United States Senate Committee on

Homeland Security & Governmental Affairs

U.S. Senator Gary Peters | Ranking Member

BILLIONS WASTED

No Excuse for Taxpayer Dollars Going to Deceased People

A HSGAC Minority Staff Report

I. Executive Summary

On March 13, 2020, the Trump Administration declared a national emergency in response to the global Coronavirus (COVID-19) pandemic.[1] To help combat the pandemic and to address the needs of Americans facing severe health, economic, and security concerns, Congress passed the *Coronavirus Aid, Relief, and Economic Security (CARES) Act*. Provisions of the $2.2 trillion law included stimulus payments to help provide necessary relief for Americans devastated by the economic impacts of COVID-19.[2] However, according to the Government Accountability Office (GAO), Treasury has sent at least $1.4 billion in payments to deceased individuals as of April 30, totaling 1.1 million individual payments.[3] This unacceptably negligent and costly waste of taxpayer dollars during the pandemic is harmful to recovery efforts and imposes an unwelcome burden on relatives of intended recipients.

These improper payments are a recurring problem that the Treasury Department was aware of and should have anticipated and prevented.[4] Instead of applying lessons from past experiences and implementing up-front controls to prevent improper payments to the deceased, the Treasury Department (Treasury), which oversees the Internal Revenue Service (IRS), issued billions in payments to the deceased and put the onus on individuals to determine how to treat these funds. Treasury has misrepresented the steps it allegedly took to prevent improper payments, publicly insisting that it had checked relevant databases yet later admitting that it had not used death records as a filter to halt payments to the deceased.[5] In addition, neither Treasury nor the IRS released guidance regarding how the public should deal with receipt of these improper payments until several weeks after the government began sending them out.

The high number of stimulus payments issued to deceased people highlights the importance of existing safeguards to prevent payments to the deceased, as well as the need for a long-term solution to expand these safeguards. GAO reported that the IRS did not initially use its existing databases to filter out payments to deceased people, but also that components of Treasury responsible for the payments do not have access to these accurate databases. In response to this incident, GAO recommended that Congress provide Treasury with access to the Social Security Administration's (SSA) full set of death records in order to screen for improper payments to the deceased, and require that Treasury consistently use these records.[6] The *Stopping Improper Payments to Deceased Individuals Act*, legislation passed by the Homeland Security and Governmental Affairs Committee and supported by Ranking Member Gary Peters, would address this recommendation.

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[1] President Donald J. Trump, Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease outbreak, March 13, 2020.
[2] Public Law 116-136 (2020).
[3] Government Accountability Office, *COVID-19: Opportunities to Improve Federal Response and Recovery Efforts,* GAO-20-625 (Washington, D.C.: June 25, 2020).
[4] In 2009, with passage of the *American Reinvestment and Recovery Act*, SSA was charged with identifying and certifying beneficiaries for automatic economic recovery payments. A 2010 SSA Inspector General report found that payments had been sent to more than 71,500 deceased beneficiaries, for a total amount of $18 million.
[5] GAO-20-625.
[6] Id.

In order to responsibly steward taxpayer dollars, Treasury must answer for its mismanagement of $1.4 billion in payments that went to deceased people, including its failure to implement safeguards and communicate with the public in a timely manner. Congress must also take immediate action to guard against future agency waste and enhance tools for preventing improper payments to deceased people.

A. Findings of Fact

1. **$1.4 billion in *CARES Act* payments were sent to deceased individuals due to Treasury mismanagement and inadequacy of existing safeguards to prevent improper payments**. Treasury did not anticipate the problem of improper payments, did not release timely guidance on how recipients should handle these payments, and did not respond to Congress's request for information.

2. **Improper payments are a long-standing and significant problem in the federal government.** GAO estimates that improper payments throughout the federal government totaled about $175 billion in fiscal year 2019, and since 2003, the cumulative total is almost $1.7 trillion.[7]

3. **The two main barriers to preventing improper payments are data accessibility and data quality.** Preventing improper payments requires addressing each of these barriers.

4. **SSA maintains the most complete federal database of individuals who are reported to have died, but Treasury and most federal agencies do not have access.** Agencies without access must rely on a less complete version, rendering them unable to prevent improper payments to the deceased.

5. **SSA's death data is not accurate.** SSA's verification and other procedures do not ensure accurate, complete, or timely death data in either its full death file or its less complete version. These data inaccuracies can result in losses of taxpayer dollars when linked to payments.

6. **Congress has proposed a solution.** The *Stopping Improper Payments to Deceased Individuals Act* would allow federal agencies access to SSA's complete death database; would require use of death data to curb improper payments; and would establish procedures to ensure more accurate death data.

