

# Social Security and SSI Overpayments

## Common Overpayment Causes:

- ◆ SSI excess resources: SSI benefits paid to an individual during a period when the person possessed excess resources beyond SSI limits.
- ◆ SSI or SSDI excess income: Benefits paid to an individual who received earned or unearned income that exceeds the SSI and/or SSDI limits.
- ◆ SSI non-disability eligibility rules: SSI benefits paid to an individual who was ineligible or eligible for a smaller SSI check due to one of the many SSI eligibility rules.
- ◆ SSDI substantial gainful activity (SGA) cessations: SSDI benefits paid to an individual who performed SGA after the nine-month trial work period.

## Who Does SSA Seek To Hold Liable For An Overpayment?

- ◆ The eligible individual
- ◆ The eligible spouse
- ◆ Other persons receiving benefits on the earnings record of the overpaid individual
- ◆ The estate of a deceased individual or spouse
- ◆ An alien's sponsor
- ◆ A representative payee if the overpaid money was not used for the needs of the beneficiary.

## Challenging an Overpayment:

- ◆ Reconsideration: Challenging the fact and/or amount of an overpayment, by filing a request for reconsideration. The standard appeals process applies.
- ◆ Waiver: Admitting the existence of an overpayment but challenging the agency's authority to require repayment.
  - Criteria: Claimant must be without fault and either recovery would defeat the purpose of the Social Security Act (e.g., recovery would cause undue hardship) or recovery would be against equity and good conscience.

## Time Periods to File a Reconsideration or Waiver Request:

- ◆ Reconsideration: Within 60 days from date of notice
- ◆ Waiver: At any time, even after the overpayment has been recouped
- ◆ Adjustment: If claimant requests reconsideration or waiver within 30 days of notification, payment will continue without adjustment until a decision is made.
- ◆ Preserving Eligibility:
  - 10 day rule: When the Social Security Administration (SSA) is proposing that benefits be terminated or suspended due to ineligibility, claimant can continue receiving interim benefits while the issue of ineligibility is appealed if appeal is filed within 10 days of notice.
- ◆ Act promptly to avoid disagreements with SSA about timeliness with respect to recoupments or continuation of benefits or receipt of interim benefits.

Note: A claimant can also request a lower recovery rate for recoupment of an overpayment. If a person receives the full Medicare Part D low-income subsidy, SSA can grant a request for an SSDI recovery rate as low as \$10 per month without further inquiry into the claimant's financial circumstances.