

# SSI Overpayments

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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. Which step you take depends on whether or not you think SSA was correct in their determination.

SSA is wrong that I was overpaid or their amount is wrong: If you think SSA is wrong, you can ask it to check its decision again by submitting a “Request for Reconsideration” found [here](#). You can submit this form if you think that no overpayment has occurred or if you disagree with the amount of the overpayment. For example, if SSA notified you that you were overpaid \$1,000 in SSI benefits, but you calculate that you were overpaid only \$800, you can submit a Request for Reconsideration.

I agree that I was overpaid, but I shouldn't have to pay it back: Regardless of whether the overpayment is correct, if you believe that you should not have to pay back the overpayment, you can submit a “Request for a Waiver” found [here](#). To have the overpayment waived, you need to show that 1) you were not at fault in causing the overpayment; and 2) that you either cannot afford to repay the overpayment, or collecting the overpayment would be unfair for some reason.

If you believe both apply to your situation, you can submit both a “Request for Reconsideration” and a “Request for a Waiver.” 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. If you file both at once, SSA will generally process the “Request for Reconsideration” first. 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. Sometimes SSA will treat a “Request for Reconsideration” as a “Request for a Waiver” if in your request you make arguments which actually suggest a waiver (such as arguing that the overpayment is not your fault or that you cannot afford to pay it back). On the “Request For Reconsideration” form there is a space for you to briefly explain and clarify why you think the overpayment is wrong.

### **Is there a deadline for filing a “Request for Reconsideration”?**

Generally, a “Request for Reconsideration” must be submitted within 60 days of the day you receive the Notice of Overpayment.

REMEMBER: Automatic deductions of 10% from your SSI 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 submit a “Request for Reconsideration” of an overpayment?**

A “Request for Reconsideration” of an overpayment is submitted by filling out and turning in a form entitled “Request for Reconsideration” which you can get from your local SSA office or online at <https://www.ssa.gov/forms/ssa-561.pdf>. This is a one-page form which can be completed in about five minutes. You can submit 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. If for some reason you were not able to submit the “Request for Reconsideration” within 60 days, you can still submit it but you will need to provide SSA a reason why you are

submitting the Reconsideration late. SSA will not accept your late submission if it decides you do not have a good reason for missing the deadline. The reasons for extending the deadline are very specific, so it is always safest to submit the paperwork within 60 days.

### **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 <https://www.ssa.gov/forms/ha-501.pdf>. Again, the deadline for filing this form is generally 60 days after the day you receive the denial notice. As above, if you do not request a hearing within 60 days, you need a good reason for being late, so it is safest to file within 60 days of the date of the notice itself.

### **How do I file a "Request for a Waiver" of an Overpayment?**

You can ask SSA 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 of Overpayment Recovery Or Change in Repayment Rate" which you can get at your local Social Security office or online at <https://www.ssa.gov/forms/ssa-632.pdf>. 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. You cannot afford to repay the overpayment; or collection would be unfair for some reason

Even if you cannot meet the above criteria, an overpayment can potentially be waived if 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. You can include proof of why the overpayment is not your fault with this form, and also proof of your expenses (bills and receipts) that show that you cannot afford to repay the overpayment. If you are currently an SSI recipient, SSA will usually deem that you cannot afford to pay the overpayment back without needing to collect more detailed

financial information from you.

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

If your “Request for a Waiver” is denied, you can appeal this decision by submitting 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. To be safe, file within 60 days of the date of the notice itself. If your situation changes in the future and a waiver becomes more appropriate, file again for one!

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

Geneva: 15 Lewis Street, Geneva, NY 14456

Horseheads: 3345 Chambers Road, Horseheads, NY 14845

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

Jamestown: 321 Hazeltine Ave, Jamestown, NY 14701

Olean: 1618 W. State Street, Olean, NY 14760

Rochester: 200 East Main Street, 2nd Floor, Rochester, NY 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.

Last Review Date: September 2022

Last updated on October 03, 2022.

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