

Social Security and SSI Overpayments

Common Overpayment Causes:

- *SSI excess resources*: SSI paid during period when person possessed resources above SSI limits.
- *SSI excess income*: SSI paid when earned and/or unearned income should have resulted in a lower SSI payment or no payment at all.
- *SSI non-disability eligibility rules*: SSI paid to an individual who was ineligible or eligible for a smaller SSI payment due to one of the many SSI eligibility rules.
- *Social Security Disability Insurance (SSDI) substantial gainful activity (SGA) suspensions or cessations*: SSDI benefits paid to an individual who performed SGA after the nine-month trial work period.

Who Does Social Security Administration (SSA) Seek to Hold Liable for An Overpayment?

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

Challenging an Overpayment:

- **Reconsideration**: Appealing by challenging the fact and/or amount of an overpayment, by filing a request for reconsideration. The standard appeals process applies.
- **Waiver**: Usually, by admitting overpayment exists but challenging the Social Security's right to require repayment.
 - Waiver Criteria: Must be without fault and either recovery would defeat the purpose of the Social Security Act (i.e., would cause undue hardship) or would be against equity and good conscience (i.e., it would be unfair under the circumstances to require repayment of the overpayment).
- **Reconsideration request and Waiver filed at same time**: Sometimes SSA will grant the waiver request without processing the reconsideration if it believes there is a clear right to the waiver.

Time Periods to File a Reconsideration or Waiver Request:

- Reconsideration: Must be requested within 60 days from date the SSI or SSDI beneficiary received the Notice of Overpayment.
 - SSA will assume the beneficiary received the notice within 5 days of SSA's mailing.
 - **Always act promptly to request reconsideration so there is no question about meeting the appeal deadline.**
- Waiver: Can be requested at any time, even after the overpayment has been recouped.

Continued SSI or SSDI Payments After Requesting a Reconsideration or Waiver:

- When the beneficiary requests a reconsideration within the 60-day appeal deadline, SSA will take no action to reduce SSI or SSDI payments while that appeal is pending.
 - Despite this rule, it is always best for a claimant to request continuing benefits within 10-days of the notice, POMS SI 02220.010A5.
- If the beneficiary has requested a waiver of overpayment recovery, SSA will take no action to recover the overpayment while the request for waiver is being processed. If the recovery action had already started, recovery will be stopped while the waiver request is being processed.

- If the beneficiary loses their overpayment appeal, SSA can then start to recover the overpayment by reducing their SSI or SSDI payment.
- There is no right to continued SSDI if the termination is based on SGA after a trial work period.

When Will SSA Start Overpayment Collection by Reducing the SSI or SSDI Payment?

- **No earlier than 90 days after overpayment notice:** If reconsideration is not requested within the 60 days of receiving the notice, and no waiver request has been filed, SSA will plan to reduce the SSI or SSDI payment as early as 90 days after sending the overpayment notice.
- SSI can be reduced by up to 10 percent of the SSI rate. SSA will automatically reduce the SSDI by 50 percent to begin recovering the overpayment.

Request a Lower Repayment Rate on Overpayment

- Whenever SSA has started to recover an SSI or SSDI overpayment, by reducing that payment, the beneficiary can request a lower rate of repayment based on their financial ability to make those payments and still meet all their financial needs.
- If a negotiated/requested rate would not permit recovery within 36 months, but the individual has a 100 percent Medicare Part D low-income subsidy, SSA must grant, without financial development, any request that will pay at least \$10 per month. SSA POMS GN 02210.030 C.

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