

+-----+
| LOCAL COMMISSIONERS MEMORANDUM |
+-----+

Transmittal No: 93 LCM-131

Date: September 28, 1993

Division: Economic Security

TO: Local District Commissioners

SUBJECT: Stieberger v. Sullivan Outreach Lists

ATTACHMENTS: Attachment A - Stieberger Non-Responder List - not
available on-line
Attachment B - Stieberger Responder List - not available
on-line
Attachment C - Sample Outreach Letter - available on-line

Background

Stieberger v. Sullivan is a federal class action court case composed of individuals who, during specific time periods, were denied Title II (Social Security, RSDI) or Title XVI (SSI, Supplemental Security Income) benefits or who had their benefits discontinued on the basis that they were not disabled. These individuals were residents of New York State at the time of the negative disability decision.

On June 18, 1992, U.S. District Court for the Southern District of New York approved a settlement agreement which provides for retroactive payments to class members who request a review of their case and are then found eligible.

On March 8, 1993 the Social Security Administration (SSA) mailed approximately 300,000 notices to potential class members. The majority of notices went to current New York State residents; however, a sizable number were mailed to former New York State residents now residing in other states or foreign countries. The notices tell potential class members to complete the enclosed reply form and return it to SSA in the self addressed postage paid envelope.

Time Limit for Responding

People who have received the Stieberger notice should complete the form and return it to SSA as soon as possible. Class members have 240 days from the date they receive the Stieberger notice to respond. If they do not respond within 240 days of receiving the notice they may lose their right to get retroactive benefits under Stieberger.

People may also request a Stieberger review by contacting SSA in writing, by telephoning SSA's toll-free number 1-800-772-1213, or by telephoning or visiting their local Social Security office.

As noted above, SSA first sent out Stieberger notices on March 8, 1993. People who received these notices have until November 3, 1993 (240 days) to respond to these notices. In addition, this time limit can be extended if the person can demonstrate "good cause" for failing to respond before the deadline.

Good Cause

If a person alleges that he or she has "good cause" for missing their Stieberger deadline, SSA must determine whether or not to permit the person to request a Stieberger review after the 240 days has passed. Examples of what SSA will generally consider good cause include:

- failure to receive the notice,
- serious illness that prevented contact with SSA by the person or friend or relative,
- a death or serious illness in the person's immediate family,
- important records were destroyed or damaged in a fire or other accident,
- SSA provided incomplete or incorrect information to the person,
- the response was sent to the wrong governmental agency in good faith,
- some other unusual or unavoidable circumstance exists.

As these examples indicate, SSA has a great deal of discretion in determining the existence of "good cause". We expect SSA will err on the side of accepting a request for a Stieberger review after the deadline when presented with a reasonable explanation for the tardy action.

Advantages of Requesting Stieberger Reviews

Individuals who request Stieberger reviews and are found eligible generally will get lump sum SSI benefits going back to December 1987 or, for current SSI recipients, back 4 years from the date they began getting SSI benefits. Obviously, for the recipient, this can be a substantial amount of money and most probably the person will qualify for ongoing SSI benefits.

For those Stieberger class members who received HR during the Stieberger relief period, SSDs can recover interim assistance. Because this can involve over 4 years of interim assistance, this can result in significant recoveries. In addition, some current HR recipients will become SSI recipients eliminating future local cash assistance costs and securing federal participation in Medicaid costs.

This Department has been doing extensive work with SSA to identify potential interim assistance clients to insure that SSDs receive the initial SSI check(s) for all clients who received interim assistance during the Stieberger retroactive period. In addition the Department is working to track and maximize the conversion of federally non-participating (FNP) MA costs to federally participating (FP).

Stieberger Lists and Recommended Actions

In order to identify Stieberger individuals from your district who may be eligible for retroactive SSI benefits, we are transmitting two Stieberger lists.

The first list (Stieberger #1) contain names of Stieberger class members from your district who, as of August 1993, had not requested a Stieberger reconsideration. The second list (Stieberger # 2) contains the names of Stieberger class members from your District who have requested a Stieberger review.

Both lists may contain two entries for each social security numbers (SSN) match:

- o the top row from Department data, and
- o the second row from the Stieberger files provided to the Department by SSA.

