



December 2014

SOCIAL SECURITY DISABILITY BENEFITS

Agency Could Improve Oversight of Representatives Providing Disability Advocacy Services

GAO Highlights

Highlights of [GAO-15-62](#), a report to congressional requesters

Why GAO Did This Study

For years, states and counties have helped individuals who receive state or county assistance apply for federal disability programs. Federal benefits can be more generous, and moving individuals to these programs can allow states and counties to reduce their benefit costs or reinvest savings into other services. Some states have hired private organizations to help individuals apply for federal benefits, but the extent and nature of this practice is not well-known. GAO was asked to study this practice.

This report examines (1) what is known about the extent to which states have SSI/DI advocacy contracts with private organizations, (2) how SSI/DI advocacy practices compare across selected sites, and (3) the key controls SSA has to ensure these organizations follow SSI/DI program rules and regulations. GAO reviewed relevant federal laws, regulations, and program rules; selected three sites to illustrate different contracting approaches; reviewed prior studies, including one by SSA's Office of the Inspector General with a generalizable sample of disability claim files; and interviewed SSA, state, and county officials and contractors.

What GAO Recommends

GAO recommends that SSA (1) consider ways to improve data and identify and monitor trends related to representatives, and (2) enhance coordination with states, counties, and other third parties with the goal of improving oversight and preventing potential overpayments. SSA partially agreed with our recommendations and noted that it may consider additional actions related to representatives.

View [GAO-15-62](#). For more information, contact Daniel Bertoni at (202) 512-7215 or bertonid@gao.gov.

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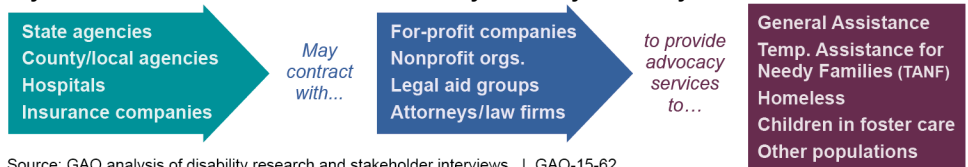
Agency Could Improve Oversight of Representatives Providing Disability Advocacy Services

What GAO Found

Little is known about the extent to which states are contracting with private organizations to help individuals who receive state or county assistance apply for federal disability programs. Representatives from these private organizations help individuals apply for Supplemental Security Income (SSI) and Disability Insurance (DI) from the Social Security Administration (SSA). Available evidence suggests that this practice—known as SSI/DI advocacy—accounts for a small proportion of federal disability claims. Using a variety of methods, including interviewing stakeholders, GAO identified 16 states with some type of SSI/DI advocacy contract in 2014. In addition, GAO analyzed a sample of 2010 claims nationwide and estimated that such contracts accounted for about 5 percent of initial disability claims with nonattorney representatives, or about 1 percent of all initial disability claims. Representatives working under contract to other third parties, such as private insurers and hospitals, accounted for an estimated 30 percent of initial disability claims with nonattorney representatives.

Three selected sites represented different approaches to SSI/DI advocacy, but were similar in many respects. For example, Minnesota contracted with 55 nonprofit and for-profit organizations, while Hawaii and Westchester County, New York, each had a single contractor: a legal aid organization, and a for-profit company, respectively. At the same time, all three sites targeted recipients of similar state and county programs, such as General Assistance, and generally paid contractors only for approved disability claims, among other similarities.

Key Stakeholders Involved with Social Security Disability Advocacy



Source: GAO analysis of disability research and stakeholder interviews. | GAO-15-62

SSA has controls to ensure representatives follow program rules and regulations, but these controls are not specific to those working under contract to states or other third parties and may not be sufficient to assess risks and prevent overpayments—known by SSA as fee violations. Specifically:

- Despite the growing involvement of different types of representatives in the initial disability determination process, SSA does not have readily available data on representatives, particularly those it does not pay directly. This hinders SSA's ability to identify trends and assess risks, a key internal control. SSA's existing data are limited and are not used to provide staff with routine information, such as the number of claims associated with a given representative. SSA has plans to combine data on representatives across systems, but these plans are still in development.
- SSA does not coordinate its direct payments to representatives with states or other third parties that might also pay representatives, a risk GAO identified in 2007. In cases involving SSI/DI advocacy contracts, a representative may be able to collect payments from both the state and from SSA, potentially resulting in an overpayment—a violation of SSA's regulations.

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Abbreviations

AFDC	Aid to Families with Dependent Children
ALJ	administrative law judge
CDR	continuing disability review
DDS	disability determination services
DI	Disability Insurance
GA	General Assistance
HHS	Department of Health and Human Services
IAR	Interim Assistance Reimbursement
ODAR	Office of Disability Adjudication and Review
OIG	Office of the Inspector General
SOAR	SSI/SSDI Outreach, Access and Recovery
SSA	Social Security Administration
SSI	Supplemental Security Income
TANF	Temporary Assistance for Needy Families

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December 3, 2014

The Honorable Jeff Sessions
Ranking Member
Committee on the Budget
United States Senate

The Honorable Darrell Issa
Chairman
Committee on Oversight and Government Reform
House of Representatives

The Honorable James Lankford
Chairman
Subcommittee on Energy Policy, Health Care and Entitlements
Committee on Oversight and Government Reform
House of Representatives

The Honorable Sam Johnson
Chairman
Subcommittee on Social Security
Committee on Ways and Means
House of Representatives

State and local governments throughout the United States are grappling with budgetary challenges and have sought ways to reduce spending on state- and county-funded benefit programs, while also providing eligible individuals with benefits to address their needs. To that end, some states and counties have contracted with organizations to (1) identify individuals with disabilities who are receiving assistance from state or local programs and might be eligible for two of the federal government's largest disability programs—Supplemental Security Income (SSI) and Disability Insurance (DI)—and (2) help them with the disability application process. Even though this practice—referred to as SSI/DI advocacy—has been around for quite some time, little is known about the various forms state and local efforts can take. Media attention on states' use of SSI/DI advocacy comes on top of questions about the fiscal health and integrity of the federal SSI

and DI programs, administered by the Social Security Administration (SSA).¹

Against this backdrop, you asked us to review the SSI/DI advocacy services provided by private organizations. Specifically, we examined (1) what is known about the extent to which states are contracting with private organizations to identify and move eligible individuals from state- or county-administered benefit programs to Social Security disability programs, (2) how SSI/DI advocacy practices compare across selected sites, and (3) the key controls SSA has in place to ensure these organizations follow SSI/DI program rules and regulations.

To address these objectives, we reviewed relevant federal laws and regulations and SSA program documentation, including policies and procedures. To gather more information about the extent to which states and other government entities are contracting with private organizations to provide SSI/DI advocacy services, we interviewed SSA and Department of Health and Human Services (HHS) officials; numerous state, county, and local officials; and stakeholders and researchers who work in this area. We also worked with national professional organizations representing state Temporary Assistance for Needy Families (TANF) agencies and state Disability Determination Services (DDS) directors to help identify states that may be engaged in these practices. In addition, we reviewed relevant studies; in particular, we reviewed findings from a recent SSA Office of the Inspector General (OIG) report, including the OIG's generalizable sample of disability claims with nonattorney

¹Federal disability programs have been on GAO's high risk list for over a decade because of the need to modernize eligibility criteria and ensure better coordination among programs, particularly in light of ongoing challenges, including growing demand for benefits. See GAO, *High Risk Series: An Update*, [GAO-13-283](#) (Washington, D.C.: Feb. 14, 2013). In addition, fraud allegations have raised questions about the integrity of SSA's disability programs. See, for example, SSA Office of the Inspector General, *2014 Spring Semiannual Report to Congress* (Baltimore, Md.: May 30, 2014).

representatives in 2010.² In order to obtain in-depth information on states' and organizations' SSI/DI advocacy practices, we selected three sites—Hawaii; Minnesota; and Westchester County, New York—with SSI/DI advocacy contracts. We selected sites that had an established history of contracting for SSI/DI advocacy and represented a variety of approaches, such as contracting at the state or county level, or contracting with a single organization or multiple for-profit and nonprofit organizations. Specifically, we selected a state with a single, statewide nonprofit contractor; a state with multiple for-profit and nonprofit contractors; and a county with a single, for-profit contractor. We requested data from each site on the number of SSI and DI claims that were approved and the total amounts paid under the contract in state fiscal year or contract year 2013. We also collected SSA data on the total number of claims approved in the same state or county in calendar year 2012, the most recent year these federal data were available. We assessed the reliability of these data by interviewing knowledgeable SSA, state, and contractor officials and comparing data provided by the state or county and the contractors, and determined the data were sufficiently reliable for the purposes of providing contextual information on the size of these contracts. To analyze national trends in the involvement of representatives over time, we reviewed SSA data on initial SSI and DI claims with attorney and nonattorney representatives, from calendar year 2004 to 2013. We assessed the reliability of these SSA data by interviewing knowledgeable officials. We determined that these data were sufficiently reliable for the purposes of providing contextual information on national trends in representation.

To determine what data and key controls SSA has regarding organizations and representatives, we reviewed relevant federal laws and regulations, policies, and procedures in SSA's Program Operations Manual System. We also interviewed SSA headquarters officials, as well

²SSA Office of the Inspector General, *Claimant Representatives at the Disability Determination Services Level*, A-01-13-13097 (Baltimore, MD: Feb. 27, 2014). To determine the reliability of the findings in this report regarding the proportion of nonattorney representatives that may be contracting with government entities and other third parties, GAO reviewed the documents that the OIG used to place 83 randomly sampled initial claim files with nonattorney representatives into categories by type of representative. Through this process and interviews with the OIG regarding their sampling, GAO determined these categorizations to be sufficiently reliable for the purpose of this report. In addition, GAO performed original analyses on these 83 randomly sampled initial claim files to determine other characteristics of nonattorney representatives, including their fee arrangements. See appendix I for additional details.

as SSA officials in selected regional offices, field offices, and state DDSs.³ In addition, we assessed SSA's controls against GAO Standards for Internal Control in the Federal Government.⁴

We conducted this performance audit from September 2013 through December 2014 in accordance with generally accepted government auditing standards. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. See appendix I for additional information on our objectives, scope, and methodology.

Background

Overview of Federal Disability Benefit Programs

The Social Security Administration administers two main programs that provide benefits to individuals with disabilities: SSI and DI. Adults are generally considered disabled if (1) they cannot perform work that they did before; (2) they cannot adjust to other work because of their medical condition(s); and (3) their disability has lasted, or is expected to last, at least 1 year or is expected to result in death.⁵

SSI is a means-tested income assistance program that provides monthly cash benefits to individuals who are disabled, blind, or aged and meet, among other things, the program's assets and income restrictions. In fiscal year 2015, SSA expects to pay an estimated \$60 billion in SSI benefits to about 8.5 million recipients.

³We interviewed officials in the SSA regional offices, field offices, and state DDSs that corresponded to our three selected sites.

⁴GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: November 1999).

⁵42 U.S.C. §§ 423(d), 1382c(a). For a child, SSI eligibility criteria require that (1) he/she has a physical or mental impairment that results in marked and severe functional limitations, and (2) the impairment lasts, or is expected to last, for at least 12 months, or is expected to result in death. 42 U.S.C. § 1382c(a)(3)(C)(i).

SSA's primary disability program, the DI program, provides monthly cash benefits to adults not yet at full retirement age when the individual is disabled and has worked long enough to qualify for disability benefits. In fiscal year 2015, SSA expects to pay an estimated \$147 billion in DI benefits to about 11 million workers with disabilities and their spouses and dependents. Some disability recipients receive both SSI and DI benefits because of their work history and the low level of their income and resources. SSA expects costs for these programs to increase in the coming years.⁶

