

Legal Assistance of Western New York, Inc. ®

We provide free legal aid to people with civil legal problems in western New York.

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SSI Overpayments

What is an SSI overpayment?

If you are getting SSI and you get more SSI benefits than you are entitled to, you have been overpaid. This is called an SSI overpayment. The amount of an overpayment is the amount of benefits paid to you minus the amount you were supposed to get. The Social Security Administration (SSA) can take money out of your future checks to pay back an overpayment.

How do I fight/appeal an overpayment?

There are several steps you can take. First, you can ask SSA to “waive” or “give up” an overpayment claim against you by filing a “Request for a Waiver.” This means you are asking SSA not to make you pay the overpayment back. You can get this form (SSA-632) through your local SSA office or online at www.ssa.gov. This form is long, so you may want someone to help you complete it.

To have the overpayment waived, you need to show that it was not your fault in causing the overpayment, or that the overpayment is unfair, and you cannot afford to repay the overpayment. You can include proof of why the overpayment is not your fault with this form and proof of your expenses (bills and receipts) that show that you cannot afford to repay the overpayment.

Second, you can ask SSA to check their decision again because you think it is wrong by filing a “Request for Reconsideration.” You should file this form if you think that no overpayment has occurred or if SSA has overestimated the amount of an actual overpayment. You can find this appeal form (SSA-561) at www.ssa.gov.

Third, you can file both a “Request for a Waiver” and “Request for Reconsideration” if you think both apply to your situation. For example, you may think that SSA did not overpay you but even if it did, it wasn't your fault and you do not have the money to pay it back. When you request **ONLY** a waiver of overpayment (and not a “Request for Reconsideration”) **YOU ARE ADMITTING THAT THE OVERPAYMENT ACTUALLY OCCURRED, BUT THAT IT SHOULD NOT BE COLLECTED.**

Is there a deadline for filing an appeal?

Generally, a “Request for Reconsideration” must be filed within 60 days of the day you receive the Notice of Overpayment. To be safe, file within 60 days of the date of the notice, to be sure there are no questions regarding the timeliness of the appeal.

REMEMBER: Automatic deductions from your benefit check to pay back the overpayment can begin as soon as 30 days after the notice, so it is best to file your appeal within 30 days of the notice. If the initial appeal has been filed within 30 days, deductions from your check should not begin if you specifically request that benefits continue unchanged until your appeal is decided.

Some SSA decisions require that an appeal be filed within 10 days of the date you received the Notice of Overpayment in order to keep the additional benefits. **BE SURE TO READ THE ENTIRE NOTICE TO BE CERTAIN ABOUT YOUR DEADLINE.**

How do I file a “Request for a Waiver” of an Overpayment?

You can ask Social Security not to take the overpayment back by requesting a Waiver of Overpayment. A “Request for a Waiver” of an SSI overpayment is made by completing a “Request for a Waiver and Recover Questionnaire” which you can get at your local Social Security office or online at www.ssa.gov. A “Request for a Waiver” can be made at any time. In order to make a successful argument for a waiver, you must show:

1. The overpayment was not your fault; and
2. Repayment of this money would not leave you with enough money to live on; or
3. Repayment would not be fair to you (how and why the overpayment happened will be considered in deciding this); or
4. The amount of the overpayment is so small that it would not be worth Social Security's administrative cost to collect it from you.

You can request a waiver of the overpayment at any time.

What if my “Request for a Waiver” is denied?

If your “Request for a Waiver” is denied, you can appeal this decision by filing a “Request for Reconsideration.” Do not confuse this appeal with a “Request for Reconsideration” of an overpayment which we write about below. This request means that you want SSA to change its mind about the waiver denial. Remember that to appeal this waiver denial, you generally only have 60 days from the day you receive the notice. Again, to be safe, file within 60 days of the date of the notice itself. If your situation changes in the future and a waiver is then more appropriate, file again for one!

How do I file a “Request for Reconsideration” of an overpayment?

A “Request for Reconsideration” of an overpayment is filed by filling out and turning in a form entitled “Request for Reconsideration” which you can get from your local SSA office or online at ssa.gov.

This is a one-page form which can be completed in about five minutes. You should file a "Request for Reconsideration" when the amount of overpayment is wrong or no overpayment actually occurred. Generally, a "Request for Reconsideration" must be filed within 60 days of the day you receive the Notice of Overpayment. Again, it is safest to file within 60 days of the date of the notice itself.

What if my Request for a Reconsideration of an overpayment is denied?

If your Reconsideration request is denied, you can file a "Request for a Hearing." This form (HA-501) is available at your local SSA office or online at ssa.gov. Again, the deadline for filing this form is generally 60 days after the day you receive the denial notice. It is safest to file within 60 days of the date of the notice itself.

Appeals may be filed at any Social Security office including:

Batavia: Eastown Plaza, 571 East Main Street, Batavia, New York 14020

Corning: 200 Nasser Civic Center, Corning, New York 14830

Elmira: 100 W. Church Street, Suite 201, Elmira, NY 14901

Geneva: 15 Lewis Street, Geneva, NY 14456

Ithaca: 127 W. State Street, 2nd Floor, Ithaca, NY 14850

Jamestown: 321 Hazeltine Ave, Jamestown, NY 14701

Olean: 175 N Union Street, Suite 6, Olean, NY 14760

Rochester: One HSBC Plaza, 14th Floor, 100 Chestnut Street, Rochester, New York 14604

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This article provides general information about this subject. Laws affecting this subject may have changed since this article was written. For specific legal advice about a problem you are having, get the advice of a lawyer. Receiving this information does not make you a client of our office.

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