

Kathleen Martin is an attorney with O'Donnell, Weiss & Mattei, P.C., and a newspaper columnist for The Mercury, which gave permission for this article to be reprinted.

April 19, 2015

Social Security pursuing old debt with family members

The Social Security Administration has a program that if a parent dies with minor children, the minor children, and sometimes the surviving parent, receive benefits based upon the Social Security benefits of the deceased parent/spouse. However, the Social Security Administration is pursuing claims for overpayments allegedly made on behalf of those minor children and often decades after the fact. Marc Fisher of the *Washington Post* reported in a December 13, 2014 article that despite the Social Security Administration's claim that they would stop trying to collect this type of debt, it is an ongoing pursuit (http://www.washingtonpost.com/politics/social-security-continuing-to-pursue-claims-against-family-members-for-old-debts/2014/12/13/4fbdc1f4-7fc7-11e4-81fd-8c4814dfa9d7_story.html).

Mr. Fisher reports that the *Washington Post* quoted the Social Security Agency's acting commissioner, Carolyn Colvin, who said that efforts to collect on old debts would cease immediately (April, 2014). This is after tax refunds owed to approximately 400,000 Americans were seized to pay debts allegedly owed by ancestors. The debt collection amounted to \$75 million that the Social Security Administration says that they need to remain solvent. The issue is, however, that the purported overpayment may have been 40 years ago, the person to whom it was paid is now deceased, and the payment was made as a benefit to a very young child who is now being asked to re-pay the debt.

Some chilling examples are cited in the article. Mary Grice's tax refunds from the IRS and the State of Maryland were intercepted to pay an "overpayment" to someone in the Grice family (not clear who) in 1977 after Ms. Grice's father died in 1960 and her mother received benefits to feed and clothe her five children. At the point of her father's death, Ms. Grice was 4 years old. Ms. Grice challenged the government's right to take her money without notice, and after the *Post's* article about her, the money was returned. But she is receiving bills from Social Security seeking the same amount that was returned to her earlier.

Another example offered is about Daniel Asmus of Fillmore, California who has had his wages garnished for a \$2,094 debt for an alleged overpayment of survivor's benefits to his mother in the 1970's; Mr. Asmus' father died (when he was 9 years old). His mother is long deceased too, and now they are taking a quarter of his wages each month making it difficult for the family to pay the mortgage on their home. Asmus pointed out to the Social Security Administration that the payments were made when he was a child and had no control over the money; furthermore, he assured them that his mother had no knowledge of the overpayment or she would have paid it back. The only response was to receive another letter demanding payment.

Jessica Vela of San Diego had her entire income tax refund seized when she was one month away from delivering her second child; she is a Navy veteran and her husband remains on active duty. The government claims that \$16,888 was overpaid to her mother when Jessica was one year old. Her mother, who is still living, successfully fought this "bill" in court and won, and now the daughter is being targeted. Social Security officials have told her to hire an attorney but she has been unsuccessful in doing so as the amount in question is not large.

Robert Vogel, the attorney for some taxpayers whose funds were seized said to the *Post*, "It's just shocking that they [Social Security Administration] believe that when someone turns 18, they automatically assume a crushing debt that was incurred by someone else." That someone else may have been totally unaware of the debt as the record keeping seems to be spotty at best. It is easy to agree with Attorney Vogel that "It's really quite disgusting."