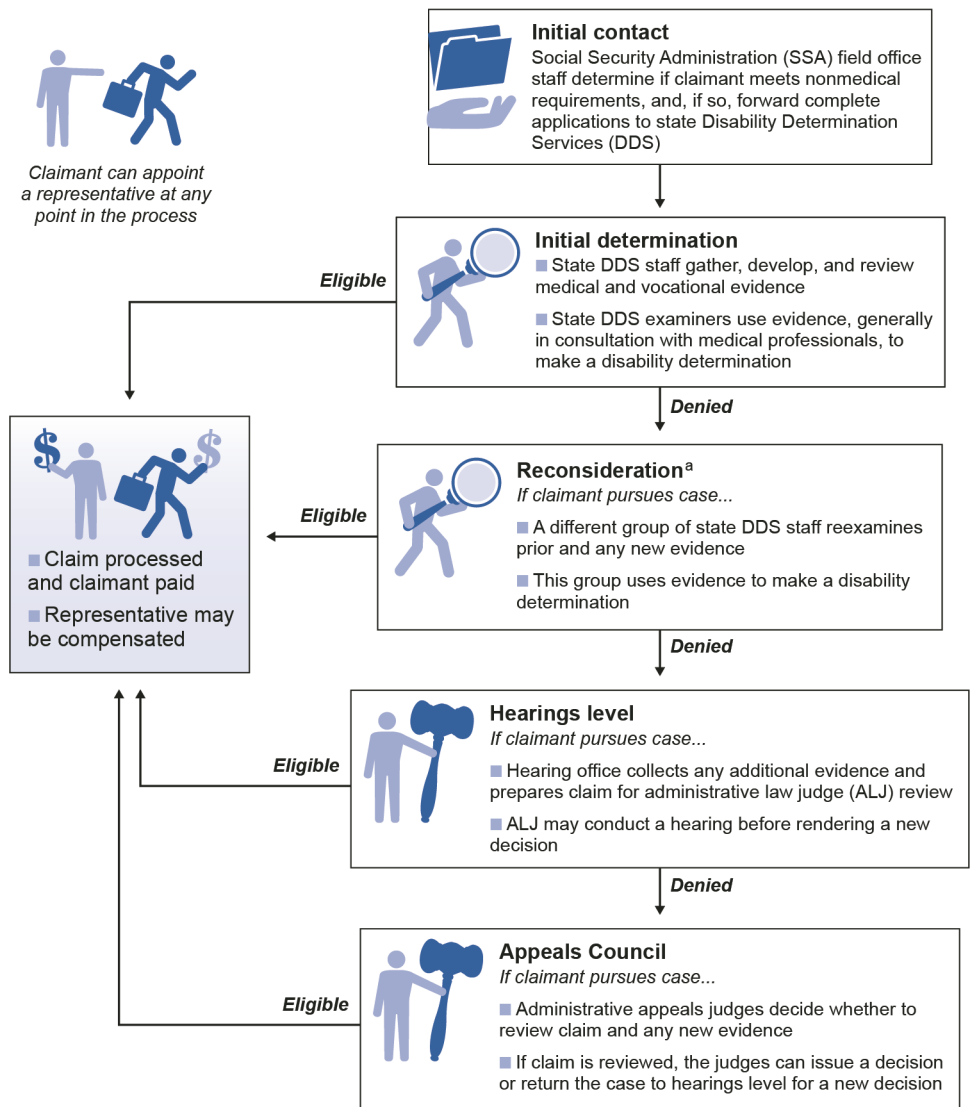
SSA's Disability Determination Process

SSA's disability determination process is complex and involves offices at the federal and state level (see fig.1). The process begins at an SSA field office, where a staff member determines whether a claimant meets the programs' nonmedical eligibility criteria. Claims from individuals meeting these criteria are then evaluated by state DDS staff, who review medical and other evidence and make the initial disability decision. SSA funds the DDSs, which are run by the states, to process disability claims in accordance with SSA regulations, policies, and guidelines. Some DDSs may be independent state agencies, while others may be part of other state agencies with broader missions, such as departments of human services. If an initial claim is denied, claimants have several opportunities for appeal within SSA, starting with a reconsideration; then a hearing before an SSA administrative law judge (ALJ); and finally at the Appeals Council, which is SSA's final administrative appeals level.⁷ If the claimant is determined to be eligible for SSI or DI, SSA will calculate the benefit amount and begin to pay benefits. A claimant may also be entitled to past-due benefits for the months in which his or her SSI or DI cash payments were pending during the disability decision-making process.

⁶In 2014, SSA reported that certain indicators suggest the number of SSI recipients may stabilize for the next two decades.

⁷Claimants must file any further action in federal court.

Figure 1: SSA's Disability Determination Process



Source: GAO analysis of SSA data. | GAO-15-62

Note: After going through the disability determination process within SSA, claimants must file any further actions in federal court.

^a In 1999, SSA began testing the Disability Redesign Prototype model in 10 states, which included eliminating the reconsideration step of the administrative review process for disability claims.

Role of Appointed Representatives

Claimants may choose to appoint a representative to assist them through the disability application process and in their interactions with SSA.

Appointed representatives can be attorneys or nonattorneys, and, as long as they meet SSA's requirements for representatives, their experience can range from being a family member appointed as a representative on a one-time basis to a professional representative working at a for-profit or nonprofit organization.⁸ A representative may act on a claimant's behalf in a number of ways, including helping the claimant complete the disability application, obtaining and submitting evidence in support of a claim, and supporting the claimant during the hearings and appeals process.

To appoint a representative, a claimant must sign a written notice appointing the individual to be his or her representative in dealings with SSA and file the notice with SSA. Representatives can file this notice using a standard form,⁹ which contains the name and address of the representative. The standard form also indicates whether and how the representative would like to be paid—by the claimant, directly by SSA out of a claimant's past-due benefits (known as a direct payment), or by a third party.¹⁰

Representatives have commonly been involved at SSA's hearings and Appeals Council levels, but evidence suggests that representatives have become increasingly involved at the initial stage of the disability determination process. SSA data compiled for this report show that the proportions of SSI and DI claims with a representative at the initial level increased between 2004 and 2013. From 2004 to 2013, initial SSI claims with a representative increased dramatically, from almost 11,000 claims in 2004 (less than 1 percent of all initial SSI claims) to about 278,000 claims in 2013 (about 14 percent of claims). Initial DI claims with a representative also increased over the same time period, from almost 100,000 claims (about 8 percent of claims) to more than 413,000 claims (about 20 percent of claims). (See fig. 2.) In 2013, two-thirds of the

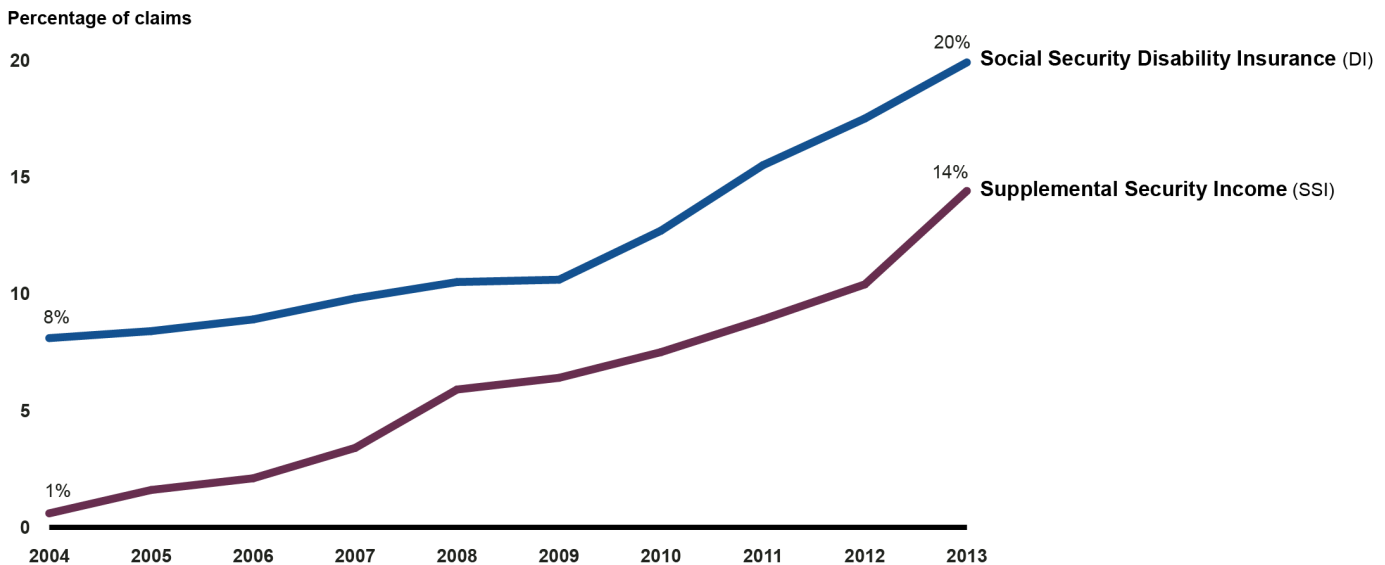
⁸For the purposes of this report, we are using the term "representative" to refer to appointed representatives. Appointed representatives are different from representative payees, which are individuals or qualified organizations that help Social Security beneficiaries who need assistance managing their benefits.

⁹Form SSA-1696-U4.

¹⁰Specifically, the form indicates whether the representative intends to request authorization to receive a fee for services rendered and how the representative will seek to receive an authorized fee. Representatives can also opt to waive their fees.

representatives associated with initial claims were attorneys and one-third were nonattorneys.

Figure 2: Percentage of Initial Disability Claims with a Representative, by Program, 2004-2013



Source: GAO analysis of Social Security Administration data. | GAO-15-62

These trends may, in part, reflect legislative actions that expanded payment options for representatives in the disability determination process. For example, the Social Security Protection Act of 2004 temporarily allowed attorney representatives to receive direct payments from SSA, out of claimants' past-due benefits, for SSI claims, and also required a demonstration project under which SSA's direct payment

system applied to qualified nonattorney representatives.¹¹ These policy changes were made permanent in 2010.¹²

SSI/DI Advocacy Initiated by States, Counties, and Other Third Parties

States and counties have engaged in SSI/DI advocacy efforts for years because it can benefit individuals with disabilities as well as the state and counties.¹³ When states are successful in helping eligible individuals on state- or county-administered assistance programs navigate the complex disability application process and obtain federal disability benefits, the individuals and their families not only may generally receive a higher monthly income but can also potentially receive benefits on a long-term basis. At the same time, successful SSI/DI advocacy efforts allow states to reduce benefit costs or reinvest cost savings into expanding services or serving other individuals.

The financial incentives for states to pursue SSI/DI advocacy increased in two ways with the creation of the TANF program in 1996 and subsequent changes to TANF requirements. As some researchers noted, under the former program, Aid to Families with Dependent Children, states received less than half of any savings achieved through transferring individuals to SSI.¹⁴ Under TANF, however, states retain the savings from federal and state funds that would have been used to support those individuals and can use those funds for other allowable benefits or services. At the same time, the new work participation requirements of the TANF program required a percentage of each state's caseload to participate in employment-related activities. States that do not meet required work

¹¹Pub. L. No. 108-203, §§ 302-303, 118 Stat. 493, 519.

¹²Prior to the Social Security Protection Act of 2004, only attorneys had access to direct payment, and only for DI claims. With the enactment of that law, the option of direct payment was temporarily extended to attorneys in SSI claims, and a demonstration project was required which temporarily extended the direct payment option to certain eligible nonattorneys in both DI and SSI claims. The extension of direct payment to attorneys in SSI claims, and the option of direct payment to nonattorneys, were made permanent in 2010 with the enactment of the Social Security Disability Applicants' Access to Professional Representation Act of 2010. Pub. L. No. 111-142, §§ 2-3, 124 Stat. 38.

¹³GAO reported on states' SSI/DI advocacy efforts in 1995. GAO, *Social Security: Federal Disability Programs Face Major Issues*, [GAO/T-HEHS-95-97](#) (Washington, D.C.: Mar. 2, 1995).

¹⁴Steve Wamhoff, and Michael Wiseman, *The TANF/SSI Connection*, Social Security Bulletin, Vol. 66, No. 4, 2005/2006.

participation rates are at risk of having their annual TANF block grants reduced. Therefore, the work requirements provided incentives for states to remove certain families from the calculation of the work participation rate, including individuals with disabilities who have significant barriers to work.¹⁵

States have taken different approaches to SSI/DI advocacy. Some states designate state employees to provide SSI/DI advocacy services, while others contract with for-profit or nonprofit organizations or legal aid groups. Some states do not have SSI/DI advocacy programs at all. Furthermore, some SSI/DI advocacy efforts are at the county or local level. In addition to states and counties, other third parties—such as hospitals and private insurance companies—also contract for SSI/DI advocacy services. For example, hospitals contract with companies to obtain reimbursement for medical care provided to patients who do not have health insurance by helping patients establish eligibility for various federal, state, and county programs, such as SSI and Medicaid. Insurance companies may also contract with companies to help individuals receiving long-term disability benefits apply for federal disability benefits, in part because federal disability benefits can reduce the amount the insurance company must pay.

State Assistance Programs Serving Individuals Who May Qualify for Federal Disability Benefits

States—and county and local governments, in some cases—administer a number of assistance programs for low-income individuals and families, some of whom have disabilities that may qualify them for federal disability programs. In many instances, these low-income individuals can qualify for SSI due to their income and assets, among other factors. Some may also qualify for DI benefits, if they have a sufficient work history. As a result, states may direct SSI/DI advocacy services to people receiving benefits from any of the following programs:

- TANF: This federal block grant provides funds to states for a wide range of benefits and services, including state cash assistance programs for needy families with children. TANF is administered by HHS's Administration for Children and Families at the federal level and by state and, in some cases, county agencies. State TANF

¹⁵GAO, *Temporary Assistance for Needy Families: Implications of Recent Legislative and Economic Changes for State Programs and Work Participation Rates*, [GAO-10-525](#) (Washington, D.C.: May 28, 2010).

programs provide temporary, monthly cash payments to low-income families with children while preparing parents for employment. A percentage of each state's caseload must participate in a minimum number of hours of employment-related activities unless they are exempt.

- **State General Assistance:** These programs provide cash assistance to poor individuals who do not qualify for other assistance programs (e.g., they do not have children and are not elderly). As of January 2011, 30 states had General Assistance programs, and most states require individuals to be unemployable generally because of a physical or mental condition.¹⁶
- **Other State Assistance Programs:** Other populations or programs states may target for SSI/DI advocacy include, for example, homeless individuals¹⁷ or individuals receiving state medical assistance or foster care payments.

Interim Assistance Reimbursement to States

Some states may receive funds from SSA, known as Interim Assistance Reimbursement (IAR), for assistance they provide (i.e., cash assistance provided through state programs like General Assistance to meet basic needs¹⁸) to an individual who is waiting for approval of SSI benefits.¹⁹ If the individual's SSI claim is successful, SSA uses the claimant's past-due benefits to reimburse the state for this interim assistance. States may, in turn, use these funds to finance their SSI/DI advocacy efforts. To qualify for reimbursement, any interim assistance an individual receives while

¹⁶Liz Schott, and Clare Cho, Center for Budget and Policy Priorities, *General Assistance Programs: Safety Net Weakening Despite Increased Need* (Washington, D.C.: Dec. 19, 2011). According to this report, during 2011, seven states eliminated or reduced their General Assistance programs.

