



# Does Social Security say they paid you too much money? They will take money out of each of your checks to pay it back

## You may be able to stop it

### If you think Social Security is wrong and you DON'T owe them any money

Then you can appeal. An **appeal** is a way to fix mistakes. **BUT** you must appeal **within 65 days**. The 65 days start with the date on the letter saying you were over-paid. The letter tells you how to appeal. To appeal, call Social Security at **1-800-772-1213**. **OR** go to or call your local Social Security office. If you ask, they will help you appeal.



**Has it been more than 65 days?** Do you have a good reason for missing the deadline? Then you may still be able to appeal. To appeal after 65 days, call Social Security at **1-800-772-1213**. **OR** go to or call your local Social Security office. You must have a good reason for waiting more than 65 days.

### If you didn't appeal OR you lost your appeal, you can ask for a waiver

A **waiver** means you **don't** have to pay Social Security back. "Waiver" sounds like "way-ver." To get a waiver, you must prove 2 things:

1. That it is **not your fault** you were paid too much **AND**
2. That it would be a **hardship for you to re-pay**. Hardship means you have little or no money left after paying all your monthly costs. Are you on SSI? Then Social Security should always say it is a hardship for you to re-pay.



**To ask for a waiver**, call Social Security at **1-800-772-1213**. **OR** go to or call your local Social Security office.

**Is this the first time you have asked for a waiver?** Then Social Security should **stop** holding money out of your checks. They should stop as soon as you ask for the waiver. It will stop until Social Security decides about the waiver.

**Were you working and not reporting it to Social Security?** Then it will be hard to get a waiver. You agreed to report work income when you applied for Social Security. Many judges **won't** OK a waiver if you didn't report work income. That is because you didn't follow the rule about reporting work income.

### If you didn't appeal OR you lost your appeal OR you can't get a waiver

**Ask for a re-payment plan.** This lets you pay them back with lower monthly payments. They will take the payments out of your check. To ask for a re-payment plan, call Social Security at **1-800-772-1213**. **OR** go to or call your local Social Security office. Tell them it is a hardship on you to repay. Ask for lower monthly payments.

**Are you on SSI?** Then your payments can be as little as \$10 a month. The back of this page explains this rule. You may want to show it to Social Security.

You may have to meet with someone from Social Security. Here is what you need to take with you:

- A list of where all of your money goes each month
- Proof of any payments you have to make each month
- How much money is left after you pay rent, bills, and buy food



Is \$10 to \$20 the most you can pay each month? Then show that in your list.

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## Limiting Overpayment Recovery

Recovery of SSI overpayments is limited to no more than 10% of a current SSI beneficiary's total SSI income. 20 C.F.R. § 416.571. This rule also applies to concurrent Title II/SSI beneficiaries. See POMS GN 02210.045. However, there is no similar 10% limitation for Title II-only beneficiaries.

The Title II overpayment regulations provide a very useful provision for limiting the amount of the monthly overpayment recovery. Under 20 C.F.R. § 404.502(c), as little as \$10 per month can be withheld if:

- (1) It is determined that withholding the full amount each month would *defeat the purpose of title II*, i.e., deprive the person of income required for ordinary and necessary living expenses (see § 404.508); and
- (2) The overpayment was not caused by the individual's "intentional false statement or representation, or willful concealment of, or deliberate failure to furnish, material information.

This provision applies even if the individual was "at fault," so long as there was no intentional act to cause the overpayment, as described in the latter requirement. The procedure for the \$10 limit on recovery can be found in POMS GN 02210.030.B.6. Generally, SSA will try to recover the overpayment in 12 months or 36 months. However, the individual can request the lower recovery rate as described in the POMS:

6. If a negotiated/requested rate **would not** permit recovery within 36 months, obtain an SSA-632-BK [the waiver of overpayment form] and evaluated income, expenses and assets. **Withhold:**
  - the amount by which income exceeds expenses **but no less than \$10** ; or
  - the rate permitted by income/assets if there are excess assets (GN 02250.115A.4.), **but no less than \$10**; or
  - the full monthly payment to the extent of any incorrect funds in the person's possession (GN 02250.105).

The individual can request a lower rate at any time, even after recovery has begun. If the request is made after full adjustment is started, the lower rate will be effective in the month the request is made. POMS GN 02210.030.C.

If the request is denied, the individual will receive a written notice explaining why the request was denied and what the recovery rate will be. SSA does not consider this decision as appealable because it is not an "initial determination." POMS GN 02210.030.B.7.

Note that if the individual has a 100% subsidy for Medicare Part D (the Prescription Drug Program), SSA will grant, without financial development, "any request that is at least \$10." POMS GN 02210.030.B.6.