

Processing ACH Reclamations for Cycling Payments

31 CFR Part 210 provides that Receiving Depository Financial Institutions (RDFIs) are liable for ALL benefit payments received after the death or legal incapacity of a recipient or death of a beneficiary unless the RDFI meets the qualifications for limiting its liability. If the RDFI fails to meet the qualifications for limiting its liability, the RDFI will be held liable for all post-death payments received after the death or legal incapacity of a recipient or death of a beneficiary. An RDFI may qualify to limit its liability if it certifies it did not have actual or constructive knowledge of the recipient's death or incapacity at the time of the deposit of any post-death benefit payments and returns all post-death benefit payments it receives after it learns of the death.

Prior to June 1997, all Social Security Administration (SSA) Title II payments (Federal Old-Age, Survivors, and Disability Insurance Benefits) were made on the 3rd of the month. However, as the volume of SSA Title II payments continued to grow, it became apparent that it was burdensome to both the Federal government and the financial community to process this large volume of payments on one date in the month. As a result, Treasury and SSA established a program named Payment Cycling, in which anyone newly applying for SSA Title II benefits after May 1997 would receive their payments on either the 2nd, 3rd, or 4th Wednesday of the month based on the beneficiary's birthdate. This important change has successfully reduced the burden the Government and the financial community had to encounter on the 3rd of every month.

Issue

In most cases, SSA rules state that Title II -beneficiaries are eligible for their benefits if they lived through the end of the previous month. Prior to June 1997, there were a small number of cases where the Title II beneficiaries were alive the previous month, but passed away before their payment date, the 3rd of the month. This would occur infrequently – only when the beneficiary died on the 1st or 2nd of the month. These situations caused confusion for some RDFIs that were aware the beneficiary's estate was entitled to the payment and therefore were unsure whether to return the funds to Treasury. This issue has grown into a larger problem for RDFIs with the implementation of the Payment Cycling program, in which an SSA Title II beneficiary lived through the end of the previous month but passed away a day or two before their payment date on the 2nd, 3rd or 4th Wednesday of the month. Treasury continues to receive questions from RDFIs asking if they should return these funds to Treasury, or hold onto the funds because the SSA Title II beneficiary lived through the end of the previous month.

Guidance

SSA and Treasury discussed this issue and have agreed upon the following guidance:

- 1.) In cases where SSA Title II beneficiaries receiving payment by direct deposit live through the end of the previous month but pass away before the payment date, including a Payment Cycling payment date, the RDFI, once aware of the death or legal incapacity of the beneficiary, should return the funds in accordance with 31 CFR Part 210.
- 2.) SSA, not the RDFI, must make the decision regarding who should be paid resulting from the underpayment after the RDFI returned the funds.
- 3.) Family members or friends who question the RDFI about the return of funds should be referred to SSA, who can assist them with the underpayment.
- 4.) In cases where the SSA Title II beneficiary has a representative payee, lives through the end of the month (beneficiary entitled to that payment) but subsequently dies prior to their payment date, SSA will not seek collection of the funds from the representative payee. The payee will be responsible for turning over conserved funds (leftover funds owned by the beneficiary) to the legal representative of the beneficiary's estate.

- 5.) In cases where the SSA Title II beneficiary has a representative payee and the beneficiary passes away without surviving the entire month but is issued funds for the month of death (or later) those funds represent an overpayment and SSA will seek collection from the representative payee. SSA will NOT seek collection from the RDFI under these circumstances. However, SSA is experiencing a growing number of cases where a financial institution freezes the bank account of a representative payee when the beneficiary they represent dies. Under these circumstances, the representative payee is unable to repay SSA because the funds are frozen in a bank account. As a result, Treasury and SSA request that RDFIs make funds available to the representative payee to satisfy the overpayment to SSA or return the funds via ACH using the R15 return reason code.

It is important to note that SSA policy manuals remind their employees that RDFIs are not at fault if they initiate a return when the payment was received after death, even if the beneficiary lived through the end of the previous month. This guidance is to be followed when SSA receives a call from the deceased beneficiary's family and/or estate claiming they were underpaid. SSA will review the case and determine how the underpayment should be addressed.

If you have any questions, please visit <http://www.fms.treas.gov/greenbook>.