¹⁷For example, the SSI/SSDI Outreach, Access, and Recovery (SOAR) project, funded in part by the Substance Abuse and Mental Health Services Administration within HHS, is designed to increase access to disability benefits by providing SSI/DI advocacy services for eligible adults who are homeless or at risk of homelessness and have a mental illness and/or a co-occurring substance use disorder.

¹⁸SSA considers basic needs to be essential items for everyday living that cannot wait until an SSI eligibility determination. These include: food, clothing, shelter, personal hygiene items, grooming items, transportation to obtain basic needs, and emergency medical needs that are not reimbursable under another federal program. Generally, a state can be reimbursed for the full amount of interim assistance paid, up to the total in cash benefits owed to the SSI beneficiary during the interim period.

¹⁹See 42 U.S.C. § 1383(g). Interim Assistance Reimbursement does not apply to DI benefits.

awaiting SSA's decision must be funded only from state or local funds. Interim assistance payments to a needy individual that contain any federal funds do not qualify for reimbursement. For example, IAR is generally not payable to states for assistance payments related to programs like Medicaid and TANF because the federal government partially funds these programs.²⁰ To participate in the IAR program, a state must have an IAR agreement with SSA and a written authorization from the individual allowing SSA to reimburse the state from his or her past-due benefits.²¹ As of 2014, 36 states and the District of Columbia have IAR agreements with SSA.

Little Is Known About the Extent of Advocacy Contracts, but Evidence Suggests Such Contracts Account for a Small Proportion of Claims Nationwide

Limited Information Exists, but We Identified 16 States with Some Type of SSI/DI Advocacy Contract in 2014

Little is known about the extent to which states or counties contract for SSI/DI advocacy services. While SSA has oversight of the federal SSI and DI programs, officials told us that they do not know which states or counties are contracting for SSI/DI advocacy services, in part because that information is not necessary to achieve SSA's mission, which includes delivering retirement, survivor, and disability benefits and services to eligible individuals and their families. While SSA collects some data on representatives working on behalf of claimants, it does not collect information on whether these representatives are working under contract

²⁰Some states operate solely state-funded programs and assistance provided through these programs may be eligible for reimbursement through the IAR program.

²¹Under IAR agreements, SSA first reimburses the state and then pays any representative's fee. SSA pays any remaining funds to the SSI recipient.

to a state or county. Similarly, HHS has oversight of the federal TANF program and collects information about how states use TANF block grant funds but, according to HHS officials, the agency does not have statutory authority to collect information on states' contracts for SSI/DI advocacy. In addition to the absence of comprehensive data from SSA and HHS, it is difficult to determine the extent of these contracts nationwide because this practice is diffused among different agencies and different levels of government, depending on the state.

Furthermore, we did not identify research that provides a national picture of state SSI/DI advocacy contracting practices. For example, one study we reviewed looked at the overlap between the TANF and SSI populations, but it was not the purpose of the study to examine the extent to which states were contracting for SSI/DI advocacy services. The study did not include recipients of other benefit programs, like state-funded General Assistance, that we found were commonly served by SSI/DI advocacy contracts.²²

Despite limited national-level data, we identified at least 16 states, as of August 2014, that had some type of active contract or grant for SSI/DI advocacy in 2014: California, Colorado, Delaware, Hawaii, Massachusetts, Minnesota, Nevada, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Tennessee, Virginia, and Wisconsin.²³ (See fig. 3.)

²²The study found that, in fiscal year 2007, in the 26 states studied, just 10 percent of TANF recipients had an open SSI application, and 6 percent of adults applying for SSI received TANF benefits within a year of their application. Mary Farrell and Johanna Walter (2013), *The Intersection of Welfare and Disability: Early Findings from the TANF/SSI Disability Transition Project*, OPRE Report 2013-06 (Washington, D.C.: Office of Planning, Research and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services). Other research has looked at state SSI/DI advocacy practices, but only in certain states or sites, rather than a national picture. See, for example, Kalman Rupp and David C. Stapleton, eds. 1998, *Growth in Disability Benefits: Explanations and Policy Implications* (Kalamazoo, MI: W.E. Upjohn Institute for Employment Research).

²³We identified these states through extensive interviews and field work, involving stakeholders from all aspects of this process—including interviews with companies that provide SSI/DI advocacy services; state, county, and local agencies; professional organizations for representatives and state TANF and DDS administrators; and researchers—as well as through Internet research. We also confirmed the information collected with state or county officials, as appropriate. See appendix I for additional details on our scope and methodology.

Figure 3: Key Characteristics of State and County SSI/DI Advocacy in 2014



Source: GAO analysis of information provided by selected states and counties. | GAO-15-62

Note: The figure represents information available to us regarding state and county contracts and their characteristics as of August 2014.

^aThe state-issued contracts in Virginia and Colorado do not provide SSI/DI advocacy services to the entire state, but rather only to specific geographic areas within the state, according to state officials.

Half of the 16 states we identified contracted with multiple organizations in 2014, including for-profit, nonprofit, and legal aid organizations, according to state and county officials we contacted. For example, according to state officials, the Wisconsin Department of Children and Families contracted with 8 organizations (both for-profit and nonprofit) for SSI/DI advocacy services, with each covering different geographic areas, as part of a larger contract for TANF employment support services. At the same time, 7 states reported they had a state contract or grant with a single nonprofit or legal aid organization. For example, Tennessee officials stated they provided a grant to a legal aid organization to work with about 100 TANF recipients per year who may be eligible for federal disability benefits.

Within states, we identified SSI/DI advocacy contracts at different levels of government. In several states, we identified only county-level contracts (see fig. 3), and in one state, New York, we identified at least one contract at the state, county, and city level. Specifically, according to state officials, New York had a statewide Disability Advocacy Program that provided grants to a group of nonprofit and legal aid organizations to help individuals appeal their claim after it was initially denied.²⁴ Westchester County also had a contract with a for-profit organization for SSI/DI advocacy. In addition, officials from New York City's Wellness,

²⁴Massachusetts and Pennsylvania also reported having similar models at the state level, which provided funds to a legal aid organization that provides grants to other legal aid groups for SSI/DI advocacy services.

Comprehensive Assessment, Rehabilitation and Employment (WeCARE) program reported that they contract with two nonprofit organizations to provide SSI/DI advocacy services.²⁵

We also observed recent changes in states' SSI/DI advocacy contracting practices. We identified multiple states that have ended, or plan to end, their SSI/DI advocacy contracts, and at least one state that is planning to renew a contract it ended several years ago. Several state officials and experts cited reasons for ending or renewing SSI/DI advocacy contracts, including financial considerations. For example, according to state officials, Maryland had a contract for over a decade with an organization to work with TANF recipients who may be eligible for federal disability benefits. The state paid this organization for each disability application submitted; however, state officials told us they ended this contract in 2009 because it was no longer financially practical. According to state officials, in 2014, the state planned to issue a new request for proposals for SSI/DI advocacy that will only pay the contractor for approved claims. Officials told us that they expect that the performance-based compensation structure of the contract will make it financially practical again. In contrast, officials in Delaware told us they had a contract with a single nonprofit organization for about 6 years to work with TANF recipients, but the contract expires in 2014 and will not be renewed due to the relatively low success rate achieved by the contractor. After the contract expires, state employees will provide these services instead, which officials believe will be a better use of resources. Similarly, we identified two additional states that have opted to have state employees provide SSI/DI advocacy services.

²⁵ According to WeCARE officials, one of the nonprofit organizations contracted by New York City for the WeCARE program subcontracted with a for-profit company for the SSI/DI advocacy portion of the contract.

State SSI/DI Advocacy Contracts May Account for a Small Proportion of Disability Claims Nationwide, but Other Third-Party Contracts May Be More Prevalent

While state and county SSI/DI advocacy contracts may account for a small proportion of disability claims nationwide, SSI/DI advocacy contracts held by other third parties, such as hospitals and long-term disability insurance companies, may be more prevalent. Since information on SSI/DI advocacy contracts is not available in SSA's databases, and data on representatives, in general, are limited, we used available data from a 2014 SSA OIG report to estimate the percentage of claims associated with SSI/DI advocacy contracts.²⁶ Specifically, these data indicate that nonattorney representatives working on behalf of a government entity accounted for an estimated 5 percent²⁷ of all initial SSI and DI claims with nonattorney representatives adjudicated in 2010.²⁸ Claims from these government SSI/DI advocacy contracts represent about 1 percent of all initial SSI and DI claims in 2010. By comparison, data indicate that claims associated with contracts held by other third parties—specifically, hospitals and long-term disability insurance companies—were more prevalent, accounting for an estimated 30 percent of initial SSI and DI claims with nonattorney representatives adjudicated in 2010.²⁹ (See fig. 4.)

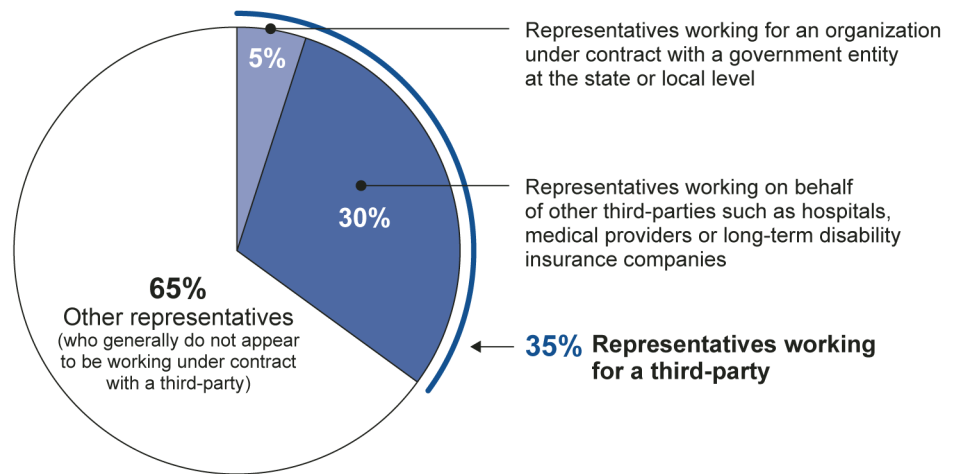
²⁶SSA Office of the Inspector General, *Claimant Representatives at the Disability Determination Services Level*, A-01-13-13097 (Baltimore, Md.: Feb. 27, 2014). The OIG selected a random sample of 275 SSI/DI adjudicated claims from the population of 857,855 adjudicated claims with a representative in calendar year 2010, 201 of which were for initial claim determinations. Of these 201 claims, 83 were represented by nonattorney representatives, while the remainder had attorney representatives. The OIG reviewed the contents of each sampled nonattorney claim file to determine the type of representative, since this information is not available in SSA's systems. GAO then reviewed selected documents from the OIG's generalizable sample of claim files with determinations in 2010 to calculate our estimate. Additional details regarding GAO's analysis of these data and work papers can be found in appendix I.

²⁷The 95-percent confidence interval for this estimate ranges from 1 to 12 percent.

²⁸In addition to nonattorney representatives, there are also some attorneys who provide representation services under contract with a government entity or other third party, which are not included in the estimate above. However, it is not possible to estimate the proportion of claims filed by attorneys under these contracts given the data available. The OIG did not review the contents of the electronic claims folders for claims with attorney representatives to determine whether these representatives were working under contract to government entities or other third parties, such as hospitals and insurance companies.

²⁹The 95-percent confidence interval for this estimate ranges from 20 to 40 percent.

Figure 4: Estimate of Initial SSI and DI Claims Adjudicated in 2010 with Nonattorney Representatives, by Type



Source: GAO analysis of the Social Security Administration Office of the Inspector General's sample of initial Supplemental Security Income (SSI) and Disability Insurance (DI) claims adjudicated in 2010 with nonattorney representatives. | GAO-15-62

Note: Information available in the claim files allowed us to identify representatives from organizations working under contract with a government entity, as well as the likely involvement of other third parties. All estimates presented in this figure have a margin of error at the 95-percent confidence level of +/- 10 percentage points or fewer.

Selected Sites Represented Different Approaches to SSI/DI Advocacy but Were Similar in Many Respects

We selected three sites—Hawaii; Minnesota; and Westchester County, New York—to illustrate different approaches to SSI/DI advocacy, in terms of the number and types of organizations they contracted with and geographic coverage. Despite these differences, however, the three sites were similar in many respects. For example, all three sites articulated a similar goal for their SSI/DI advocacy contracts, targeted similar populations, and generally paid SSI/DI advocacy contractors only for approved claims, among other similarities (see table 1). See appendix II for more detailed information on each site.

Table 1: Key Aspects of Selected Sites' SSI/DI Advocacy Practices

	Hawaii	Minnesota	Westchester County, New York
Contracting agency	State of Hawaii Department of Human Services ^a	Minnesota Department of Human Services	Westchester County Department of Social Services
History of contracting for SSI/DI advocacy	Contracted since late-1980s	Contracted since early-1990s	Contracted since 2003
Number of contractor(s)	1 ^b As of July 2014, Hawaii's SSI/DI advocacy contractor is a subcontractor to a company that is contracted to provide medical and psychological evaluations for the state's cash assistance programs.	55 ^c	1
Current contract period	July 1, 2014 – June 30, 2016	January 1, 2014 – December 31, 2015	July 1, 2014 – June 30, 2015
Type of organization(s)	Nonprofit, legal aid ^b	<ul style="list-style-type: none"> For-profit Nonprofit Nonprofit, legal aid 	For-profit
Geographic coverage	Statewide	Statewide; some contractors provide services statewide, others only in certain regions	Countywide
Goal of SSI/DI advocacy	"The goal of this project is to maximize receipt of Federal funds from the Social Security Administration (SSA), while maximizing assistance available to disabled applicants and recipients."	"The goal of [Department of Human Services] SSI Advocacy is to help people on public programs who have disabilities to increase their incomes and decrease their state health care and benefit costs."	The primary objective is to identify and/or establish Supplemental Security Income (SSI) and Social Security Disability Insurance (DI) benefits for both the foster care and Temporary Assistance for Needy Families (TANF)/Safety Net Assistance population. This Scope of Work will maximize the number of customers enrolled onto SSI/ DI and enable Westchester County Department of Social Services (DSS) to reduce costs, while improving services to DSS customers.

