During the 5-month Disability Insurance Waiting Period

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Office of the Inspector General

SOCIAL SECURITY ADMINISTRATION

MEMORANDUM

Date: July 19, 2023

Refer to: 062322

To: Kilolo Kijakazi
Acting Commissioner

From: Gail S. Ennis *Gail S. Ennis*
Inspector General

Subject: Beneficiaries with Medical Improvement Not Expected Who Died During the 5-month Disability Insurance Waiting Period

The attached final report provides information for Disability Insurance beneficiaries whose claims were approved at the initial claim level by various state disability determination services during Calendar Years 2020 and 2021. In each case, disability examiners (1) determined the beneficiary had a disabling condition that was permanent and that medical improvement was not expected, and (2) established a 7-year medical review diary.

If you wish to discuss the final report, please call me or have your staff contact Michelle L. Anderson, Assistant Inspector General for Audit.

Attachment

INTRODUCTION

This report provides information on 610,219 Disability Insurance (DI) beneficiaries¹ whose claims were approved at the initial claim level by various state disability determination services (DDS) during Calendar Years (CY) 2020 and 2021. In each case, disability examiners (1) determined the beneficiaries had disabling conditions that were permanent and that medical improvement was not expected, and (2) established a 7-year medical review diary.² As of December 22, 2022, SSA had terminated the DI benefit payment status of only 319 (.05 percent) beneficiaries after determining they were no longer disabled.³ However, SSA had terminated the payment status of 75,857 beneficiaries who died⁴ after SSA approved their claims, including 4,444 beneficiaries who died during the 5-month DI waiting period.⁵

BACKGROUND

The Social Security Administration (SSA) administers two programs to provide benefits based on disability: DI and Supplemental Security Income (SSI).⁶ The DI program pays Disability Insurance benefits (DIB) to insured workers and their families if the worker becomes disabled.⁷ Entitlement to DIB can begin when a claimant is disabled under SSA's rules (which include a requirement the individual is unable to engage in any substantial gainful activity); obtains DIB insured status; and, if applicable, has served a waiting period. SSI is a means-tested, welfare program that provides a minimum level of income to individuals with limited income and resources who are aged, blind, or disabled. In March 2023, SSA issued disability-related payments to approximately 11.9 million beneficiaries under the DI and SSI programs.

¹ Throughout the report, we use the term “beneficiary” to refer to the 610,219 individuals without regard to whether they ever actually received DI benefit payments.

² We identified these beneficiaries through SSA's Electronic Disability Collect System which retains disability claims information from Form SSA-831, *Disability Determination and Transmittal*. SSA is required to conduct periodic reviews to determine whether disability beneficiaries continue to meet disability eligibility requirements. The frequency of review depends on the disability examiner's assessment of the likelihood of medical improvement. SSA has established three medical diary categories and a set review period for each category: (1) *medical improvement expected* diary cases within 3 years, (2) *medical improvement possible* diary cases every 3 years, and (3) *medical improvement not expected* diary cases every 5 to 7 years. This report focuses on instances where disability examiners assigned a 7-year medical review diary.

³ On December 22, 2022, each of these beneficiary's payment record contained ledger account file code T8, which SSA defines as *primary DIB terminated because no longer disabled*.

⁴ SSA's Master Beneficiary Record contains a ledger account file code indicating the payment status of each beneficiary. On December 22, 2022, each of these beneficiary's payment record contained (1) a ledger account file code “T1”, which SSA defines as *terminated due to the death of the beneficiary* and (2) the beneficiary's date of death. SSA approved DI claims of another 614 individuals who were deceased as of December 22, 2022; however, SSA determined these individuals were eligible for Medicare benefits only and not eligible for DI benefit payments. As a result, we did not include these individuals with the 75,857 deceased beneficiaries discussed in the report.

⁵ Throughout the report, we refer to 4,444 beneficiaries who “died during the 5-month waiting period.” DI beneficiaries are not eligible for benefit payments in their month of death. Therefore, a DI beneficiary must survive the 5-month waiting period and then their first month of entitlement before becoming eligible to receive DI benefits. The 4,444 beneficiaries include individuals who died during their first month of entitlement and therefore did not receive DI benefit payments.

⁶ 42 U.S.C. §§ 1381, 1381a; 20 C.F.R. §§ 416.101, 416.110.

