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Social Security Overpayments

What Is An Overpayment?

The Social Security Administration (SSA) defines an "overpayment" as a:

a) payment in excess of the amount due;
b) payment resulting from failure to suspend or terminate benefits; or
c) payment where no amount was payable.

SSA regulations specifically exempt the following from the definition of overpayment:

a) a benefit paid by means of a forged endorsement;
b) benefits incorrectly paid for the current year based on current year work and estimated earnings; and
c) benefits issued for the month of death.

Is There A Statute of Limitations That Applies To Overpayment Determinations?

Yes. SSA's regulations limit the time period within which a previous determination may be reopened or revised. For Supplemental Security Income (SSI) benefits, that time period is 2 years. For Title II Social Security benefits, the time period is 4 years.

Only in very limited circumstances, such as fraud, may SSA assess an overpayment beyond the above time limits. Note that this time limit applies only to the original determination that there was a benefit overpayment.

If SSA determined that there was an overpayment within the time-limits set forth above, then, other than for a few very limited exceptions, SSA has a right to recover the overpayment at any future date, regardless of how much time has passed since it first determined that an overpayment existed.

What Should I Do If I Question Whether There Was An Overpayment Or Whether The Amount Of The Overpayment Is Correct?

If you don't think you were overpaid, or if you question whether SSA correctly determined the amount of your overpayment, you should file a Request for Reconsideration. A Reconsideration Request must be filed within 60 days of the mailing date of the overpayment notice. Note that SSA adds a 5-day grace period beyond the 60 days to allow time for the notice to be delivered to you via US Mail.

How Do I File A Request For Reconsideration?

A Request for Reconsideration must be in writing, and must be filed with your local Social Security Office within the 60-day time limit.

You may submit additional evidence with your Request for Reconsideration. Once a Reconsideration Request is filed, SSA will stop any collection attempts until a decision is made on the Request for Reconsideration. The determination of a Reconsideration Request on an SSI overpayment will usually be made by your local Social Security office. The determination of a Reconsideration Request for Title II Social Security benefits will usually be made by a Program Service Center.

If an unfavorable decision is made on an overpayment Reconsideration Request, SSA will again resume collection efforts. But see Question #5 below, for an additional method of appeal to delay collection efforts. Further appeals on the fact or amount of the overpayment will not forestall collection efforts.

If your Request for Reconsideration is denied, you may ask in writing for a hearing before an Administrative Law Judge (ALJ). Submit this request to SSA within 60 days (plus 5 days mailing time) from the date the Reconsideration Decision was issued. At the hearing, you may submit additional evidence, and you may explain why you do not believe you were overpaid, or why you believe the amount of the overpayment is incorrect.

An unfavorable hearing decision may be appealed to the Appeals Council, and an unfavorable Appeals Council decision may be challenged in Federal Court.

What Should I Do If I Am Unable To Repay An Overpayment?

Even if you do not question the accuracy of the overpayment, you may still file a Request for Waiver of Overpayment, in which you ask that you not be required to repay the overpayment. This request must be granted if it was not your fault that you were overpaid and repayment of the overpayment would deprive you of income needed for ordinary and necessary living expenses. In other words, you must establish that you were both without fault, and that you are unable to repay the overpayment.

You may request a waiver at any time, but SSA will not stop collection of the overpayment until you file the Request for Waiver and SSA will not refund any money collected prior to the filing of the waiver request. SSA will generally automatically waive an overpayment of $2,000 or less if a Request for Waiver is filed and you were not at fault in causing the overpayment. Visit the SS website for more information.

SSA will stop collection efforts on an overpayment while the Request for Waiver is pending. SSA will also schedule a personal conference with the local SSA office, if a Waiver Request was filed and SSA is unable to waive the overpayment based on the information in the written waiver request. At the personal conference, you may present evidence and offer testimony.

SSA will not resume collection efforts until a decision is made after the personal conference. An unfavorable decision on a personal conference is subject to the same rights of appeal as reconsideration (see Question #3 above), but SSA will resume collection efforts after the personal conference decision, even if that decision is appealed.

Can I Repay My Overpayment In Installments?

Yes. SSA will generally accept an offer to repay an overpayment in installments without question if the installments will repay the overpayment within 36 months. If an offer to repay in installments will take more than 60 months, SSA will ask the claimant to prove that a financial hardship exists.

SSA will also generally accept a lump-sum compromise offer of 80% of the total overpayment. If a lump-sum offer is less than 80% of the total overpayment, SSA has discretion to consider the offer, depending on the circumstances.

Where Can I Get Help With My Overpayment?

Pro Seniors can provide free information, advice, representation and/or referrals to Ohio residents aged 60 and over who wish to appeal their overpayment cases at (800) 488-6070.

Pro Seniors helps older Ohioans solve legal and long-term care problems and fight Medicare fraud. Our Legal Helpline provides free legal information and advice for Ohio residents aged 60 and older.

This fact sheet provides general information, not legal advice. The law is complex and changes frequently. Before you apply this information to a particular situation, call Pro Seniors' free Legal Helpline or consult an attorney in elder law.

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