	Hawaii	Minnesota	Westchester County, New York
Populations served	<ul style="list-style-type: none"> General Assistance (GA) TANF Other programs (Temporary Assistance for Other Needy Families; Aid to the Aged, Blind, and Disabled) 	<ul style="list-style-type: none"> GA TANF Medical Assistance Foster care Other programs (Group Residential Housing, Refugee Cash Assistance) 	<ul style="list-style-type: none"> GA TANF Foster care
Compensation structure of contract	The state pays the primary contractor a flat monthly fee ^d , but the primary contractor pays the SSI/DI advocacy subcontractor based on the number of approved claims:	Pay for performance ^e : GA/Group Residential Housing:	Pay for performance ^f : GA/TANF:
Payments for approved claims at the:	<ul style="list-style-type: none"> Initial level Reconsideration Hearings and Appeals Council levels 	<ul style="list-style-type: none"> Initial/Reconsideration: \$1,500 Hearing/Appeal: \$2,750 For the payment structure for other programs, see appendix II.	<ul style="list-style-type: none"> All levels: \$3,000 for each medically favorable SSI/DI decision For the payment structure for other programs, see appendix II.
Amount paid for SSI/DI advocacy services	\$410,957 (state fiscal year 2013)	\$1,960,700 (state fiscal year 2013)	\$380,000 (contract year 2013, July 2012-June 2013)
Number of SSI/DI claims approved	342 (state fiscal year 2013)	1,112 (state fiscal year 2013)	136 (contract year 2013)

Source: GAO analysis of selected site contracts and data, and interviews with state and county officials and contractors. | GAO-15-62

^aThe Department of Human Services is also the parent agency for Hawaii's Disability Determination Service (DDS).

^bIn January 2014, Hawaii issued a new request for proposals for SSI/DI advocacy that combined two prior contracts for SSI/DI advocacy and medical and psychological evaluations. As of July 2014, the effective date of the new contract, the SSI/DI advocacy services are subcontracted to a legal aid organization by a for-profit company that is contracted to provide medical and psychological evaluations for the state's cash assistance programs. Previously, the SSI/DI advocacy contract was a separate, stand-alone contract.

^cFor the purposes of this report, we reviewed the contracts for the two contractors we selected. However, state officials told us that because they use a form contract, the two contracts we reviewed were similar to all 55 contracts.

^dThe total amount paid under the contract (also includes medical and psychological assessments) is not to exceed approximately \$5.8 million per year.

^eThere is no set cap on the number of awards or clients served.

^fThe total amount of the contract is not to exceed \$380,000 per year.

Goals of SSI/DI Advocacy

Each site articulated a two-part goal for its SSI/DI advocacy contract: maximizing assistance for individuals with disabilities while also reducing state or county expenditures. Helping individuals on state or county benefits apply for Social Security disability benefits is allowable under current program rules and may result in greater financial support to

individuals and their families if they are eligible. In all three sites, the maximum SSI disability benefit was higher than the maximum benefit provided by General Assistance or TANF.³⁰ For example, Minnesota officials explained that Minnesota's General Assistance benefits are lower than SSI.³¹ In addition, individuals receiving SSI may also be eligible for other support programs, such as medical assistance and food assistance.³² At the same time, officials from all three sites told us that moving individuals off state benefit programs and onto federal disability programs has financial benefits for the state or county. As discussed earlier, when the federal government pays the SSI or DI benefits, states can use the funds saved for other purposes, such as expanding services or serving other individuals.

Populations Served

All three sites targeted SSI/DI advocacy services to General Assistance and TANF populations. Each site also targeted recipients of at least one other program. For example, in addition to General Assistance and TANF, Minnesota's contract specified that recipients of a state-funded Group Residential Housing program are eligible for SSI/DI advocacy services. In another example, Westchester County's contract included children in foster care who may be eligible for SSI.

³⁰We compared the maximum SSI benefit, including state supplementation, for an individual living independently in each state, as of January 2014; the maximum TANF benefit for a single-parent family of three, as of July 2013; and the maximum General Assistance benefit for an individual, as of September 2014. Data on SSI benefits were obtained from SSA. For Hawaii and Minnesota, we used the state TANF benefits reported by states in the Welfare Rules Database funded by HHS, and the state General Assistance benefits reported in state documents. In Westchester County, we used the TANF and General Assistance benefits reported by county officials. Westchester County's maximum TANF benefit, which has been in effect since October 2012, was \$7 higher than the state SSI benefit, but the General Assistance benefit was lower than the state SSI benefit.

³¹According to state and SSA documents, Minnesota's General Assistance program provides a maximum of \$203 per month for a single adult, compared to a maximum of \$802 a month for an individual on SSI.

³²In commenting on a draft of this report, HHS officials noted that the majority (more than 80 percent) of TANF families receive Supplemental Nutrition Assistance Program benefits and almost all TANF families (more than 95 percent) receive health coverage through Medicaid or the Children's Health Insurance Program.

Services Provided

The contractors we selected in the three sites³³ generally reported providing similar services to the state or county, and to claimants, including performing an initial disability screening, assisting with filling out the SSI and/or DI application, and representing the claimant throughout the disability determination process. Each of the contractors reported receiving referrals from sources such as state or county caseworkers or TANF employment services contractors and then screening these individuals to identify those likely to meet Social Security disability criteria. For example, the Westchester County contractor receives monthly lists of individuals receiving General Assistance or TANF benefits who have been determined to be unable to work due to a disability. Contractor officials mail a letter to individuals on these lists, introducing their services and inviting individuals to call their toll-free number to set up an initial screening. Similarly, Hawaii's SSI/DI advocacy subcontractor reported that, under the new contract, it will receive referrals from the primary state contractor. The screening process varied across contractors; some had structured tools to guide the process while others had a more informal initial intake appointment.

The four contractors we selected reported a wide range in the percentage of referrals for which applications were filed, from less than 20 percent for one contractor to over 90 percent for another.³⁴ Further, contractors reported a range of approval rates, and the contractor that likely filed applications for the smallest percentage of referred individuals reported achieving the highest approval rates at SSA (over 80 percent) of the

³³There are 55 contractors in Minnesota. For the purposes of describing the services that the contracted organizations provided, we selected the largest for-profit and non-law nonprofit contractor, in terms of the number of approved Social Security disability claims in 2013. Accordingly, we reviewed the contracts for the two contractors we selected. As noted previously, state officials told us that because they use a form contract, the two contracts we reviewed were similar to all 55 contracts. The other two sites had single contractors. Therefore, we selected a total of four contracted organizations in the three sites (two in Minnesota and one each in Hawaii and Westchester County, New York).

³⁴We calculated these rates based on the number of referrals the contractors reported receiving in a given year and the number of claims they filed in that same year. Some of the claims filed may be associated with referrals in the prior year, among other limitations.

contractors for which we obtained data.³⁵ However, there are a number of factors contributing to these rates that we could not examine, such as the nature and quality of the referrals and the level of the claimant's participation in the process. Two of the contractors noted that screening out obviously ineligible individuals benefits SSA in that the contractors are not contributing to SSA workloads by submitting claims unlikely to be approved.

After the contractors determine that an individual is potentially eligible for federal disability benefits, they assist him or her with completing an application for SSI and/or DI. With the claimant's permission, staff from these organizations also become the claimant's appointed representative, which allows the staff person to interact with SSA on behalf of the claimant during the disability determination process.³⁶ Representatives from these organizations told us they generally focus on gathering and summarizing available medical evidence rather than providing referrals to doctors and specialists to obtain new medical evidence. The contractors reported that they generally file concurrent applications for SSI and DI. They generally file the DI application online, but they differed in how they filed the SSI application. Two of the organizations we selected—the for-profit contractor in Minnesota and the contractor in Westchester County—reported filling out the SSI application on the claimant's behalf,³⁷ while the other two organizations reported sending or accompanying the claimant to the SSA field office to file the application. The organizations also reported supporting claimants up to the hearings and Appeals Council levels, if necessary. See table 2 for a comparison of the SSI/DI advocacy services the contractors in our three selected sites reported providing.

³⁵We attempted to collect data from each site on the number of referrals, SSI and DI applications filed, and percent of approved applications. However, we did not receive sufficiently complete or consistent data from all sites. Therefore, we cannot report exact referral or approval rates for these sites and contractors. Furthermore, SSA does not collect data that would allow us to compare approval rates across the various sites and contractors.

³⁶In each of the three sites, staff from the contracted organization become a claimant's appointed representative by submitting SSA form 1696, which is signed by the claimant and the representative. Officials from the contracted organizations in these three sites told us that the staff who assist claimants are generally nonattorney representatives.

³⁷The DI application is available online, but the SSI application is not. In order to file for SSI, a claimant must complete the application during an in-person or telephone appointment with an SSA field office claims representative.

Table 2: SSI/DI Advocacy Services Provided by Selected Contractors in Three Sites

	Hawaii	Minnesota		Westchester County, New York
	Legal aid organization	Selected for-profit organization	Selected nonprofit organization	For-profit organization
Initial screening	•	•	•	•
File some or all of disability application online	•	•	•	•
Complete SSI application on paper		•		•
Send or accompany claimant to Social Security Administration field office to file for SSI	•		•	
Refer to medical providers or specialists, as needed	•	•	•	
Remind client to attend required exams	•	•	•	•
Arrange transportation to appointments	•	•	•	•
File reconsideration or appeal	•	•	•	•
Support client at hearing	•	•	•	•

Source: GAO analysis of interviews with officials from selected contractors in the three sites. | GAO-15-62

The representatives in each site generally reported interacting frequently with local SSA field offices and, to a lesser extent, the state DDS, in conducting their SSI/DI advocacy work. For example, the for-profit contractor we selected in Minnesota had offices across the street from SSA's Minneapolis field office, and representatives from this contractor reported hand-delivering SSI paper applications. In another example, officials from the Westchester County contractor reported having good working relationships with all of the SSA field offices in the county, noting that their representatives typically talk with field office staff daily by phone.

Staff we interviewed in each of the local field offices we selected generally had positive feedback on their interactions with representatives from the selected SSI/DI advocacy contractors. For example, they noted that the representatives are helpful and easier to get in touch with or more responsive than other representatives. In addition, staff we interviewed generally said that claims submitted by these representatives are of equal or better quality than claims submitted by other representatives. In general, the DDS staff we interviewed did not express an opinion on the responsiveness of the representative or on the overall quality of claims.

Compensation

In each site, SSI/DI advocacy contractors were generally paid only for disability claims that SSA approved. Payments ranged from \$900 to \$3,000 per approved claim. One site paid the same amount for an

approved claim, regardless of the level of the adjudication process in which it was approved, while contractors in two sites were paid higher amounts for claims approved at the reconsideration and/or hearings or Appeals Council levels. Two of the sites—Minnesota and Westchester County, New York—also offered payments for assisting claimants undergoing continuing disability reviews, which SSA conducts to determine whether individuals receiving benefits continue to meet program disability requirements.³⁸ Hawaii was unique among the three sites in that the state paid the primary contractor a set monthly fee but the primary contractor paid the SSI/DI advocacy subcontractor per approved claim.

The relatively “flat fee” compensation structure in the SSI/DI advocacy contracts differs from SSA’s direct payment structure and may create an incentive for representatives to submit claims that can be favorably decided in a more timely manner. Whereas selected SSI/DI advocacy contractors’ fees are a set amount, regardless of how long it takes to decide a claim, under the Social Security Act eligible representatives can elect to be paid by SSA directly out of a claimant’s past-due benefits and potentially earn more when claims take longer to be approved. Their fee is a maximum of 25 percent of the past-due benefits for approved claims, up to \$6,000.³⁹

Funding Sources

All sites at least partially offset the costs of their advocacy contracts with federal Interim Assistance Reimbursement (IAR) funds from SSA. In two of the sites—Hawaii and Minnesota—officials reported that they received

³⁸Continuing disability reviews (CDRs) are generally required to determine whether recipients continue to meet the disability requirements of the Social Security Act.

³⁹There are two statutory methods by which a representative can seek authorization for a fee for his or her services before SSA. Currently, under the fee agreement process (42 U.S.C. § 406(a)(2)), the fee is capped at 25 percent of a claimant’s past-due benefits or \$6,000, whichever is less. Under the fee petition process (42 U.S.C. § 406(a)(1)), a fee may be authorized even if no benefits are payable to the claimant, but it must be “reasonable.” There is no maximum fee under the fee petition process. In situations where past-due benefits are awarded, the amount that SSA withholds for direct payment is limited to 25 percent of those past-due benefits.

more IAR money than they spent on their SSI/DI advocacy contracts.⁴⁰ Through the IAR program, SSA reimburses participating states for the assistance they provided to individuals while awaiting the approval of SSI benefits. In order for the state to receive reimbursement, the state must have the claimant sign a written authorization that allows the state to be paid out of the claimant's past-due benefits.