B. Recommendations

To address Treasury mismanagement of the funds:

[7] Government Accountability Office, *Payment Integrity: Federal Agencies Estimates of FY 2019 Improper Payments*, GAO-20-344 (Washington, D.C.: March 2, 2020).

1. **Treasury should immediately submit to Congress, including the Senate Committee on Homeland Security and Governmental Affairs, the Senate Committee on Finance, and the relevant House committees, an explanation for each of Treasury and IRS's actions detailed in the GAO report[8] and a full accounting of corrective actions Treasury is taking regarding these improper payments. Treasury should also respond to the May 7, 2020 congressional letter on this subject.**

2. **Treasury and IRS should quickly implement recommendations from GAO regarding prevention of improper payments.**

To improve the accuracy and completeness of Social Security's death data, and to improve access and use of the data:

3. **Require the Commissioner of Social Security to submit a plan to improve the accuracy and completeness of the death data maintained and distributed by the Social Security Administration**. SSA should consider procedures for identifying individuals who are extremely elderly but for whom no record of death exists and for verifying the information contained in SSA records for those individuals. SSA should also consider improved policies and procedures for identifying and correcting erroneous death records.

4. **Require the Commissioner of Social Security to enter into cooperative arrangements with federal agencies or their Inspectors General for the use of information regarding all deceased individuals furnished to or maintained by the Commissioner.** The Social Security Administration (SSA) should be reimbursed for the cost of carrying out the arrangement. The Commissioner should establish a defined calculation method for the purposes of calculating the cost of carrying out the arrangement and to record these transactions with agencies separately from other transactions.

5. **Require the Commissioner of Social Security to enter into cooperative arrangements with states for the purposes noted above.**

6. **Allow SSA to share its death data with federal and state agencies for statistical and research activities by federal and state agencies.**

7. **Amend the Internal Revenue Code to require states to have an agreement in place with the Commissioner of Social Security, instead of the Secretary of Health and Human Services, in order to receive certain federal tax return information.** This would allow the Commissioner of Social Security to share the state-provided death information to prevent improper payments.

8. **Require the Director of OMB to conduct a review of potential alternative sources of death data maintained by non-federal sources for use by federal**

[8] GAO-20-625.

agencies and programs and submit a report on the results of this review within 4 years.

II. <u>$1.4 billion in CARES Act Payments to Deceased Individuals Highlight Treasury Mismanagement and Inadequacy of Existing Safeguards</u>

The Internal Revenue Service (IRS) and the Department of the Treasury's Bureau of Fiscal Service began making CARES Act economic impact payments on April 11, providing a maximum of $1,200 for single filers, $2,400 for joint filers and $500 for each qualified child. The payments were either directly deposited into the recipient's bank account or mailed to the recipient in the form of a paper check from the U.S. Treasury or a prepaid debit card, based on information contained in the individual's 2018 or 2019 tax return.

According to GAO, IRS and Treasury disbursed more than 81 million payments totaling more than $147 billion within the first two weeks following enactment of the CARES Act, and as of May 31, 2020, had disbursed 160.4 million payments worth $269.3 billion.[9] Unfortunately, according to the Treasury Inspector General for Tax Administration, as of April 30, almost 1.1 million payments— totaling nearly $1.4 billion—had been sent to deceased individuals.[10]

In Michigan, constituents from across the state reported to local and federal officials their experiences receiving checks authorized to dead relatives. Mayor Pauline Repp from Port Huron recounted to Ranking Member Peters' office that her deceased mother in law, who died in 2018, received a $1200 check. From Allen Park to Traverse City, similar stories were reported in the local newspapers.[11] In Traverse City, a taxpayer received a stimulus check for her deceased aunt prompting her to send the check, which stated "deceased" on the front, to her local newspaper.[12] A financial planner in Traverse City stated that his firm is receiving daily calls from people who are receiving similar checks for deceased family members. [13]

As reports of these improper payments began to surface in April 2020, the administration's response was inconsistent and it was unclear what steps it had taken, if any, to prevent the problem. Initially, Treasury Secretary Steven Mnuchin stated that the payments were made in error and should be "voluntarily returned" without announcing a plan on how to do so. While tax experts expressed uncertainty regarding whether a deceased individual's surviving spouse or family members must refund the money, Secretary Mnuchin proclaimed in an interview with the Wall Street Journal, "you're not supposed to keep that payment. We're checking the databases, but there could be a scenario where we missed something, and yes, the heirs should be returning