⁷ 42 U.S.C. § 423; 20 C.F.R. § 404.316.

5-month Disability Insurance Waiting Period

Generally, a DI beneficiary must wait 5 months⁸ after the month SSA establishes as the date of disability onset⁹ to become *entitled* to benefit payments. In 1955, the House Committee on Ways and Means expressed the DI waiting period should be “. . . long enough to permit most temporary conditions to be corrected or to show definite signs of probable recovery” and be of sufficient length to make it “unprofitable for a person who can work not to do so.”¹⁰ In December 2020, Congress passed a law that eliminated the waiting period for beneficiaries diagnosed with Amyotrophic Lateral Sclerosis (ALS).¹¹

DI beneficiaries are not eligible for benefits in their month of death. Therefore, a DI beneficiary must survive the month of disability onset, an additional 5-month waiting period, and the first month of entitlement before becoming eligible to receive the initial DI benefit payment the following month. To illustrate, a worker with an unknown medical condition becomes too ill to work on January 10. Later that month, the worker is diagnosed with cancer and applies for DI benefits. In February, DDS expedites and approves the claim and establishes a January 10 disability onset date. The 5-month waiting period begins the month after the disability onset (in this case February) and runs through June. The worker’s first month of entitlement is July meaning that SSA would issue this worker’s first DI benefit payment in August.

SSA identifies various types of disability cases for priority handling and expeditious processing and development, including Terminal Illness Cases, Compassionate Allowances, Quick Disability Determinations, and Military Casualty / Wounded Warrior claims.¹² However, even after expediting the approval of these types of claims, SSA must apply the 5-month waiting period before it initiates DI benefit payments—except for ALS cases.¹³

No Waiting Period Supplemental Security Income Payments

While Federal law requires a waiting period for disability benefits under the DI program, it does not require any waiting period for disability-related payments under the SSI program. Additionally, the SSI program incorporates presumptive blindness and presumptive disability provisions to expedite monthly disability-related payments to SSI applicants that SSA presumes are disabled or blind. These applicants become eligible for immediate payments and in some

⁸ 42 U.S.C. § 423(c)(2). Congress reduced the waiting period from 6 to 5 months in 1972. One exception to the 5-month waiting period applies to individuals who, in the 5 years immediately preceding the onset of a current disability, received disability benefits.

⁹ If SSA determines the disability onset occurred on the first day of the month, the 5-month waiting period begins immediately. However, if disability onset is any day other than the first day of the month, the 5-month waiting period begins the following month.

¹⁰ U.S. Congress, House Committee on Ways and Means, *The Social Security Amendments of 1955*, report to accompany H.R. 7225, 84th Cong., 1st sess., H.Rept. 1189 (Washington: GPO, 1995), pp. 5-6.

¹¹ *ALS Disability Insurance Access Act of 2019*, Pub. L. No. 116-250, 134 Stat. 1128 (2020) and Pub. L. No. 117-3, 135 Stat. 246 (2021). The ALS Disability Insurance Access Act of 2019 became law in December 2020, eliminating the 5-month waiting period for claimants with ALS. A March 2021 amendment to this act eliminated the 5-month waiting period for individuals with ALS who were approved for benefits on or after July 23, 2020.

¹² SSA, *POMS*, DI 23020.001 (January 26, 2023).

¹³ We identified the 610,219 DI beneficiaries discussed in this report based on criteria provided in the Introduction and without consideration of the amount of time it took SSA to approve their claims.

cases Emergency Advance Payments.¹⁴ SSA field office staff are authorized to make presumptive blindness and presumptive disability determinations based on specific impairments listed in policy, including deafness, Down Syndrome, and Cerebral Palsy.¹⁵

BENEFICIARIES' PAYMENTS TERMINATED DUE TO DEATH

As of December 22, 2022, SSA had terminated the DI benefit payment status of 75,857 of the 610,219 beneficiaries due to death, including 4,444 beneficiaries who died during the 5-month DI waiting period. Table 1 summarizes the impairments of the 610,219 beneficiaries in descending order of the number of beneficiaries whose benefit payments status was terminated due to death during the 5-month DI waiting period.