Approved Claims

The number of individuals moved onto federal disability programs as a result of the SSI/DI advocacy contracts in all three sites accounted for a small percentage of the total number of approved SSI and DI claims in their respective states or county. Specifically, Minnesota was the largest of the three sites in all respects: amount paid under the contract, geographic reach, and number of approved claims. Yet the 1,112 claims approved statewide in state fiscal year 2013 was relatively small compared to the roughly 24,000 disability claims approved by SSA in the state in calendar year 2012, the most recent year available.⁴¹ Similarly, Hawaii and Westchester County's 342 and 136 claims approved in state fiscal or contract year 2013, respectively, each represented small proportions of all disability claims approved by SSA in the state or county in calendar year 2012.⁴²

⁴⁰Minnesota Department of Human Services officials noted that 35 percent of the funds received through Interim Assistance Reimbursement are used for contracts, outreach, and staffing the program at the state level, and that the remainder goes into the state's general fund. They stated that all unused money can be rolled over to the next year. Hawaii Department of Human Services officials also noted that they are only able to retain a portion of IAR funds for their General Assistance program because retroactive payments received for a prior fiscal year must be returned to the state's general fund. They further noted that funds to pay for SSI/DI advocacy are appropriated by the state's legislature.

⁴¹SSA, *Annual Statistical Supplement to the Social Security Bulletin*, 2013 SSA Publication No. 13-11700 (Washington, D.C.: February 2014). The SSI data exclude claims for aged individuals (those who qualify for the program because they are 65 or older and have limited income and resources, and meet other eligibility requirements). There may be overlap in the SSI and DI data, in cases where individuals are receiving both SSI and DI. SSA keeps data on SSI and DI awards separately and does not have readily available data from which to identify and account for concurrent awards.

⁴²According to SSA's *Annual Statistical Supplement*, 2013, there were about 4,000 SSI and DI awards, or approvals, in Hawaii in calendar year 2012. The statistical supplement does not provide data at a county level, but SSA provided data showing there were approximately 3,800 SSI and DI awards in Westchester County, New York, in calendar year 2012.

SSA's Controls over Representatives Providing SSI/DI Advocacy Services to States and Other Third Parties Are Limited

SSA Does Not Have Specific Controls and Readily Available Data on Representatives, Particularly Those Paid by States and Other Third Parties

SSA has a number of controls in place—including rules⁴³ and regulations—related to appointed representatives in the disability determination process, but it does not have controls specific to organizations providing SSI/DI advocacy services to states and other third parties. SSA's existing controls over representatives include broad guidelines regarding who may represent disability claimants, including qualifications for attorneys and nonattorneys. SSA regulations also set forth specific rules of conduct that apply to all representatives.⁴⁴ For example, representatives are required, with reasonable promptness, to obtain evidence in support of the claim, submit such evidence as soon as practicable, help claimants respond to requests for information from SSA as soon as practicable, and to be familiar with relevant laws and regulations. Representatives are prohibited from, among other things, knowingly collecting any fees in violation of applicable law or regulation. In addition, nonattorney representatives who wish to be eligible for direct payment of their fees out of a claimant's past-due benefits also must satisfy a number of statutory criteria. Nonattorney representatives who do not wish to be eligible for direct payment of their fees, such as those waiving direct payment and working under contract to a state or county,

⁴³For the purposes of this report, "rules" refers to SSA's Program Operations Manual System, a primary source of information used by SSA employees to process claims for Social Security benefits.

⁴⁴20 C.F.R. §§ 404.1740, 416.1540. SSA officials noted that, under its regulations, a representative is an individual who meets specific regulatory requirements and who is appointed by a person claiming a statutory right or benefit under one of SSA's programs. As such, SSA's rules of conduct and standards of responsibility are directed toward individual representatives rather than organizations or law firms providing SSI/DI advocacy services to claimants on behalf of states and other third parties.

do not have to satisfy these criteria but are still required by SSA's regulations to be capable of giving valuable help to claimants and to have good character and reputation.⁴⁵

SSA's controls apply to individual representatives, and not to the organizations they work for, including those under contract to states or other third parties, because SSA only conducts business with and recognizes individuals as representatives. In 2008, SSA issued proposed rules that would have recognized organizations, in addition to individuals, as representatives.⁴⁶ In other words, under the proposed rules a claimant could appoint an organization or firm to represent them rather than a single individual from that organization. In the proposed rules, SSA stated that the business practices of those who represent claimants have changed, and many representatives practice in group settings and provide their services collectively to claimants. However, the agency did not issue final rules on this topic.⁴⁷ SSA officials told us that they still believe that having organizations serve as appointed representatives would be beneficial, but the agency would face challenges implementing this change, including modifying SSA's current data systems.

SSA also does not have readily available data on representatives, particularly those paid by third parties. Specifically, SSA's current data on representatives are limited, kept in separate systems, and are not used to monitor or report trends on claims with representatives (see table 3). In particular, SSA collects less information about representatives the agency

⁴⁵20 C.F.R. §§ 404.1705, 416.1505. Generally, representatives also must have any fee amount authorized by SSA before collecting the authorized fee directly from the claimant.

⁴⁶Revisions to Rules on Representation of Parties, 73 Fed. Reg. 51,963 (to be codified at 20 C.F.R. parts 404, 408, 416, and 422) (Sept. 8, 2008).

⁴⁷SSA did, however, issue final rules in 2011 to provide additional controls and address some misconduct by representatives. According to SSA, these rules provide some additional controls to address misconduct within organizations. Revisions to Rules of Conduct and Standards of Responsibility for Representatives, 76 Fed. Reg. 80,241 (Dec. 23, 2011). The 2011 rules included prohibiting a representative from suggesting, assisting, or directing another person to violate the agency's rules or regulations and prohibiting a representative from knowingly assisting a person whom the agency suspended or disqualified from providing representational services.

does not directly pay out of claimants' past-due benefits, and information on these representatives is not tracked in SSA's data systems.⁴⁸

Table 3: Key Limitations of SSA's Data on Representatives

Data limitations	Examples	Effect
Data elements are missing	<ul style="list-style-type: none"> SSA does not systematically collect data on the organizations or firms that employ individual representatives. SSA officials stated that this information is only collected, as is required, for tax purposes.^a SSA does not have information readily available on the number of appointed representatives who waive payment from SSA or from any source.^b 	<ul style="list-style-type: none"> SSA cannot identify or monitor trends related to the types of organizations representing claimants. SSA is unable to report trends or assess risks related to representatives who waive direct pay (potentially a large proportion of represented claims).
Data are stored in separate legacy systems	<ul style="list-style-type: none"> Data on representatives are captured and stored in several different legacy systems, across multiple parts of the agency. For example, program data on SSI and DI are kept and analyzed separately, and data collected for one program may not be collected for the other program. SSA staff must complete a number of steps, including developing software specifications, validation, and security procedures, to aggregate data on representatives. 	<ul style="list-style-type: none"> Agency efforts to obtain summary data on representatives are resource intensive.
Data not used to identify trends	<ul style="list-style-type: none"> SSA does not routinely produce or analyze claims data related to appointed representatives. All requests for data on representatives are done on an as-needed basis. SSA's only readily available data on representation is captured in the agency's Appointed Representative Database, which was created for the purpose of paying representatives and providing tax information to representatives and the Internal Revenue Service. 	<ul style="list-style-type: none"> Without routine mechanisms for obtaining data and assessing risk related to representatives, including the risk of potential fraud, SSA's program integrity may be compromised.

⁴⁸A recent SSA OIG special report raised similar concerns, stating that SSA does not have the infrastructure or a system to properly track the activity of representatives, physicians, or medical providers. The report concluded that SSA should develop a system to identify and review trends in claims with common characteristics, such as claims with the same representatives and medical providers. SSA Office of the Inspector General, *The Social Security Administration's Ability to Prevent and Detect Fraud* (September 2014).

Data limitations	Examples	Effect
Data constraints for staff	<ul style="list-style-type: none"> SSA's current systems do not have the ability to query all claims filed by a specific representative or organization.^c Various SSA regional, state DDS, and field office staff reported not being able to consistently obtain aggregate information on claims with representatives. 	<ul style="list-style-type: none"> SSA staff cannot conduct routine data extracts and reports on claims associated with particular appointed representatives, which may be useful in some instances, such as when a representative has been sanctioned.^d Several SSA staff we interviewed reported that, without access to data on claims with representatives, it is difficult to identify trends or patterns of potential misconduct and to improve business operations.

Source: GAO analysis of Social Security Administration (SSA) documents and interviews with SSA officials describing SSA's systems and available data on representatives. | GAO-15-62

^aSSA officials noted that SSA must comply with all laws, including the Privacy Act and the Paperwork Reduction Act, when deciding what information it collects and maintains.

^bIn commenting on a draft of this report, SSA noted that the Supplemental Security Record does capture and store data on appointed representatives who waived payment, but this system cannot distinguish whether the fee will be paid by a third party or is waived from any source.

^cSSA's current systems do allow specific queries on claims, which enables staff to gather information on the representatives appointed to a particular case. In addition, there is a database that houses information on representatives who have been sanctioned, and this database can also be queried by staff.

^dSSA's Office of Disability Adjudication and Review maintains data at the hearings level that identifies the number of claimants a representative has represented in the past and the number of claims currently pending with that representative.

Federal government internal control standards state that agencies should have adequate access to timely data and information, and mechanisms in place for routinely assessing risks related to interactions with entities and parties outside the government that could affect agency operations.⁴⁹ In order to make timely and accurate decisions, identify trends, and assess risks—including those related to program integrity—SSA needs ongoing and up-to-date information on representatives. This is particularly important given that representatives have become increasingly involved at the initial levels of the disability determination process, according to our analysis of SSA data.

⁴⁹ [GAO/AIMD-00-21.3.1](#).

SSA Has Several Initiatives That Could Improve Information on Representatives but Uncertainties Exist

SSA has several efforts under way to improve its collection and use of data as well as its ability to assess risks related to representatives. First, SSA recently initiated the Registration, Appointment, and Services for Representatives project, with the goal of providing staff more accurate, up-to-date information about the representatives who assist claimants in the disability process. SSA officials stated that the agency currently captures information on representatives in separate, stand-alone systems that are not well-integrated, which has resulted in concerns about payment inefficiencies and privacy. SSA plans to integrate information from the various systems on representatives, creating one system as the sole source for information on representatives. SSA officials told us that the agency may identify new data elements related to representatives to capture in the system, such as the organizations they are associated with, but there currently is no plan to collect this information.

Another facet of this initiative involves giving representatives expanded access to the disability eFolder, SSA's electronic system containing all of the documents pertaining to a disability claim.⁵⁰ Once implemented, authorized and registered representatives will have the ability to view documents for their clients contained in the eFolder and download and print them. Officials from two professional organizations of representatives and some SSA staff we interviewed reported that giving representatives access to the eFolder would be beneficial. By requiring representatives to register to gain access, SSA could gather more information on representatives. According to SSA's vision statement for this project, successful implementation would provide SSA more readily available data—and enhanced abilities to respond to management requests for information—on representatives. However, as of September 2014, SSA officials reported that this project is in the early planning phase, future funding is uncertain, and no timeline for completion has been established.

Enhanced collection and use of data on appointed representatives may also be important for planned initiatives related to the detection of potential fraud. SSA is in the early stages of exploring computerized tools to enhance efforts to systematically detect potential fraud.

⁵⁰Online access to eFolders is now available for appointed representatives with cases pending at the hearings and Appeals Council levels.

Using data from recent alleged fraud cases involving representatives, SSA plans to use computer analytics to examine various characteristics of disability claims and determine those which may be fraudulent. Known as predictive analytics, these computer systems and tools can help identify patterns of potentially fraudulent disability claims. However, as discussed earlier, SSA does not consistently collect some data that may aid in its analytics effort, such as information on the organizations or firms with which individual representatives may be associated. The absence of readily available data on representatives hinders SSA's ability to detect patterns of potential fraud. Specifically, SSA's current data systems do not allow staff to identify, in a timely manner, large volumes of claims with the same representative and the same impairments, which can be a risk factor for potential fraud, according to SSA officials we interviewed.

SSA Does Not Coordinate with Third Parties Contracting for SSI/DI Advocacy, Which May Result in Overpayments

SSA does not coordinate its direct payments to representatives with states and other third parties that might also pay representatives. As a result, it is possible that both SSA and a state or third party could pay the representative, resulting in more than one payment. More specifically, under the current system of payments, a representative working under contract to a state could (1) request direct payment from SSA (deducted from the claimant's past-due benefits) for representing a particular claimant, and (2) also submit an invoice to the state requesting payment under the terms of the SSI/DI advocacy contract.⁵¹ Generally, SSA prescribes the maximum fee allowed, and representatives may not knowingly collect more than the fee that SSA authorizes them to receive for a case.⁵² However, we found that in cases involving SSI/DI advocacy payments, representatives might be able to collect payments from the state as well as through SSA fee withholding, totaling more than the

⁵¹If the representative elects to receive direct payment, SSA reduces the claimant's past-due benefits by the amount of the authorized fee. Payments that states or third parties make to representatives do not reduce the claimants' past-due benefits.

⁵²In some situations, SSA does not need to authorize a fee. One such situation is when certain third parties (such as a state) pay the representative's fees; the claimant and any beneficiaries are not liable to pay a fee or any expenses, or any part thereof, directly or indirectly, to the representative or someone else; and the representative waives the right to charge a fee from the claimant. 20 C.F.R. §§ 404.1720(e), 416.1520(e). SSA's Program Operations Manual System further states that representatives must not knowingly circumvent SSA rules, which require that when a third party pays a representative's fee, the claimant and any auxiliary beneficiaries must be free of liability directly or indirectly or the representative is engaging in prohibited conduct.

authorized amount.⁵³ Unless SSA and the state or other third party share information on their payments or have policies and procedures in place to prevent such cases, representatives may receive both SSA and state payments that total more than the SSA-authorized fee.

