



Fighting Overpayments

If you are on SSI or SSD, it is possible that the Social Security Administration (SSA) may pay you too much money for a period of time. Sooner or later – sometimes years later – SSA will ask you to repay that money. It also sometimes happens that SSA *thinks* it paid you too much money but has made a mistake.

HOW DO I FIGHT AN OVERPAYMENT?

There are two ways to fight an overpayment: asking for reconsideration and asking for a waiver.

WHAT IS RECONSIDERATION?

Reconsideration challenges the **facts** and/or **amount** of the overpayment.

HOW DO I ASK FOR RECONSIDERATION?

Submit a [Request for Reconsideration \(Form SSA 561\)](https://www.socialsecurity.gov/forms/ssa-561.pdf) (a copy can be found at <https://www.socialsecurity.gov/forms/ssa-561.pdf>) to SSA within 60 days of receiving notice of the overpayment.

- If you file a Reconsideration after 60 days, you must show “good cause” why your request was late.
- **If you are on SSD** – You first have a case overview at your local SSA office. If that is unsuccessful, you can request a hearing in front of an Administrative Law Judge.
- **If you are on SSI** – You first have a personal conference at your local SSA office. If that is unsuccessful, you can request a hearing in front of an Administrative Law Judge.

WHAT IS A WAIVER?

Whether you agree that you were overpaid or not, you can request that SSA waive collection of the overpayment. A waiver asks SSA to stop collecting the overpayment and “forgive” the amount you owe.

HOW DO I ASK FOR A WAIVER?

Submit a [Request for Waiver of Overpayment \(SSA Form 632\)](https://www.socialsecurity.gov/forms/ssa-632.pdf) (a copy can be found at <https://www.socialsecurity.gov/forms/ssa-632.pdf>). You can ask for a waiver at any time, even after collection of the overpayment has begun.

WHEN DOES SOCIAL SECURITY APPROVE A WAIVER?

For SSA to approve your waiver, you must demonstrate that you were **without fault** and that recovery of the overpayment will **either 1) be an undue hardship or 2) be against equity and good conscience.**

- You will be found “at fault” if you:
 - Failed to give information that you knew or should have known was important to the calculation of your benefits; OR
 - Made an incorrect statement that you knew or should have known was incorrect; OR
 - Did not return a payment that you knew or should have known was incorrect.
- For SSD recipients, SSA also considers lack of good faith or failure to exercise a high degree of care when determining fault.
- SSA also considers other circumstances such as age, disability and education.
- **Automatic Waiver** – if you request a waiver and your overpayment is \$1,000 or less, the waiver should be automatically granted.
- If your Request for Waiver is **denied**, you must file a Request for Reconsideration of that denial. If this is denied, you can request a hearing in front of an Administrative Law Judge.

CAN I ASK FOR RECONSIDERATION AND A WAIVER AT THE SAME TIME?

Yes. You can file a Reconsideration and a Waiver request at the same time.

CAN I FILE A WAIVER IN THE FUTURE EVEN IF AN EARLIER WAIVER WAS DENIED?

Yes. You may turn in a new waiver request if your financial situation changes over time.

HOW DOES SSA COLLECT (RECOUP) AN OVERPAYMENT?

If you are currently getting benefits, SSA will take the money directly out of your monthly check.

- SSA should not begin collecting overpayment money if the Request for Reconsideration or Waiver is made within **30 days** of receiving notice.
- If you make the requests after 30 days, then SSA will likely have started taking money from your monthly check already. They should stop once you file the request.
- If SSA says that it will stop your benefits because it believes you are no longer disabled, you must appeal (use [SSA Form 789](#), a copy of which can be found at <https://www.socialsecurity.gov/forms/ssa-789.pdf>) within **10 days** for your benefits to continue during the appeal.

IS THERE A LIMIT TO HOW MUCH SSA CAN COLLECT FROM MY CHECK EACH MONTH?

- **For SSI:** Collection is limited to 10% of your monthly income. However, if you find this to be a hardship, you can ask that less than 10% be collected.
- **For SSD:** Collection is not limited (therefore, your entire check amount may be kept by SSA). However, you can ask for a reduced rate of collection due to hardship.

WHO CAN I CONTACT IF I HAVE QUESTIONS?

You may call Mobilization for Justice, Inc.'s Government Benefits Project at 212-417-3732 on Mondays from 10:00 a.m. to 12:00 p.m. If you are a mental health consumer you may call Mobilization for Justice's Mental Health Law Project intake line at 212-417-3830 on Monday, Tuesday, and Thursday from 10:00 a.m. to 5:00 p.m.

DISCLAIMER: This fact sheet gives general information for NYC residents; it is NOT legal advice.