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[9] GAO-20-625.
[10] Id.
[11] Ameera David, *What you should do if a deceased family member receives a check*, The Rebound Detroit, https://www.wxyz.com/rebound/the-rebound-detroit-what-you-should-do-if-a-deceased-family-member-receives-a-stimulus-check (May 4, 2020).
[12] Rachel Schuit, *Family Members receive stimulus checks for deceased loved ones,* Up North Live https://upnorthlive.com/news/local/family-members-receiving-stimulus-checks-for-deceased-loved-ones (May 8, 2020)
[13] Id.

that money."[14] On April 17, 2020, when questioned at a press conference about the lack of plan to return the payments, President Trump responded, "We'll get that back. Everything we're going to get back," and added, without any basis, "it's a tiny amount" at issue."[15]

In response to criticism concerning the lack of guidance to taxpayers, the IRS updated its website on May 6, 2020 to provide instructions on what to do if you receive an improper payment to a deceased person. Notably, the site explicitly states that a deceased person is not eligible for the payment.[16] The IRS instructed that paper checks should be returned by writing "void" in the endorsement section on the back of the check and mailed back to an IRS office depending on the state where the recipient resides. The IRS also requested the person to include a note explaining the reason for returning the check. For those recipients who received direct deposits, the IRS instructed that the person send a personal check or money order to the appropriate IRS office, payable to the U.S. Treasury. According to the IRS, individuals should write "2020EIP" and the taxpayer's Social Security number or individual taxpayer identification number on the check and add a brief explanation for the return.[17]

Given the delay in releasing guidance and the incomplete information regarding the Administration's actions, a bipartisan group of legislators, including Senators Carper and Peters, wrote to Treasury to raise questions and express concerns with reports of improper payments to deceased individuals.[18] The letter asked Treasury to provide information regarding how, if at all, Treasury and IRS had screened recipients of the payments prior to sending them out. Treasury did not reply to the request for information. This lack of responsiveness is unacceptable, given the scale of the problem identified by GAO, and raises questions about the administration's ability to use American taxpayer dollars as Congress intended.

It is now clear that Treasury and IRS did not use any of the information at its disposal to screen potential recipients of economic impact payments until the disbursements were well underway because IRS did not believe it had the legal authority to exclude decedents, and Treasury did not foresee the possibility of such improper payments. In its first report to Congress on its ongoing monitoring and oversight efforts of CARES Act funding, GAO reported that Treasury and IRS did not use death records data to stop payments to deceased individuals for the first three batches of economic impact payments (around 72 percent of the payments disbursed as of May 31) because of the legal interpretation under which IRS was operating and the fact that Treasury felt its mandate was to deliver the payments as "rapidly as possible."[19] GAO also reported that, according to a Treasury official from the Office of Tax Policy, Treasury was unaware the

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[14] Kate Davidson, Richard Rubin, *Stimulus Checks should be sent returned, Mnuchin says,* Wall Street Journal, https://www.wsj.com/articles/stimulus-checks-sent-to-dead-relatives-should-be-returned-mnuchin-says-11588103323 (April 28, 2020).

[15] William Cummings, *"You're not supposed to keep that payment" Mnuchin wants money given to dead taxpayers returned*. https://www.usatoday.com/story/news/politics/2020/04/29/steve-mnuchin-wants-stimulus-given-dead-people-returned/3046434001/ (April 29, 2020)

[16] https://www.irs.gov/coronavirus/economic-impact-payment-information-center#more

[17] Id.

[18] Letter from Senators Carper, Kennedy, Peters, et. al. to Secretary Steven Mnuchin, Treasury Department; Commissioner Charles Rettig, Internal Revenue Service; and Commissioner Andrew Saul, Social Security Administration (May 7, 2020) (https://www.hsgac.senate.gov/imo/media/doc/200511_Letter_CARES_ImproperPayments.pdf).

[19] GAO-20-625.

payments may go to decedents, and that upon learning of the incidence of these payments, Treasury and IRS, in consultation with counsel, determined that a person is not entitled to receive a payment if he or she is deceased as of the date the payment is to be paid. According to GAO, Treasury and IRS have subsequently devised a system to begin filtering out payments to deceased people, after they had already issued $1.4 billion in improper payments.[20]

III. Improper Federal Payments, Including Those to Deceased Individuals, Waste Billions of Dollars in Taxpayer Funds Every Year

Improper payments—payments that were made in error or that were made in an incorrect amount—are a long-standing and significant problem in the federal government, according to the GAO.[21] GAO estimates that improper payments throughout the federal government totaled about $175 billion in fiscal year 2019. Since 2003, when certain agencies were required to begin reporting improper payments, the cumulative total is almost $1.7 trillion.[22]

Figure 1: Trends in Estimated Federal Improper Payments, 2015-2019

Fiscal Year	Improper Payments ($ Billions)
2015	136
2016	144
2017	141
2018	151
2019	175

Sources: Government Accountability Office reports on improper payments: GAO-16-554, GAO-17-484, GAO-18-377, and GAO-20-344.

