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The Special Counsel

August 12, 2021

The President
The White House
Washington, D.C. 20500

Re: OSC File No. DI-19-0626

Dear Mr. President:

I am forwarding to you a report transmitted to the Office of Special Counsel (OSC) in response to disclosures of wrongdoing at the Social Security Administration, (SSA), Philadelphia, Pennsylvania.¹ The whistleblower, [REDACTED], a [REDACTED] at the [REDACTED],² who consented to the release of [REDACTED] name, disclosed that SSA employees failed to adequately inform widow(er) beneficiaries of their option to delay, or withdraw and resubmit their application for widow(er) benefits until full retirement age (FRA), at a significant cost to these beneficiaries over their lifetimes.

[REDACTED] explained that social security benefits, known as survivor benefits, are reduced for widow(er)s who receive a pension from a federal, state or local government entity. This reduction is known as the government pension offset (GPO), which is calculated as two-thirds of the government pension. If the GPO, as calculated, exceeds the amount the beneficiary would receive in widow(er) benefits, the beneficiary would receive nothing additional, and his or her case would be placed in a "suspended pay status." [REDACTED] explained, however, that as survivor benefits increase over time, many beneficiaries subject to the GPO may have received increased survivor benefits if they had delayed filing until they reached FRA. Notwithstanding numerous agency requirements, SSA employees did not routinely provide this information to claimants when they applied for widow(er) benefits resulting in a substantial financial loss for many claimants over time.³

The agency substantiated [REDACTED]'s allegations. The agency conducted an audit and identified a population of 21,532 beneficiaries who were entitled to widow(er) benefits but were in a "suspended pay status" because two-thirds of their government pension exceeded their monthly widow(er) benefit amount. Using a random sample of 200 widow(er) beneficiaries from this group, the audit determined that an estimated 1,938 widow(er)s would have been eligible for approximately \$12.8 million in monthly survivor benefit payments had they waited until FRA to

¹OSC referred these allegations to former SSA Commissioner Gail S. Ennis pursuant to 5 U.S.C. § 1213(c) and (d). The SSA Office of Inspector General (OIG) investigated the allegations, and former Commissioner Ellis signed the report.

² The Mid-Atlantic Social Security Center has jurisdiction over Delaware, Maryland, Virginia, West Virginia, Pennsylvania, and the District of Columbia.

³As the OIG audit report explained, GPO is a formula, and when two-thirds of the government pension exceeds the monthly widow(er) benefits amount, the widow(er) would receive nothing. However, as the amount of widow(er) benefits increases incrementally until the attainment of FRA, this same beneficiary may be entitled to the excess money (or difference) between the values had they delayed filing.

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file. In addition, an estimated 1,615 widow(er)s, if adequately informed at the time of filing, would have received approximately \$42.6 million in survivor benefits collectively over their life expectancies. Significantly, the audit also determined that SSA had not properly informed the claimants of their option to delay or withdraw and resubmit their application for widow(er) benefits, despite the fact that agency policy required them to do so. Finally, the audit determined that the agency lacked adequate controls to alert employees as to when they should inform widow(er) claimants of these options and, in particular, of the benefits of waiting until FRA to file.

In his comments, ██████████ expressed concern that SSA would elect to forego any corrective action related to reimbursement of affected claimants, as it did in his previous disclosure.⁴ OSC requested that SSA provide specific information on the agency's plans to address the findings of the report. In response, the agency provided a detailed plan to review and, where appropriate, reimburse both the group of beneficiaries identified in the audit's random sample, as well as the remaining population of over 20,000 beneficiaries affected by this unique issue. The agency confirmed that it would send written notification to each of the affected beneficiaries advising them of their option to continue with their existing benefits or withdraw and resubmit for widow(er) benefits, at which point it would advise the beneficiaries of the advantages and disadvantages of filing a new application. The agency confirmed it would review each new application on a case-by-case basis in accordance with agency guidelines. The agency also confirmed it had instituted new training and control measures to ensure that employees were alerted to their obligation to inform widow(er) claimants of these options going forward.

I commend ██████████ for his vigilance in reporting these matters to OSC. Thanks to ██████████'s unrelenting advocacy, these widow(er) beneficiaries have a renewed opportunity to maximize their lifetime benefits, and in turn, enjoy increased economic well-being, support, and peace of mind. I also commend SSA for taking corrective action to ensure each beneficiary receives a fair opportunity to re-file for maximum benefits. I find the reports meet all statutory requirements and the findings appear reasonable. As required by 5 U.S.C. § 1213(e)(3), I have sent a copy of this letter, the report, and ██████████'s comments to the Chairs and Ranking Members of the Senate Committee on Finance and the House Committee on Ways and Means.

Respectfully,



Henry J. Kerner
Special Counsel

Enclosures

⁴ In this case, OSC File Number DI-16-5419, ██████████ alleged that SSA employees improperly enrolled widow(er) claimants for survivor benefits and Retirement Insurance Benefits simultaneously, to their potential financial detriment. After substantiating the matter, SSA conducted an audit to ascertain how many claimants were affected and initiated additional policy training and safeguards to address the issue. However, SSA declined re-open and reimburse affected claimants, citing the agency's Rule of Administrative Finality.