In 2007, we reported on this risk of overpayments to representatives and recommended that SSA take steps to address it.⁵⁴ However, SSA has not fully implemented our recommendation because SSA did not know which states were paying representatives or the true extent of the problem, according to a senior agency official. SSA has taken some steps to clarify authorized payments for representatives. For example, in 2011, SSA revised the form a claimant uses to appoint a representative (form 1696) to more clearly indicate how a representative would like to be paid. Specifically, the updated form requires representatives to declare whether they intend to be paid by (1) the claimant directly, (2) SSA, out of the claimant's past-due benefits, or (3) a third party.⁵⁵ (See fig. 5.)

⁵³If both payments are for services performed before SSA, these actions would be a violation of SSA's rules of conduct and standards of responsibilities. SSA refers to this as a "fee violation." For the purposes of this report, we are using the term "overpayment."

⁵⁴GAO, *SSA Disability Representatives: Fee Payment Changes Show Promise, but Eligibility Criteria and Representative Overpayments Require Further Monitoring*, [GAO-08-5](#) (Washington, D.C.: Oct. 15, 2007). GAO recommended that SSA assess the extent to which representatives collect more than their authorized fee through a combination of state payments and fee withholding and, if necessary, identify and implement cost-effective solutions to ensure that representatives either are not paid more than their authorized fee or return any payments they receive in excess of their authorized fee.

⁵⁵Representatives can also choose not to be paid for their services and, therefore, waive payment from any source.

Figure 5: Comparison of Former and Updated Versions of SSA Form 1696: To Appoint a Representative

Former version
of 1696 form

Part III (Optional) WAIVER OF FEE
I waive my right to charge and collect a fee under sections 206 and 1631(d)(2) of the Social Security Act. I release my client (the claimant) from any obligations, contractual or otherwise, which may be owed to me for services I have provided in connection with my client's claim(s) or asserted right(s).

Signature (Representative)	Date
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Part IV (Optional) WAIVER OF DIRECT PAYMENT
by Attorney or Non-Attorney Eligible to Receive Direct Payment
I waive only my right to direct payment of a fee from the withheld past-due retirement, survivors, disability insurance or supplemental security income benefits of my client (the claimant). I do not waive my right to request fee approval and to collect a fee directly from my client or a third party

Signature (Representative Waiving Direct Payment)	Date
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Updated
1696 form

Part III FEE ARRANGEMENT
(Select an option, sign and date this section.)

☐ **Charging a fee and requesting direct payment** of the fee from withheld past-due benefits. (SSA must authorize the fee unless a regulatory exception applies.)

☐ **Charging a fee but waiving direct payment** of the fee from withheld past-due benefits --I do not qualify for or do not request direct payment. (SSA must authorize the fee unless a regulatory exception applies.)

☐ **Waiving fees and expenses from the claimant and any auxiliary beneficiaries** --By checking this block I certify that my fee will be paid by a third-party, and that the claimant and any auxiliary beneficiaries are free of all liability, directly or indirectly, in whole or in part, to pay any fee or expenses to me or anyone as a result of their claim(s) or asserted right(s). (SSA does not need to authorize the fee if a third-party entity or a government agency will pay from its funds the fee and any expenses for this appointment. Do not check this block if a third-party individual will pay the fee.)

☐ **Waiving fees from any source** --I am waiving my right to charge and collect any fee, under sections 206 and 1631(d)(2) of the Social Security Act. I release my client and any auxiliary beneficiaries from any obligations, contractual or otherwise, which may be owed to me for services provided in connection with their claim(s) or asserted right(s).

Source: GAO analysis of Social Security Administration form 1696. | GAO-15-62

Although the revised form more clearly delineates allowable fee arrangements, SSA officials acknowledged that this overpayment vulnerability still exists. Officials told us that the agency would not know if a representative was paid from another source outside SSA. The agency is dependent upon the claimant or the third party to inform SSA about an overpayment to a representative. Although the updated appointment form makes it more clear that representatives must choose one type of fee arrangement, some SSA staff we interviewed reported that claimants often do not fully understand the forms they are signing or the implications.

One state we studied has developed practices in an attempt to avoid these types of overpayments, but these practices are not universal. Officials in Minnesota stated that they recently began requiring contracted organizations to submit copies of their signed form 1696 so the state could verify that the representatives checked the appropriate box for payment. By looking more closely at the award notices SSA sends to claimants and representatives, state officials reported discovering three instances in 2014 when a representative did not check the appropriate box to waive direct payment from SSA and could have received an overpayment. Minnesota officials plan to work with a local SSA field office to conduct an audit of a sample of claims to identify such cases. According to a Minnesota official, this effort would begin in December 2014. Officials we interviewed in the other two selected sites reported that they do not require representatives from contracted organizations to submit these signed SSA forms, nor did they have plans to audit claims to detect overpayments.

SSA does not systematically coordinate with states and other third parties on the payment of representatives.⁵⁶ For example, SSA has not issued guidance to states or third parties or shared any best practices on preventing overpayments. SSA and state officials in Minnesota reported that as SSA expands representative access to the eFolder during the disability determination process, providing controlled third party access could efficiently facilitate the detection of potential overpayments. For example, states could use their access to portions of the eFolder to easily check the form 1696 submitted by the representative and any additional documents, such as fee agreements, to prevent overpayment. However, SSA can only provide access to an eFolder if it is permissible under federal privacy laws.⁵⁷ In general, coordination is important because the risk of overpayment goes beyond the 16 states we identified with state or county SSI/DI advocacy contracts. As discussed earlier, we estimated that about 30 percent of all initial disability claims with nonattorney representatives are potentially associated with SSI/DI advocacy contracts

⁵⁶SSA officials noted that they have not identified a program need for SSA to coordinate with states and other third parties on representative payments.

⁵⁷In commenting on a draft of this report, SSA noted that this issue needs to be evaluated further before access to any third party is allowed.

held by other third parties, such as hospitals and long-term disability insurers.⁵⁸

Conclusions

SSI/DI advocacy, while serving a practical purpose for states, counties, and individuals, raises questions about the role third parties and representatives play in the disability determination process. Many of these questions—such as the extent of SSI/DI advocacy and the impact of this practice—cannot be answered because so little data exist. Since representatives are increasingly involved in this process and are working on behalf of a diverse set of third parties, it is critical that SSA management and employees have mechanisms for monitoring trends and patterns related to claims with representatives. SSA anticipates being able to combine data across its systems in order to evaluate data variations on representatives but those plans are under development. SSA's current efforts also face a number of uncertainties which, if left unaddressed, may undermine the agency's ability to improve data on representatives. In the absence of readily available data—particularly data on those representatives paid by third parties—SSA is poorly positioned to identify trends or patterns that may present risks to program integrity.

One such risk is making overpayments to representatives who are also being paid by third parties. SSA has not taken steps to adequately eliminate this vulnerability. Without enhanced coordination between SSA and third parties, some representatives may improperly receive payments. This financial vulnerability presents a strong case for enhanced oversight over representatives in the disability determination process.

Recommendations for Executive Action

As part of initiatives currently under way to improve agency information on claims with appointed representatives and detect potential fraud associated with representatives, the Commissioner of the Social Security Administration should consider actions to provide more timely access to data on representatives and enhance mechanisms for identifying and monitoring trends and patterns related to representation, particularly trends that may present risks to program integrity. Specifically, SSA could:

⁵⁸The 95-percent confidence interval for this estimate ranges from 20 to 40 percent.

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- Identify additional data elements, or amendments to current data collection efforts, to improve information on all appointed representatives, including those under contract with states and other third parties;
 - Implement necessary policy changes to ensure these data are collected. This could include enhancing technical systems needed to finalize SSA's 2008 proposed rules that would recognize organizations as representatives; and
 - Establish mechanisms for routine data extracts and reports on claims with representatives.

To address risks associated with potential overpayments to representatives and protect claimant benefits, the Commissioner of the Social Security Administration should take steps to enhance coordination with states, counties, and other third parties with the goal of improving oversight and preventing and identifying potential overpayments. This coordination could be conducted in a cost-effective manner, such as issuing guidance to states and other third parties on vulnerabilities for overpayment; sharing best practices on how to prevent overpayments; or considering the costs and benefits, including any privacy and security concerns, of providing third parties controlled access to portions of the eFolder to facilitate the detection of potential overpayments.

Agency Comments and Our Evaluation

We provided a draft of this product to the Social Security Administration (SSA) and the Department of Health and Human Services (HHS) for comment. SSA and HHS provided technical comments, which we have incorporated as appropriate. In its written comments, reproduced in appendix III, SSA partially agreed with our two recommendations and raised its overall concern that our report misrepresents and overstates the nature of states' payments to representatives. The agency did not provide any further support for this assertion; it is unclear the basis on which SSA could make this statement, given that officials repeatedly told us during the course of our work that the agency has no information or data on states' contracts. Our report makes it clear that the full extent of states' and counties' SSI/DI advocacy practices is unknown, given the absence of national-level data. Given these limitations, we believe that our work fairly and accurately describes what is known about the extent of SSI/DI advocacy contracts and payments nationwide.

SSA also noted that our report did not address other types of SSI/DI advocacy contracts, such as those held by insurance companies. Indeed, it was not within the scope of our report to do so. We did note that other

types of SSI/DI advocacy contracts—such as those held by insurance companies or hospitals—represented an estimated 30 percent of initial disability claims with nonattorney representatives in 2010. The prevalence of these SSI/DI advocacy contracts, and the growing involvement of representatives at the initial disability determination level, presents a strong case for SSA to have greater information on these third parties and the payments they may receive.

SSA partially agreed with our first recommendation to consider actions to provide more timely access to data on representatives and enhance mechanisms for identifying and monitoring trends and patterns related to representation. SSA acknowledged that the report accurately describes initiatives the agency has underway to improve the use and collection of data related to representatives. SSA stated that, as part of these efforts, the agency may identify additional data elements that may be helpful to collect and consider any necessary policy changes. SSA raised concerns, however, that expanding data collection to a more detailed level could negatively affect other agency priorities. We fully acknowledge that SSA has competing priorities and limited resources. With this in mind, we wrote the recommendation to provide SSA flexibility in implementation, including suggesting that the agency leverage current initiatives. We continue to believe that SSA should consider steps to improve available data on appointed representatives to better monitor the involvement of these third parties in the disability determination process.

SSA partially agreed with our second recommendation to take steps to enhance coordination with states, counties, and other third parties with the goal of improving oversight and preventing and identifying potential overpayments. In its general comments, SSA stated that its rules allow representatives to receive fee payments, and that any payments made by states are outside of SSA's authority for oversight purposes. SSA also stated that our report did not provide sufficient evidence to warrant enhanced coordination and noted that the agency takes the necessary actions to recoup fees when it learns of a potential fee violation. Our report notes, however, that SSA is dependent upon the claimant or the third party to inform SSA about an overpayment to a representative. In our audit work in selected states, we also noted three instances when a representative attempted to be paid by SSA and the state. While we recognize that payments made by states to representatives are outside of SSA's jurisdiction, SSA has established rules of conduct for representatives, and these rules prohibit a representative from collecting fees over the amount SSA has authorized. Enhanced coordination could

increase SSA's and third party payers' ability to detect potential overpayments.

Finally, SSA suggested that we explicitly state in our report that we did not find any indications of fraud committed by representatives working under contracts to states or other third parties (referred to by SSA in its comments as "facilitators"). The objectives of this work were focused on (1) identifying the extent to which states are involved in SSI/DI advocacy, (2) examining different approaches to this work, and (3) assessing the key controls that SSA has in place to ensure that organizations working under contract to states and other third parties follow program rules and regulations. As such, we did not have any findings on the extent of any possible fraudulent activity associated with these SSI/DI advocacy contracts. We do note in the report, however, that SSA field office staff we interviewed in our three selected sites generally had positive feedback on their interactions with representatives working under contract to the state or county, and that claims they submitted were of the same or better quality than claims submitted by other representatives.

As agreed with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from its issue date. At that time, we will send copies of this report to the appropriate congressional committees, the Secretary of the Department of Health and Human Services, the Commissioner of the Social Security Administration, and other interested parties. In addition, the report will be made available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-7215 or bertonid@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix IV.



Daniel Bertoni
Director, Education, Workforce,
and Income Security

Appendix I: Objectives, Scope, and Methodology

In conducting our review of state Supplemental Security Income (SSI)/Disability Insurance (DI) advocacy practices, our objectives were to examine (1) what is known about the extent to which states are contracting with private organizations to identify and move eligible individuals from state- or county- administered benefit programs to Social Security disability programs, (2) how SSI/DI advocacy practices compare across selected sites, and (3) the key controls the Social Security Administration (SSA) has in place to ensure these organizations follow SSI/DI program rules and regulations. We conducted this performance audit from September 2013 through December 2014 in accordance with generally accepted government auditing standards. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

This appendix provides a detailed account of the data sources used to answer these questions, the analyses we conducted, and any limitations we encountered. The appendix is organized into three sections. Each section presents the methods we used for the corresponding objective. Specifically, section I describes the information sources and methods we used to identify state SSI/DI advocacy contracts, estimate the proportion of claims associated with these contracts, and analyze national trends in claims with representatives. Section II describes the information sources and methods we used to explore selected SSI/DI advocacy approaches. Section III describes the information sources and methods we used to assess SSA's policies and controls related to representatives.

Section I: Identifying the Extent of State SSI/DI Advocacy Contracts

To determine the extent to which states are contracting with private organizations for SSI/DI advocacy services, we used a multi-faceted approach. Due to the absence of national-level data on SSI/DI advocacy contracts, we combined information from various sources. Specifically, we analyzed data from SSA's Office of the Inspector General (OIG); performed independent research, including conducting Internet searches and following up on contracts identified in past GAO work; and interviewed government officials, representatives from organizations providing SSI/DI advocacy services, and a wide range of stakeholders and experts.

