

## Social Security and SSI Overpayments

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### Common Overpayment Causes:

- *SSI excess resources*: SSI paid during period when person possessed resources beyond 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.
- *SSDI substantial gainful activity (SGA) 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**: Challenging the fact and/or amount of an overpayment, by filing a request for reconsideration. The standard appeals process applies.
- **Waiver**: Admitting existence of overpayment but challenging the SSA's authority 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.

### 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**: Ordinarily, 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**: In most cases, when SSA proposes benefits termination or suspension due to ineligibility, claimant can continue receiving benefits during the appeal if appeal filed within 10 days of notice. (There is no right to continued SSDI if the termination is based on SGA after a trial work period.)
- Act promptly to avoid disagreements with SSA about timeliness with respect to recoupment, continuation of benefits, or receipt of interim benefits.

### Request a Lower Repayment Rate on Overpayment

- 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 B.6.

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