Table 1: Summary of Beneficiaries' Primary Diagnosis

Impairment/Diagnosis	Beneficiaries	Number of Beneficiaries Terminated Due to Death	%	Number of Beneficiaries Who Died During the DI Waiting Period
Malignant Neoplasm of Trachea, Bronchus, or Lung	16,074	8,467	52.7	923
Malignant Neoplasm of Pancreas	5,842	3,810	65.2	365
Malignant Neoplasm of Colon	9,814	4,609	47.0	256
Malignant Neoplasm of Liver and Intrahepatic Bile Ducts	3,087	1,819	58.9	247
Chronic Liver Disease	7,109	2,662	37.4	192
Malignant Neoplasm of Nervous System	4,208	2,659	63.2	179
Malignant Neoplasm of Breast	9,310	3,165	34.0	177
Malignant Neoplasm of Esophagus	3,071	1,825	59.4	151
Chronic Kidney Disease with Dialysis	21,294	3,451	16.2	125
Malignant Neoplasm of Kidney	2,828	1,213	42.9	120
Amyotrophic Lateral Sclerosis	3,405	1,815	53.3	109
Vascular Insult to the Brain	28,153	2,345	8.3	108
237 Additional Impairments	496,024	38,017	7.7	1,492
Total	610,219	75,857	12.4	4,444

By a significant margin, the highest frequency of death overall (8,467 beneficiaries) and during the 5-month DI waiting period (923 beneficiaries) occurred with beneficiaries diagnosed with malignant neoplasm of trachea, bronchus, or lung. Beneficiaries with nine other diagnoses had a higher frequency of death during the DI waiting period than beneficiaries diagnosed with ALS. We reviewed SSA earnings and disability claims records for selected individuals who died during the 5-month DI waiting period or during the first month of entitlement and provide examples below:

- A Mississippi man applied for disability benefits in July 2021 when he could no longer work because he was diagnosed with unresectable adenocarcinoma of the pancreas. DDS expedited and approved the claim in August 2021. After contributing to the DI Trust Fund for more than 30 years, the man died in October 2021 without receiving DI benefit payments.

¹⁴ SSA, POMS, DI 11055.230 (July 24, 2014).

¹⁵ SSA, POMS, DI 11055.231 (July 3, 2018).

- A Michigan woman applied for disability benefits in February 2021 when she could no longer work because of stage 4 adenocarcinoma of the esophagus, with metastases to both lungs, lymph nodes, bone, and liver. Medical records documented she had a large mass and required a full liquid diet with a feeding tube and received morphine for pain. DDS expedited and approved the claim in March 2021. After contributing to the DI Trust Fund for approximately 40 years, the woman died in May 2021 without receiving DI benefit payments.
- A New Hampshire man applied for benefits in April 2020 and was diagnosed with stage 4 lung cancer with metastases to the brain, bone, liver, and adrenal gland. Medical records documented that he weighed 140 pounds, experienced financial difficulty purchasing nutritional supplements, and requested financial assistance to assist in providing care for his grandson. DDS approved the claim in May 2020 and established a February 28, 2020 disability onset date. After contributing to the DI Trust Fund for more than 40 years, the man died in August 2020, his first month of entitlement, without receiving DI benefit payments.

SUMMARY

SSA data indicated that over the period reviewed, when DDS disability examiners awarded claims and assessed that medical improvement was not expected, SSA subsequently determined that only approximately 1 out of every 2,000 beneficiaries was no longer disabled.

SSA records also reflect that SSA had terminated the DI benefit payment status of 4,444 beneficiaries due to death occurring during the beneficiaries' DI waiting period. Of these beneficiaries, 109¹⁶ (2.5 percent) were diagnosed with ALS. Ten other impairments, including eight forms of malignant cancer, produced a higher incident of death than ALS during the DI waiting period.

¹⁶ 21 of the 109 claimants did not receive DI benefit payments because they were approved before the July 23, 2020 effective date of the waiting period exclusion for ALS. The other 88 claimants died within 5 months of claims approval but were not subject to the 5-month waiting period.

ABBREVIATIONS

ALS	Amyotrophic Lateral Sclerosis
C.F.R.	Code of Federal Regulations
CY	Calendar Year
DDS	Disability Determination Services
DI	Disability Insurance
DIB	Disability Insurance Benefits
OIG	Office of the Inspector General
POMS	Program Operations Manual System
SSA	Social Security Administration
SSI	Supplemental Security Income
U.S.C.	United States Code



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