Data Analysis

Analysis of a Random Sample of Social Security Disability Claims

We used data from a 2014 report issued by SSA's OIG to estimate the percentage of initial claims in 2010 with nonattorney representatives working under a government SSI/DI advocacy contract, as well as the percentage that were potentially working under contract with another third party, such as a hospital or long-term disability insurance company.¹

As part of its report, the OIG selected a random sample of 275 SSI and DI adjudicated claims from the population of 857,855 adjudicated claims with a representative in calendar year 2010, 201 of which were for initial claim determinations. Of these 201 initial claim determinations, 83 were represented by nonattorney representatives, while the remainder had attorney representatives. The OIG used information in the claim files, as well as Internet research, to determine the type of nonattorney representative associated with each sampled claim. The OIG did not conduct similar work for claims with attorney representatives.

We independently reviewed and verified the OIG's work papers for the sampled claims with a nonattorney representative, including selected documents from the electronic claim files. To verify that the OIG's categorizations of the type of representative were correct, we completed a blind categorization of the type of representative involved in each claim (that is, we completed our own categorization of the type of representative, without first reviewing the OIG's determination) for the sample of 83 cases. A second analyst then confirmed the categorization. We discussed any discrepancies between our categorizations and the OIG's with the OIG staff who performed the work. We obtained additional information about the claim in several cases and documented the final categorization. Using methods appropriate for a simple random sample, we estimated the percentage of initial claims with determinations in 2010 with nonattorney representatives working under SSI/DI advocacy contracts with government entities, as well as the percentage that were potentially working under contract with another third party, such as a hospital or long-term disability insurance company. Because the sample was selected using a probability procedure based on random selections, the sample is only one of a large number of samples that might have

¹SSA Office of the Inspector General, *Claimant Representatives at the Disability Determination Services Level*, A-01-13-13097 (Baltimore, Md.: Feb. 27, 2014).

been drawn. Since each sample could have provided different estimates, we express our confidence in the precision of our particular sample's results as a 95-percent confidence interval (e.g., plus or minus 7 percentage points). This is the interval that would contain the actual population value for 95 percent of the samples we could have drawn. All estimates in this report have a margin of error, at the 95-percent confidence level, of plus or minus 10 percentage points or fewer. Based on our discussions with the OIG and our verification process, we determined that the estimates were sufficiently reliable for the purposes of this report.

Analysis of SSA Data on Trends in Representation

We also analyzed SSA data extracted from the Appointed Representative Database, the Modernized Claims System, and the Supplemental Security Income Record, for calendar years 2004-2013 to provide information regarding total SSI and DI claims as well as claims with attorney and nonattorney representatives, as context for our findings. We interviewed SSA officials regarding these data and reviewed the computer code SSA used to extract these data, and determined they were sufficiently reliable for these purposes.

Review of Prior GAO Work and Internet Research

To identify states and counties that were likely to have an SSI/DI contract, we followed up on prior GAO work and performed Internet research. Specifically, we contacted officials in the states that, in 2007, reported paying representatives to assist individuals with their SSI claims to determine if these payments were part of a contract and, if so, if the contract was still in place as of 2014.² We also performed an Internet search to identify additional SSI/DI advocacy contracts or requests for proposals. Using a uniform set of search terms, we performed this search for all states (and the District of Columbia) for which we did not have information regarding their potential SSI/DI advocacy contracting activity from our interviews (see below). We confirmed the status of these contracts or proposals with state, county, or city officials, as appropriate.

²GAO, *SSA Disability Representatives: Fee Payment Changes Show Promise, but Eligibility Criteria and Representative Overpayments Require Further Monitoring*, [GAO-08-5](#) (Washington, D.C.: Oct. 15, 2007). Specifically, at least 10 states reported that they used a portion of the Interim Assistance Reimbursement funds they received from SSA to pay representatives.

Interviews

To supplement our data analyses and Internet searches, we conducted interviews with a number of stakeholders to learn more about this contracting practice and obtain leads for states that may have current SSI/DI advocacy contracts. Specifically, we interviewed officials from SSA and the Department of Health and Human Services (HHS) to determine what information each agency collected and maintained regarding state contracts for SSI/DI advocacy. Through these interviews, we also explored what other data were readily available that could be used to determine the extent of this contracting practice.

To obtain leads on potential state or county contracts, we worked with two professional groups—the National Association of State TANF Administrators and the National Council of Disability Determination Directors—who contacted their members on our behalf.

With regard to state or county contracts identified through these interviews and from information provided through these professional groups, we followed up directly with state or county officials to confirm this information.

To learn more about this contracting practice and obtain leads for states that may have current SSI/DI advocacy contracts, we also interviewed researchers at academic and advocacy organizations. These included:

- American Enterprise Institute
- American Public Human Services Association
- Center on Budget and Policy Priorities
- Center for Law and Social Policy
- Consortium for Citizens with Disabilities
- Federal Reserve Bank of San Francisco
- Mathematica Policy Research
- MDRC
- National Association of Disability Examiners
- National Association of Disability Representatives
- National Association of State TANF Administrators
- National Council of Disability Determination Directors [representing state Disability Determination Services (DDS) directors]
- National Council of Social Security Management Associations (representing SSA field office and teleservice center managers)
- National Organization of Social Security Claimants' Representatives
- Social Security Advisory Board

In addition, we interviewed representatives from organizations that, based on our preliminary audit work, were providing SSI/DI advocacy services to

states or counties. These included Chamberlin Edmonds, the Legal Aid Society of Hawaii, MAXIMUS, Public Consulting Group, and South Metro Human Services. We also interviewed officials from Policy Research Associates, which provides technical assistance, under a contract to the Substance Abuse and Mental Health Services Administration, for the national SSI/SSDI Outreach, Access and Recovery (SOAR) program.

Section II: Exploring Selected SSI/DI Advocacy Approaches

In order to obtain in-depth information on the different ways in which states and counties contract with private organizations for SSI/DI advocacy services, we selected a nongeneralizable sample of three sites with SSI/DI advocacy contracts that had an established history of contracting for SSI/DI advocacy services and represented a variety of approaches. We also selected one state in which the Temporary Assistance for Needy Families (TANF) administering agency and the state DDS were divisions under the same state agency, in light of concerns about potential conflicts of interest (the agency issuing the contract to help people apply for federal disability benefits is under the same state agency as the agency making the decision about eligibility for federal disability benefits).

Specifically, we selected (1) a state that contracts with a nonprofit, legal aid organization (Hawaii)³, (2) a state that contracts with multiple organizations, including for-profit, nonprofit, and legal aid organizations (Minnesota), and (3) a county that contracts with a for-profit company (Westchester County, New York).

In each site, we obtained key documents—such as the request for proposals and the signed, current contracts—and data in order to describe the various aspects of the sites' SSI/DI advocacy practices. For example, we gathered information on how the states or county and their contractors identified potentially eligible individuals, the types of services provided by the organizations to claimants, compensation structures, and other information. We obtained data on the total amounts paid to the

³In January 2014, Hawaii issued a new request for proposals for SSI/DI advocacy that combined two prior contracts for SSI/DI advocacy and medical and psychological evaluations. As of July 1, 2014, the effective date of the new contract, the SSI/DI advocacy services are subcontracted to a legal aid organization by a for-profit company that is contracted to provide medical and psychological evaluations for the state's cash assistance programs. Previously, the SSI/DI advocacy contract was a separate, stand-alone contract.

contractors in state fiscal year or contract year 2013. We also obtained information on how the site funds its SSI/DI advocacy contracts, and whether any funding was provided through an Interim Assistance Reimbursement (IAR) agreement with SSA. We collected and analyzed available data from the three sites on the number of individuals referred to the contractor and the number of claims filed and approved by SSA in state fiscal year 2013, or the most recent complete year available. We interviewed state/county and contractor officials knowledgeable about the data and compared states'/counties' and contractors' reported data and determined the data were sufficiently reliable for our purposes. To put these sites' data on approved claims in context, we also obtained data from SSA on the number of SSI and DI approved claims in each state or county in calendar year 2012, the most recent year these federal data were available.

In each site, we also conducted in-depth interviews with (1) the government agency administering the contract, (2) officials from the organization(s) working under the contract,⁴ (3) SSA officials in the relevant regional office and at least one field office,⁵ and (4) state DDS administrators and staff.⁶ In the field offices and state DDSs, we randomly

⁴In Minnesota, which has contracts with 55 organizations, we selected the largest for-profit and largest non-law, nonprofit organization, in terms of the number of approved Social Security disability claims in 2013. The other two sites had single contractors.

⁵In each site, based on discussions with state or county officials and officials from the organization working under the contract, we selected the field office(s) that were closest in proximity or interacted most frequently with the contractor. In Hawaii, we interviewed managers and staff in the Honolulu field office; in Minnesota, we interviewed managers and staff in the St. Paul and Minneapolis field offices; and in Westchester County, New York, we interviewed managers and staff in the White Plains and Yonkers field offices.

⁶In Hawaii and Minnesota, we met with administrators and claims examiners in each state's DDS. In New York, we met with administrators and claims examiners at the Albany office, as this is the state DDS office in which most of the claims from Westchester County are processed, according to DDS officials.

selected staff to interview who met certain qualifications.⁷ We conducted these interviews either in person or by phone. We also contacted the state auditors for each state, and in all three sites, they confirmed they had no current work regarding SSI/DI advocacy contracting, nor had they done any work in this area within the past 10 years.

Prior to issuing this report, we shared a statement of facts with officials from the state or county agency and the selected contractor(s) in the three sites to confirm that the key information used to formulate our analyses and findings were current, correct, and complete. These entities provided technical comments, which we incorporated, as appropriate.

Section III: Assessing SSA Policies and Controls Related to Representatives

In order to assess the controls SSA has in place related to representatives contracted by third-party organizations to perform SSI/DI advocacy, we reviewed relevant documents and reports, and conducted interviews with key officials from SSA.

⁷Although we wanted to randomly select staff, we also wanted to interview staff in SSA field offices and DDSs who would likely have experience with SSI and DI claims and the representatives we were studying, including enough experience to describe recent trends in representation and any other relevant patterns or observations. Specifically, in the Hawaii, Minnesota, and Albany, New York, DDS offices and the Honolulu, Minneapolis, and White Plains SSA field offices, we asked SSA or DDS officials, as appropriate, for a list of staff who met the following qualifications: (1) staff who had been in the position for at least 2 years, (2) staff with experience processing disability claims at the initial level, rather than retirement claims or continuing disability reviews, and (3) eliminate from the list any staff who focus mainly on out-of-state cases and compassionate allowances (according to SSA, these are claims that SSA can process quickly because they are for diseases and other medical conditions that invariably qualify under SSA's Listing of Impairments based on minimal objective medical information). We assigned a random number to each person and put the lists in order by that random number, and we requested interviews with the first four staff members on each list. If an individual on the list was not available to meet with us, we selected the next staff person on the list until we reached our goal of interviewing four staff persons at each site.

Review of Documents
Describing SSA's Controls

We reviewed relevant federal laws; proposed and final regulations; program policies and procedures, such as SSA's Program Operations Manual System; and other program documentation, as well as reports and testimonies from SSA, SSA's OIG, and the Social Security Advisory Board. We compared SSA's efforts with their own policies and procedures, federal government internal control standards, and prior recommendations from GAO and the Social Security Advisory Board.

Interviews with SSA
Officials

To understand SSA's policies, procedures, and data controls related to appointed representatives, we interviewed officials in a number of SSA departments in headquarters. These included:

- Office of Disability Adjudication and Review
- Office of Disability Determinations
- Office of Disability Programs
- Office of Income Security Programs
- Office of the Inspector General
- Office of Research, Evaluation, and Statistics
- Office of Retirement and Survivors Insurance Systems

To gain additional perspectives on how SSA policies are implemented and challenges regarding appointed representatives in the disability determination process, particularly those under contract to a state or county, we incorporated relevant questions into the interviews conducted in our three selected sites. Also, as noted above, we interviewed representatives from national organizations representing SSA field office managers, administrative law judges, DDS administrators, and DDS examiners.



Appendix II

Hawaii

Services Provided by the Nonprofit Legal Aid Organization in Hawaii

Contract snapshot

- **Current contract period:** July 1, 2014 – June 30, 2016
- **Amount paid under the contract:** \$410,957 (state fiscal year 2013)
- **Approved claims:** 342 (state fiscal year 2013)

Contractor(s)

- Nonprofit legal aid organization, a subcontractor to a for-profit company

Compensation structure

Payment received for each approved claim:

- **Initial level:** \$900
- **Reconsideration:** \$1,325
- **Appeal:** \$1,650

Targeted populations

- **GA**
- **TANF**
- **Other programs:** Aid to the Aged, Blind, and Disabled; Temporary Assistance for Other Needy Families

Sources: GAO analysis of Hawaii SSI/DI advocacy contract and interviews with state officials and contractors, as confirmed by state and contractor officials; National Atlas of the United States of America (map).

Approach to SSI/DI advocacy

In the beginning of 2014, Hawaii had a contract with a legal aid organization to provide Supplemental Security Income (SSI)/Disability Insurance (DI) advocacy services statewide. In July 2014, this organization became a subcontractor to a company that performs medical and psychological evaluations for the state's cash assistance programs. Specifically, the primary contractor is responsible for determining whether applicants and recipients of the state's General Assistance (GA) and Temporary Assistance for Needy Families (TANF) programs have disabilities that prevent them from engaging in work at a certain level. Previously, the state had two separate contracts for SSI/DI advocacy and medical and psychological evaluations. State officials told us that they combined those services into a single contract, in part, to streamline the referral process for SSI/DI advocacy. If the primary contractor determines that an individual's disability meets Social Security criteria, they refer the individual directly to their advocacy subcontractor rather than indirectly through state caseworkers, as was done under the prior contract.