A key area of concern for Congress, GAO, and federal agency Inspectors General in safeguarding taxpayer dollars has been preventing improper payments to deceased individuals. According to the Office of Personnel Management Inspector General, agencies made a total of $601 million in improper payments from 2006 to 2010 to federal retirees later found to have already died.[23] A 2010 report by then-Ranking Member of the Senate Homeland Security and

[20] Id.

[21] Government Accountability Office, *Improper Payments: Strategy and Additional Actions Needed to Help Ensure Agencies Use the Do Not Pay Working System as Intended*, GAO-17-15 (Washington, D.C.: Oct. 14, 2016). The report notes that, according to the Improper Payments Information Act of 2002, as amended, an improper payment is statutorily defined as any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements. It includes any payment to an ineligible recipient, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), and any payment that does not account for credit for applicable discounts. Office of Management and Budget guidance also instructs agencies to report as improper payments any payment for which insufficient or no documentation was found.

[22] Government Accountability Office, *Payment Integrity: Federal Agencies Estimates of FY 2019 Improper Payments*, GAO-20-344 (Washington, D.C.: March 2, 2020).

[23] S. Rept. 116-49, *Stopping Improper Payments to Deceased People Act*, Report of the Homeland Security and Governmental Affairs Committee.

Governmental Affairs Committee (HSGAC) Subcommittee on Federal Financial Management identified the scope of improper payments to deceased individuals in the preceding decade as $1 billion paid to more than 250,000 deceased recipients.[24] The report highlighted the payment of farm subsidies, rental assistance, and stimulus support to individuals who were deceased. In its most recent budget request, the Administration estimates that payments to deceased individuals cost taxpayers over $800 million per year.[25]

Improper payments to deceased individuals occur because the federal government cannot reliably ensure that all recipients of such funds are alive. Continued government oversight has found that the death data available to federal agencies is not always accurate, and that many agencies charged with providing federal benefits do not have access to all of the information they need to prevent improper payments to deceased individuals.[26]

While Congress has been proactive in pushing agencies to reduce the volume of improper payments, requiring improper payment reviews and risk assessments and ensuring that agency Inspectors General monitor and report on compliance, agencies have continued to fail to collect information needed to prevent these improper payments.[27] GAO continues to identify the U.S. government's inability to determine the extent of improper payments and to take appropriate actions to reduce them as a material weakness in internal control.[28]

IV. Problems with Quality and Accessibility of Death Data are Well Documented

Strategies for reducing improper payments can be aimed at prevention (before the fact) or detection (after the fact). GAO has reported that proactively preventing improper payments avoids the difficulties associated with trying to recover payments after the fact, and that one strategy for proactive prevention is up-front verification of eligibility through data sharing and matching.[29] In the context of preventing payments to deceased individuals, this means ensuring that accurate death data exists and that agencies who need it can access it. However, oversight by Congress, GAO, and Inspectors General has revealed two main barriers to preventing improper payments to deceased individuals—data accessibility and data quality.

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[24] Senator Tom Coburn, *Federal Programs to Die For: American Tax Dollars Sent Six Feet Under* (Oct. 2010) (on file with Committee staff).

[25] The White House. *A Budget for America's Future.* Fiscal Year 2021. Page 16 *available at:* https://www.whitehouse.gov/wp-content/uploads/2020/02/budget_fy21.pdf

[26] See, e.g., Curbing Federal Agency Waste and Fraud: New Steps to Strengthen the Integrity of Federal Payments: Hearing Before the S. Comm. on Homeland Sec. & Governmental Affairs, 113th Cong. (2013); Examining Federal Improper Payments and Errors in the Death Master File: Hearing Before the S. Comm. on Homeland Sec. & Governmental Affairs, 114th Cong. (2015) [hereinafter Examining Federal Improper Payments and Errors in the Death Master File].

[27] Treasury Department Office of Inspector General, *Fiscal Service Faces Challenges in Obtaining Better Death Information for the Do Not Pay Business Center, But Alternatives Exist*, OIG-16-042 (Washington, D.C.: May 18, 2016).

[28] Government Accountability Office, *U.S. Government's 2018 and 2017 Consolidated Financial Statements*, GAO-19-294R (Washington, D.C.: March 28, 2019).

