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Notes on the Crises Legal Research Memorandum No. 2

From: Anonymous

To: Nathan Tankus

Re: Automated Clearing House (ACH) System Reclamation of Social Security Benefits

Date: April 25, 2025

Link: <https://memos.crisisnotes.com/notclegal2>

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1. *Removal of Funds from Leonard Johnson's Account*

On March 15, 2025, the Seattle Times published an [article](#) that chronicled how the Social Security Administration (“SSA”) declared Leonard Johnson dead and struck \$5,201 from his bank account. In February, his wife received a letter from their bank offering its condolences for Mr. Johnson’s death. The letter also informed her that it had deducted Social Security benefits paid to Mr. Johnson after his death. The \$5,201 removed from Mr. Johnson’s account amounted to his total Social Security payments for December and January, and he did not receive his February or March payments. When he called his bank, they informed him that “an electronic notification had been triggered on Feb. 18 that he had died back in November” and that he would have to contest this death notification with SSA. When he went to his local SSA office in person with proof of identity, they “pledged to fix his predicament.” The bank called him to say that it had returned the deducted \$5,201 to his account. However, as of March 15, 2025, he had still not received the withheld payments from February and March.

2. *Reclamation of Benefits*

The unilateral removal of funds from Mr. Johnson’s account was effectuated through the Automated Clearing House (“ACH”). [Chapter 5 of the Green Book](#)—the U.S. Department of Treasury (“Treasury”) Bureau of the Fiscal Service’s (“BFS”) comprehensive guide for financial institutions that receive ACH transactions from the federal government—contains a thorough overview of when, how and why a federal agency can reclaim benefit payments through ACH.¹ However, as explained in Notes on the Crises Legal Research Memorandum No. 1, the Green Book is only a guide. Ultimately, 31 C.F.R. Part 210² provides the guardrails for reclamation entries initiated by the federal government. In particular, Subpart B of Part 210 governs the Reclamation of Benefit Payments.³

¹ See Green Book at 5-4 – 5-17.

² 31 C.F.R. Part 210 implements 31 U.S.C. § 3720, which governs the federal government’s collection of payments.

³ On the legal basics of ACH Payment processing see Notes on the Crises Legal Research Memorandum No. 1 (“Each ACH [transaction](#) involves an originator, a receiver, an Originating Depository Financial Institution (“ODFI”), and a Receiving Depository Financial Institution

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a. Death Notice Entry

The reclamation process begins when a beneficiary, or a person who receives government benefits, dies. The next step depends on who first learns of the beneficiary's death. If the government agency that disbursed benefits to the deceased individual first learns of the death, that agency will send a Death Notice Entry ("DNE") directly through the appropriate Federal Reserve Bank⁴ to the RDFI.⁵ BFS does not process DNEs. The date of receipt of a DNE is proof that a RDFI learned of the beneficiary's death no later than that date.⁶

Alternatively, the RDFI may learn of the beneficiary's death. When that happens, the RDFI must immediately notify the disbursing federal agency.⁷ The RDFI may do so by initiating an ACH return using return reason code R14 or R15, which indicate that the representative payee or beneficiary/account holder are deceased, respectively.⁸

b. Notice of Reclamation

Once the agency is made aware of the beneficiary's death, it sends a [Notice of Reclamation](#) ("NOR"), also known as FS Form 133, to BFS. The NOR "initiates the recovery of post-death benefit payments that have not been returned to the government, for which the RDFI may be liable."⁹ Upon receipt of a NOR, the RDFI must immediately mail a Notice to Account Owners, which is appended to the form, informing the account owners that the government intends to recover all benefits disbursed after the date of death.¹⁰

BFS has developed an electronic version of FS Form 133 called the Automated Reclamation Processing System ("ARPS"), through which RDFIs may submit a response to the NOR.¹¹ If the NOR response is inadequate, BFS will send the RDFI a rejection via email.¹² If BFS receives no response to the NOR within 30 days or if the response is incomplete or inaccurate, it will send one

("RDFI"). The originator initiates the transaction, and may transmit a credit or a debit to the account of the receiver. A credit pushes funds from the originator's account to the receiver's account, and a debit pulls funds from the receiver's account into the originator's account.").