Disability screening process

Previously, a prospective claimant could be referred by a state caseworker or walk into the legal aid office. Referrals now come from the primary contractor. Hawaii's SSI/DI advocacy subcontractor told us they conduct a screening assessment to obtain basic information—such as information on the individual's impairments, the doctors they have seen, and medications they are taking—and have the claimant sign key forms, including the Social Security Administration (SSA) form required to formally appoint the advocacy worker as their representative. If an individual does not appear eligible for federal disability benefits, the representative would decline to officially represent them but might provide some assistance.

Assistance filing a claim

Hawaii's SSI/DI advocacy subcontractor reported that most representatives fill out available portions of the SSA disability application online, such as the DI portion. They call the local SSA field office to schedule an appointment for the claimant to meet with an SSA claims representative to complete the SSI portion of the application, which is not available online. They said representatives typically do not accompany the claimant to the field office, nor do they refer claimants to doctors or medical specialists.

Representation during the disability determination process

The advocacy subcontractor reported that its representatives will provide additional information to SSA or the state Disability Determination Services (DDS) on the claimant's disabilities or functioning, upon request. The representative may also check to ensure the claimant attends any examinations scheduled by the DDS. If an initial application is denied, the representative may schedule another appointment with the claimant to review the case and determine whether to file a reconsideration or, later, an appeal.



Appendix II

Minnesota

Services Provided by Organizations under Contract to Minnesota

Contracts snapshot

- **Current contract period:** January 1, 2014 – December 31, 2015
- **Amount paid under SSI/DI advocacy contracts:** \$1,960,700 (state fiscal year 2013)
- **Approved claims:**
 - **Total:** 1,112 (state fiscal year 2013)
 - **Largest for-profit contractor:** *
 - **Largest non-law, nonprofit contractor:** 45 (calendar year 2013)

*The contractor requested that this information not be included in this report.

Contractor(s)

55 total:

- 39 nonprofit organizations
- 13 for-profit organizations (including law firms)
- 3 legal aid organizations

Approach to SSI/DI advocacy

In 2014, Minnesota contracted with 55 organizations across the state, ranging from small law firms to large for-profit and nonprofit organizations.¹ Some organizations served individuals statewide, while others served specific geographic areas or populations, such as tribal communities.

Minnesota's request for proposals for SSI/DI advocacy services had two components: one for its general SSI/DI advocacy program and another for its SSI/SSDI Outreach, Access, and Recovery (SOAR) program. Minnesota's SOAR program is based on a national advocacy model that focuses on homeless individuals or individuals at risk of homelessness who have a mental illness and/or a co-occurring substance abuse disorder. Organizations could submit proposals to provide services under one or both components. Minnesota offered higher payments under the SOAR program because, according to state officials, the homeless population requires more intensive services. Specifically, the state provided a \$2,500 payment for approved applications that included a complete medical summary report—a key component of the SOAR model.²

Disability screening process

Officials at the for-profit contractor we selected—operating under the SSI/DI advocacy component of the contract—reported that they receive referrals from county or hospital caseworkers. Officials at the nonprofit contractor we selected—operating mainly under the SOAR component of the contract—reported that it receives informal referrals from staff at homeless shelters or mental health or urgent care clinics. The for-profit officials also reported having limited access to a state database, which allows them to verify that a referred individual is a recipient of one of the eligible state programs. Both organizations conduct initial screenings to obtain information, such as the individual's impairments and work history. The nonprofit organization also gathers information on the individual's history of homelessness. If it appears that the individual will meet Social Security disability criteria, both organizations' staff reported that they will meet with the claimant to fill out the application and sign key forms, including the form required to formally appoint the SSI/DI advocacy staff as their representative.

¹For the purposes of this report, we reviewed the contracts for the two contractors we selected. However, state officials told us that because they use a form contract, the two contracts we reviewed were similar to all 55 contracts.

²According to officials from the national SOAR Technical Assistance Center, the medical summary report is a letter written by the representative working on the application that includes information on the claimant's physical and/or mental impairments, as well as information on how these impairments prevent the claimant from being able to work. In addition, under SOAR, the state provides reimbursement for expenses incurred in obtaining medical documentation for a claim, as well as initial start-up funds, which are based on the number of approved claims the contractor expects to receive.

Sources: GAO analysis of selected Minnesota SSI/DI advocacy contracts and interviews with state officials and contractors, as confirmed by state and contractor officials; National Atlas of the United States of America (map).



Compensation structure

Payment for each approved claim:

- **Initial level/reconsideration:**
\$1,500 [individuals on GA or Group Residential Housing (GRH)]; or
\$1,250 (for individuals on other eligible programs); or
\$2,500 under SOAR
- **Appeal:**
\$2,750 (for individuals on GA or GRH); or
\$2,500 (for individuals on other eligible programs)

Other payments:

- Continuing disability review (CDR): **\$750**
- Successful SSI claims for current non-disability Social Security recipients: **\$750**

Targeted populations

SSI/DI Advocacy

- **GA**
- **TANF**
- **Medical Assistance**
- **Foster care**
- **Other programs:** GRH, Refugee Cash Assistance

SOAR

- **Homeless individuals with mental impairments**

Sources: GAO analysis of selected Minnesota SSI/DI advocacy contracts and interviews with state officials and contractors, as confirmed by state and contractor officials; National Atlas of the United States of America (map).

Assistance filing a claim

Representatives from both organizations reported filling out available portions of the application online, such as the DI portion, but they differed in how they completed the SSI portion of the application, which is not available online. Representatives from the for-profit organization fill out the SSI application on behalf of the claimant and either mail or hand-deliver it to the local SSA field office. Representatives from the nonprofit organization typically accompany the claimant to the field office to complete the application and often provide transportation to ensure the claimant attends the appointment.

Representatives from both organizations said they typically gather available medical information but refer the claimant to medical providers or specialists, as needed, if the existing records are insufficient. The nonprofit organization also has a psychologist on staff to perform evaluations and psychological testing if existing records are insufficient.

Representation during the disability determination process

Representatives from both organizations work with the claimant to ensure he or she attends any examinations the DDS schedules and provide the DDS, upon request, with additional information on the claimant's disabilities or functioning. If an initial application is denied, the representatives will review the case with the claimant and determine whether to file a reconsideration or, later, an appeal.



Contract snapshot

- **Current contract period:** July 1, 2014 – June 30, 2015
- **Amount paid under the contract:** \$380,000 (Contract year 2013, July 2012-June 2013)
- **Approved claims:** 136 (Contract year 2013)

Contractor(s)

- For-profit company with a national scope

Compensation structure

Payment for each approved claim:

- **\$3,000** (adult disability claim)
- **\$2,000** (foster care SSI claim)
- **\$1,500** (CDR)

Targeted populations

- **GA** (known as Safety Net Assistance)
- **TANF**
- **Foster care**

Sources: GAO analysis of Westchester County SSI/DI advocacy contract and interviews with county officials and the contractor, as confirmed by county and contractor officials; National Atlas of the United States of America (map).

Appendix II

Westchester County, New York

Services Provided by the For-profit Organization under Contract to Westchester County

Approach to SSI/DI advocacy

Westchester County's contractor, a national for-profit organization, performed its SSI/DI advocacy services from its office in another state. Officials from Westchester County and the organization told us that providing services by phone can be particularly beneficial for individuals with severe disabilities.

Disability screening process

Westchester County's SSI/DI advocacy contractor reported that it receives referrals on a monthly basis from the county's three employment services contractors. According to county officials, these contractors identify people receiving GA or TANF who are unable to work for reasons such as a disability, and provide lists of these people to the SSI/DI advocacy contractor. The advocacy contractor mails a letter to each referred individual, introducing their services and inviting them to call a toll-free number to determine their potential eligibility for Social Security disability benefits. During this screening, a representative from the organization gathers information on the individual's current medical condition, work history, and educational level. If it appears that the individual will meet Social Security disability criteria, the representative will fill out the application and have the claimant sign key forms, including the form required to formally appoint the SSI/DI advocacy worker as their representative.

Assistance filing a claim

Officials from the advocacy organization said that representatives fill out available portions of the disability applications online, such as the DI application. The representative also fills out the SSI application on behalf of the claimant and mails it to the appropriate SSA field office. Representatives gather available medical information, but do not refer claimants to additional doctors or specialists. Instead, if claimants have a limited medical history, the representatives will refer them to the county for treatment or request that their physicians provide treatment notes or an assessment of their functioning.

Representation during the disability determination process

Representatives work with the claimant to ensure he or she attends any examinations the DDS schedules and provide the DDS with additional information on the claimant's disabilities or functioning, upon request. If an initial application is denied, the representative will review the case and schedule a telephone appointment with the claimant to discuss options and determine whether to file a request for a hearing.

Appendix III: Comments from the Social Security Administration



November 10, 2014

Mr. Dan Bertoni
Director, Education, Workforce, and Income Security Issues
United States Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Bertoni:

Thank you for the opportunity to review the draft report, "SOCIAL SECURITY DISABILITY BENEFITS: Agency Could Improve Oversight of Representatives Providing Disability Advocacy Services" (GAO-15-62). Our response is enclosed.

If you have any questions, please contact me at (410) 966-9014. Your staff may contact Gary S. Hatcher, our Senior Advisor for Records Management and Audit Liaison Staff, at (410) 965-0680.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Katherine Thornton', is written over the typed name.

Katherine Thornton
Deputy Chief of Staff

Enclosure

SOCIAL SECURITY ADMINISTRATION BALTIMORE, MD 21235-0001

**COMMENTS ON THE GOVERNMENT ACCOUNTABILITY OFFICE (GAO) DRAFT
REPORT, "SOCIAL SECURITY DISABILITY BENEFITS: AGENCY COULD
IMPROVE OVERSIGHT OF REPRESENTATIVES PROVIDING DISABILITY
ADVOCACY SERVICES" (GAO-15-62)**

GENERAL COMMENTS

Social Security disability benefits are a vital safety net for those Americans who meet our disability criteria. State and other entities' efforts to help individuals receive much-needed disability benefits serve an important role in ensuring the economic stability for one of our most vulnerable populations. We believe this report misrepresents and overstates the nature of States' payments to representatives. Our rules permit representatives to receive fee payments. State fee payments are outside our authority for oversight purposes. Also, while the report focused on States, it did not address the other entities GAO identified, i.e., private insurance companies who require their policyholders to file Social Security disability claims. Finally, GAO's results did not indicate any acts of possible fraud committed by the facilitators. The report should also make that clear.

RESPONSES TO THE RECOMMENDATIONS

Recommendation 1

Consider actions to provide more timely access to data on representatives and enhance mechanisms for identifying and monitoring trends and patterns related to representation, particularly trends that may present risks to program integrity. Specifically, SSA could: (1) identify additional data elements, or amendments to current data collections efforts, to improve information on all appointed representatives, including those under contract with States and other third parties; (2) implement necessary policy changes to ensure these data are collected; and (3) establish mechanisms for routine data extracts and report on claims with representatives.

Comment

We partially agree. The report correctly acknowledges that we have a number of initiatives underway to improve our use and collection of data related to appointed representatives. As part of those efforts, we may identify additional data elements that would be helpful. In addition, as part of our mission, we regulate the practices and behaviors of those individuals who represent claimants before us as appointed representatives. We currently have a process in place to address allegations when representatives violate our rules of conduct and standards of responsibility. We believe those procedures are sufficient for our purposes.

Managing appointed representatives is only a small piece of our overall program mission. We rely extensively on our information technology (IT) to achieve our goals and keep pace with our rising workloads. We direct our IT resources to projects that best allow us to accomplish our

mission while continuing to deliver high quality service to the public. We are concerned that expanding data collection to the detailed level of data GAO highlights in Table 4 could potentially negatively affect these priorities. The report results did not provide enough evidence to support that level of data collection. However, as previously noted, to the extent that it helps, we will consider other data elements related to appointed representatives to generate additional reports. We will make a policy change if we determine one is necessary.

We suggest adding the word “appointed” before “representatives,” to distinguish between appointed representatives and representative payees.

Recommendation 2

Take steps to enhance coordination with States, counties, and other third parties with the goal of improving oversight and preventing and identifying potential fee violations. This coordination could be conducted in a cost-effective manner, such as issuing guidance to States and other third parties on vulnerabilities for overpayment; sharing best practices on how to prevent overpayments; or considering the costs and benefits, including any privacy and security concerns, of providing third parties controlled access to portions of the electronic folder to facilitate the detection of potential overpayments.

Comment

We partially agree. The report did not provide sufficient evidence to conclude that we need to enhance coordination with States, counties, and other third parties. When we learn of a potential fee violation, we take any necessary action to recoup the fees and refer the matter to our General Counsel for potential sanctions. As we continue to develop enhancements to our appointed representative processes, we will consider your suggestions.

Appendix IV: GAO Contact and Staff Acknowledgments

GAO Contact

Daniel Bertoni, Director, (202) 512-7215 or bertonid@gao.gov.

Staff Acknowledgments

In addition to the contact named above, Erin Godtland (Assistant Director), Rachael Chamberlin (Analyst-in-Charge), Julie DeVault, Alison Grantham, and Michelle Loutoo Wilson made key contributions to this report. Additional contributors include: James Ashley, James Bennett, David Chrisinger, Rachel Frisk, Alexander Galuten, Monika Gomez, Kimberly McGatlin, Daniel Meyer, Matthew Saradjian, Monica Savoy, Almeta Spencer, Nyree Ryder Tee, Shana Wallace, Margaret Weber, and Candice Wright.

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