Because both files may identify more than one person under a given social security number, some of the PA-related individuals identified on these lists may not actually be in the Stieberger class. Consequently, if the Department's name and Federal name fields are significantly different and the difference cannot be explained (for example, married name on one file, maiden name on the other file), we suggest such cases be skipped or given a low priority.

Because SSDs may be able to obtain interim assistance reimbursement (IAR) for Stieberger class members who received HR benefits, and convert FNP Medicaid costs to FP, we recommend that your district contact non-responders

and encourage them to request a Stieberger review. Because of the deadline for requesting a Stieberger review, it is vital that you act to contact your clients immediately.

You may wish to focus your initial efforts on the non-responders who have received HR, VA, or PG-ADC benefits to maximize potential IAR. You may also wish to work with current and past HR recipients to assist them in obtaining medical documentation and other information to increase the likelihood that they will be found eligible for SSI benefits.

We have attached an example of a letter that SSD's can use to encourage Stieberger class members to apply for a redetermination. Districts may use this letter as is, modify this letter, or design their own letter and/or procedures if they decide that it is advantageous to contact Stieberger class members.

Note: SSDs that contact Stieberger class members as a result of the 2 lists attached to this LCM can not require a PA recipient, as a condition of eligibility, to apply for a Stieberger review. Consequently a client cannot be sanctioned for failure to respond to a Stieberger notice. This limit on the use of these lists results from certain provision of the Stieberger settlement agreement.

Reports Description

An explanation of the fields contained on the reports follows:

- o Current PA Status - "Open" = As of August 1993, the individual is on an open PA case.
 - "Closed" = As of August 1993, the individual is on a closed PA case.
 - "Blank" = As of August, 1993 the individual is not on an open or closed PA case, although the case may be an active MA or MA/SSI case.
- o Hist PA - FNP Status - "Yes" = The individual received or is receiving PA in a non-federal category (HR, VA, PG-ADC). A SSD may receive IAR for this type of case. We strongly recommend that SSDs encourage and assist this group in applying for a Stieberger reconsideration and assist such clients in the SSI application/reconsideration process.
 - "No" = We have no record that the individual received PA in a non-federal category. However, he/she may have received or is receiving federal benefits (such as ADC). Although SSDs currently receive no IAR for this group of cases, the district may wish to encourage this group to request a Stieberger reconsideration.

-
- o "Last Name" - as listed in IREF (interim recipient eligibility file)
 - o "First Name" - as listed in IREF
 - o "MI" - middle initial as listed in IREF
 - o "SSN" - Social Security Number, the IREF SSN always matches the Stieberger SSN.
 - o "CIN" - Latest CIN # on file
 - o "Case Number" = Latest Case Number on file. The number may be a MA or MA/SSI case number even if the individual was previously on a PA case.
 - o "SSI IND" - "Yes" = As of August 1993, the individual was receiving SSI benefits. (SSI payment status code = C01)
 - "No" = As of August 1993, the individual was not receiving SSI benefits.
 - o Stieberger Name - As noted above, this line contains the name that appears on the Stieberger files received from SSA if the Stieberger name is different than the IREF name. SSDs may wish to delay contacting cases where names are significantly different until all matched cases are contacted.
 - o Address - Most current address on our files.

If you have any questions about either of the Stieberger lists, please contact 1-800-342-3715, Charles Giambalvo, ext. 4-9327 (User ID# AV1810), or Abe Anolik, ext. 4-7218 (User ID# AX0400).

Oscar R. Best, Jr.
Deputy Commissioner
Division of Economic Security

SAMPLE OUTREACH LETTER

ATTENTION !

A RECENT COURT CASE MAY MEAN

MORE MONEY TO YOU

Dear Sir/Madam:

Because of the Stieberger court case, many people whose Social Security or SSI disability claims have been rejected will get new decisions. Many people will receive thousands of dollars in benefits. If your claim was rejected between October 1, 1981 and July 2, 1992 you may be eligible.

By now, you should have received a "Notice and Reply Form" from the Social Security Administrative advising you about these benefits. Return the Reply Form as soon as possible. If you wait longer than 240 days you will not be able to receive this money.

If eligible, your future SSI benefits will be larger than your public assistance benefits.

Even if you already receive Social Security or SSI benefits, returning the reply form will not effect your current benefits and you might be owed money from the past.

If you do not have the Reply Form, or if you have any questions, you should call or visit your local Social Security office or call the Social Security toll free number 1-800-772-1213 and request a new decision under the Stieberger case.