⁴The SSA Program Operations Manual System [indicates](#) that SSA sends DNEs through the Richmond Federal Reserve. It is unclear if the Richmond Federal Reserve handles all DNEs, or only DNEs originated by SSA. A search targeting the websites of the Richmond Federal Reserve, Board of Governors of the Federal Reserve, and the government generally did not return any relevant results.

⁵ See Social Security Administration Program Operations Manual, GN 02408.605, Death Notification Entry (Jan. 23, 2024), <http://policy.ssa.gov/poms.nsf/lnx/0202408605>.

⁶ *Id.*

⁷ See 31 C.F.R. § 210.10(a).

⁸ *Id.*

⁹ Green Book at 5-9.

¹⁰ See FS Form 133 at *1, *3-4.

¹¹ Green Book at 5-11.

¹² *Id.*

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Follow-Up Notice.¹³ The Follow-Up Notice reminds the RDFI that it must respond to the NOR within 30 days or forfeit its right to limit its liability.¹⁴ By accepting a recurring benefit from an agency, an RDFI authorizes the federal government to debit its Federal Reserve Bank account in accordance with its liability under Part 210.¹⁵ If the RDFI fails to respond adequately to the NOR by the due date, BFS will debit the RDFI's master account with the appropriate Federal Reserve Bank for the full amount of its outstanding liability.

c. Limited Liability

An RDFI is "liable to the Federal Government for the total amount of all benefit payments received after the death or legal incapacity of a recipient or the death of a beneficiary,"¹⁶ except where the RDFI "does not have actual or constructive knowledge of the death or legal incapacity of a recipient or the death of a beneficiary at the time it receives one or more benefit payments on behalf of the recipient."¹⁷ Where the RDFI receives payments without constructive knowledge of the recipient's death and credits those payments to the recipient's account, its liability is limited.

In a scenario where the RDFI credits benefit payments to the beneficiary's account after the date of death, but is not aware of the beneficiary's death at the time of payment, the RDFI may claim as much in its response to the NOR. Assuming BFS accepts this response, the RDFI's liability will be limited. The RDFI will be required to immediately return to the federal government:

the amount in the account at the time the RDFI receives the notice of reclamation and has had a reasonable opportunity (not to exceed one business day) to act on the notice, plus any additional benefit payments made to the account by the agency before the RDFI responds in full to the notice of reclamation, or . . . [t]he outstanding total, whichever is less.¹⁸

The agency will then attempt to recover the difference between the amount sent by the RDFI and the outstanding total. If the agency cannot recover the balance of the outstanding total, it will debit the RDFI's account for "the benefit payments received by the RDFI from the agency within 45 days after the death or legal incapacity of the recipient or death of the beneficiary, or . . . [t]he balance of the outstanding total, whichever is less."¹⁹

Though the RDFI is liable for the full amount in the account at the time it receives the NOR, "[t]he government cannot legally authorize or direct an RDFI to take funds already credited to an account and return them to the government."²⁰ Return entries are permissible only before the

¹³ *Id.*

¹⁴ *Id.* at 5-12.

¹⁵ See 31 C.F.R. § 210.9(a); Green Book at 5-3.

¹⁶ 31 C.F.R. § 210.10(a).

¹⁷ 31 C.F.R. § 210.11(a).

¹⁸ 31 C.F.R. § 210.11(a)(1).

¹⁹ 31 C.F.R. § 210.11(a)(2).

²⁰ Green Book at 5-4; 31 C.F.R. § 210.12(a).

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funds are credited to the recipient's account.²¹ Once the credited funds are settled, they become the property of the joint account holder or the decedent's estate.²² Subpart B of Part 210 "does not authorize or direct an RDFI to debit or otherwise affect the account of a recipient, including to return post-death payments already credited to an account."²³