[29] Government Accountability Office, *Improper Payments: Strategy and Additional Actions Needed to Help Ensure Agencies Use the Do Not Pay Working System as Intended*, GAO-17-15 (Washington, D.C.: Oct. 14, 2016).

Restrictions in Accessing Key Data

The Social Security Administration (SSA) maintains the most complete federal database of individuals who are reported to have died.[30] To obtain these death reports, SSA has established contracts with the states that incentivize reporting through an electronic death registration system. SSA pays higher rates for reports submitted relatively soon after the decedents' deaths.[31] In addition to the states, SSA receives death reports from a variety of sources, including family members, funeral homes, federal agencies, postal authorities, and financial institutions.

Most federal agencies do not have access to SSA's complete database containing death information—SSA's "full death file"—and they must rely on a less complete version known as the Death Master File (DMF). The Social Security Act requires only that SSA share its full death file, to the extent feasible, with agencies that provide federally-funded benefits.[32] Those without access to the full file include Treasury's Do Not Pay (DNP) working system, the government's centralized no-cost data analytics tool which helps federal agencies detect and prevent improper payments by allowing agencies to check various databases to identify ineligible recipients before making payments.[33] Without access to the information in SSA's full death file, the DNP system is rendered ineffective in preventing improper payments to the deceased—the very reason for its creation.

Inaccuracy in SSA's Death Data

Ensuring all federal agencies have access to SSA's complete death file will not solve the problem of improper payments on its own. GAO and SSA Office of Inspector General reviews have found that SSA's verification and other procedures do not ensure accurate, complete, or timely death data in its full death file or DMF.[34] As a result, SSA's death files contain inaccuracies that can result in losses of taxpayer dollars when linked to payments. For example, a 2015 SSA Office of Inspector General report found that SSA erroneously listed 6.5 million individuals as alive who were older than 112 years old, despite their only being one known living person of that age in the United States at that time.[35] These types of errors, beyond leading to improper payments, could lead to Social Security number misuse with significant financial consequences, including increased risk of identity theft and fraud in accessing and receiving stimulus checks. The economic costs to provide remedies for fraud victims are significant.[36]

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[30] 42 U.S.C. Sec. 405(r). SSA became the federal clearinghouse for death data
following a 1983 amendment to the Social Security Act authorizing the agency to collect and pay for death information from individual state vital records agencies.

[31] Government Accountability Office, *Social Security Death Data: Additional Action Needed to Address Data Errors and Federal Agency Access*, GAO-14-46 (Washington, D.C.: Nov. 27, 2013).

[32] GAO-14-46.

[33] GAO-17-15.

[34] See, for example, GAO-14-46 and Social Security Administration Office of the Inspector General, *Audit Report: Numberholders Age 112 or Older Who Did Not Have a Death Entry on the Numident*, A-06-14-34030, March 2015.

[35] Social Security Administration Office of the Inspector General, A-06-14-34030.

[36] Nathaniel Popper, *Pure hell for victims as stimulus program draws a flood of scammers,* New York Times, https://www.nytimes.com/2020/04/22/technology/stimulus-checks-hackers-coronavirus.html.

While SSA has taken some actions to address data quality issues, concerns with the accuracy of SSA data remain.[37]

Solutions from Congress

In May 2019, a bipartisan group of Senators, led by HSGAC member Senator Thomas Carper and HSGAC Ranking Member Senator Gary C. Peters, introduced legislation that would address the issues with federal agency access and data quality. The *Stopping Improper Payments to Deceased Individuals Act* would allow federal agencies access to SSA's complete death database; would require use of death data to curb improper payments; and would establish procedures to ensure more accurate death data. The legislation was voted favorably out of committee but has not yet been voted on by the full Senate.

V. Conclusions

The United States finds itself in a time of crisis, facing serious health, economic, and security challenges. Congress has passed sweeping legislation designed to help meet the needs of the American people, including stimulus payments designed to provide economic relief. It is critical that these funds be used wisely during the pandemic, given the scope of economic devastation, and that their distribution not place an unintended burden on the shoulders of Americans. Treasury must account for its mismanagement of $1.4 billion in economic impact payments, and Congress should take action by passing the *Stopping Improper Payments to Deceased Individuals Act,* which would safeguard taxpayer dollars by addressing the underlying issues that cause these improper payments.

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[37] See, for example, Social Security Administration Office of the Inspector General, *Audit Report: Match of Pennsylvania Death Information Against Social Security Administration Records,* A-15-18-50679, March 2020 and Social Security Administration Office of the Inspector General, *Audit Report: Beneficiaries Whose Payments Have Been Suspended and Who Have Death Information on the Numident,* A-09-15-15039, December 2018.