

# What Are My Options with an SSI or SSDI Overpayment

## Request for Reconsideration (Appeal)

You should file a Request for Reconsideration if you do not think you were overpaid, or if you agree that you have been overpaid, but you disagree with the amount.

You have 60 plus 5 days after date of the Notice to file your Request for Reconsideration, **or you lose the right to appeal**. The 60 days start the day after you receive the Notice. SSA assumes that you received the Notice within five days of its mailing, and this accounts for the 60 plus 5 days that you have after the date of the Notice to file your Request for Reconsideration.

If you file a Request for Reconsideration or a request for waiver within 30 days of receiving the Notice (which is 35 days after the date of the Notice), SSA will not start recoupment. If you file between 31 and 65 days of the date of the Notice, SSA will stop recoupment.

SSA form [SSA-561](#), Request for Reconsideration, is the same whether you are appealing an overpayment of SSDI or SSI. The Request for Reconsideration of an SSDI overpayment will be reviewed by an SSA employee who has not had any involvement with your case up to this time. You can give additional evidence to this individual. You will not meet with the individual.

The SSA form treats a Request for Reconsideration of an SSI overpayment differently. There is a section on the form that applies only to an appeal of an SSI overpayment. This section lists three choices on how your appeal of SSI overpayment will be handled. Your choice will depend upon the reasons you are appealing the Notice of SSI overpayment. The choices are:

- 1 Case Review:** This lets you give more facts to add to your file. You do not meet with the person who decides your case.
- 2 Informal Conference:** You will meet with the person who decides your case. You can give more facts and you can bring other people to help explain your case.
- 3 Formal Conference:** This is more like a court hearing. You and SSA can each bring in other people to give more facts to the decision maker. You have the right to confront and cross examine SSA's witnesses.

If you do not use an SSA form, you must otherwise submit your Request for Reconsideration in writing.

If your overpayment is because SSA believes you have **medically improved and are no longer disabled, but you kept receiving disability benefits**, then SSA will in connection with this overpayment issue a Notice of Termination of your benefits. To appeal this “no disability” decision by SSA, you must file an appeal **within 15 days** of the date of the termination Notice to keep getting benefits while you appeal. However, if you lose the appeal, then any amounts paid to you pending the appeal will also be part of the total amount that you must pay back.

If the appeal is decided in your favor, **either there will not be an overpayment or the overpayment will be less than what SSA claimed**. If the final decision is not in your favor, then the overpayment will be collected from your monthly benefits. If you are no longer on benefits, then you should work out a written payment plan with SSA. You may be able to agree with SSA on a lesser total overpayment as part of your payment plan.

## What If I Lose the Appeal?

If you lose the Request for Reconsideration, SSA will send you a letter that outlines what you can do next if you are not satisfied with their decision, and the time frames for taking action. This includes **asking for a hearing before an Administrative Law Judge (ALJ)**. The ALJ will notify you of your hearing time and date; it can be several months after your request. The place of the hearing is usually within 75 miles of your residence. The ALJ decision letter will tell you what you can do if you are dissatisfied with the ALJ's decision, you can appeal it to the SSA Appeals Council. Appealing the ALJ decision will not stop SSA from starting collection of the overpayment. A decision by the Appeals Council takes more than a year. If you have not yet requested a waiver, this would be a good time to do so. **The Appeals Council is SSA's final administrative decision**. If you are dissatisfied with the decision of the Appeals Council, your next option is to appeal the decision to federal district court within 60 days of the Appeals Council's decision.

## Waiver

You may also ask for a waiver of your obligation to pay the overpayment. You can do this together with the Request for Reconsideration or you can do this alone. You can also do this at any time, even after SSA has begun collecting the overpayment from you. There is no deadline to submit a request for a waiver. Asking SSA to waive the overpayment does not mean that you agree with SSA that you have been overpaid. **It simply means that you are asking to be excused from any obligation to pay it.** If you file for a waiver within 30 days of getting the overpayment notice (and 35 days from date of Notice), SSA cannot take money from your check until you have a meeting with them.

To qualify for a waiver, you must show that **you are not at fault for the overpayment and that if you must pay the overpayment**, it would either “defeat the purpose of the Social Security Act” (meaning it would be a financial hardship to your household) or it would be “against equity and good conscience” (meaning it would be unfair and unjust). You have the right to a personal conference with an SSA worker to consider your waiver request.

If the overpayment is \$1,000 or less and the overpayment is not your fault, SSA may give you an “administrative waiver” but you must ask for this in writing.

## What If the Waiver Is Denied?

If your request for a waiver is denied and there was no personal conference, **you can request a reconsideration of this decision.** If your request for a waiver is denied and there was a personal conference, then your next step is to ask for an ALJ hearing. You must submit either request (request for reconsideration or request for an ALJ hearing) within 65 days of the date of the written denial of your request for a waiver.

## For Help:

**SSA Website:** [www.socialsecurity.gov](http://www.socialsecurity.gov)

- Find forms to Request a Reconsideration or a Waiver.

**SSA Automated Phone Service:** 1-800-772-1213 or TTY 1-800-325-0778

- Staff are available at these phone numbers from 7 am to 7 pm Monday- Friday.
- Prepare to be on hold for a time.
- Visit [www.ssa.gov/agency/contact/phone.html](http://www.ssa.gov/agency/contact/phone.html) for wait times and alternatives.

**Local Social Security Office:** <https://www.ssa.gov/locator/>

- Find forms to Request a Reconsideration or a Waiver.
- SSA staff will assist you with completing the forms.

**Rehab Services Inc. (RSI):** [www.rsiminot.com](http://www.rsiminot.com)

- Request assistance from RSI
- 1-800-258-8132
- Eastern ND: 701-793-5238
- Central and Western ND: 701-839-4240

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