Some RDFIs perform an account analysis before receiving a NOR and "voluntarily return post-death payments that were credited to the account before the RDFI learned of the death."²⁴ BFS accepts pre-NOR return entries for post-death payments, provided the RDFI uses the correct return code.²⁵ However, the Green Book cautions that BFS does not authorize or direct RDFIs to debit or otherwise affect the accounts of a recipient in order to return funds that have already been credited to a recipient's account.²⁶

d. Errors in Death

If the RDFI learns that the beneficiary did not die, it must still respond to the NOR or its master account will be debited.²⁷ The RDFI must verify²⁸ that the person is alive before responding through ARPS.²⁹ If the RDFI accepts the evidence provided, it must advise the beneficiary to contact the federal agency to restart payments.³⁰ If the RDFI does not accept the evidence, it must refer the person to the federal agency.³¹ Presenting acceptable proof that the death report was in error does not restart the monthly benefit payments.³² The person must contact the federal agency to re-enroll in Direct Deposit to restart payments.³³

e. Nacha Rules on Benefit Reclamations and Returns

The Greenbook declares that "[t]he reclamation provisions of 31 CFR part 210 completely preempt the reclamation provisions of the Nacha Operating Rules & Guidelines with respect to federal benefit payments."³⁴ Indeed, although Sections 2.11 and 3.6 are not among the sections excepted from the definition of "Applicable ACH Rules" in Part 210, the preamble to Part 210 states that "[t]he reclamation provisions of Subpart B preempt all ACH

²¹ See Green Book at 5-5.

²² *Id.*

²³ 31 C.F.R. § 210.12(a).

²⁴ Green Book at 5-5.

²⁵ *Id.*

²⁶ *Id.*

²⁷ Green Book at 5-15.

²⁸ Forms of verification include (i) a driver's license, picture ID, or other evidence similar to that required for cashing a check if the person appears at the RDFI; (ii) a signed, dated, and notarized statement attesting to the fact that the person is alive; or (iii) a written statement from the authorizing federal agency verifying that the recipient is alive. See Green Book at 5-15.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.* at 5-16.

³² *Id.*

³³ *Id.*

³⁴ Greenbook at 5-3.

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rules related to the reclamation of entries and the liability of participants that otherwise would apply to benefit payments.”³⁵ The reclamation provisions of the Nacha Rules are nonetheless discussed below for completeness.

Nacha Rules Section 2.11 governs an ODFI’s responsibilities and Section 3.6 governs an RDFI’s responsibilities with respect to reclamation entries. Section 2.11 provides that

[a]n Originator or ODFI may initiate a Reclamation Entry or written demand for payment with respect to a previously Transmitted credit Entry to a Receiver’s account . . . [when] [t]he Receiver has died and the Receiver’s right to receive one or more pension, annuity, or other benefit payments has terminated before the receipt by the RDFI of one or more credit Entries to the Receiver’s account . . . and . . . [n]either the Receiver’s estate nor any other holder of the account is entitled to the payments.

Section 2.11.5 also provides that a claim by any Originator or ODFI on the Originator’s behalf will be subordinate to claims or potential claims of the United States Government under Part 210.

Section 3.6 provides that “[a]n RDFI may debit a Receiver’s account with respect to any Reclamation Entry that meets the requirements of Section 2.11 . . . without regard to any Person other than the Receiver having an interest in the account identified in the Reclamation Entry.” An RDFI is also liable to the Originator for properly initiated Reclamation Entries. However, an RDFI may return a Reclamation Entry that is not properly initiated by the ODFI.

3. *Conclusion*

The reclamation procedures set forth in Part 210 provide a process for debiting the Federal Reserve accounts of RDFIs that maintain accounts for recipients of federal benefits after those recipients die. However, Part 210 does not authorize RDFIs to debit recipients’ accounts after a benefit credit entry is settled. Based on Mr. Johnson’s story, it seems that RDFIs sometimes debit beneficiaries’ accounts regardless of authorization or indemnity. It is possible that these RDFIs follow their customary procedures for non-government reclamation entries under the Nacha Rules rather than heeding the language in Part 210 and the Greenbook. It is also possible that while these RDFIs understand that Part 210 does not authorize them to debit the recipient’s account, they choose to do so after weighing the benefit against the potential legal liabilities.

When the RDFI sends a Notice to Account Owners of the government’s intent to recover benefits paid after the date of death, the recipient may appear at the RDFI with proof of identification to contest this action. The RDFI may then respond to the NOR to avoid liability for any payments made after the recipient’s supposed death. However, the recipient will still have to contact SSA to restart the paused benefit payments. Moreover, a recipient’s recourse after an RDFI has debited their account is unclear. If the Receiver is faced with an unresponsive or uncooperative SSA, they may need to seek legal recourse to recover any debited funds and restart benefit payments.

³⁵ 4 Fed. Reg. 17,472, 17,473 (Apr. 9, 1999).