

Payment Plans Protect the Ability to Meet Basic Needs for Those With Social Security Overpayments

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For low-income Social Security recipients, receiving a notice from the Social Security Administration that they have been overpaid often causes alarm and confusion, and great concern about how repayment will affect their ability to pay ordinary living expenses. In response to an overpayment, the individual may:

- Use the appeal process to challenge the overpayment
- Ask the agency to waive the overpayment
- Ask the agency for a lower monthly repayment amount

This Practice Tip focuses on the option of negotiating a lower monthly repayment amount. Note that negotiating a payment plan is only one option to respond to an overpayment, and there are situations where an individual may instead decide to file an appeal or request a waiver. An additional resource is provided at the end of this Practice Tip on when these other options may be used.

A reasonable payment plan can ensure that people currently receiving Social Security or Supplemental Security Income (SSI) continue to receive enough of their monthly benefit to meet basic needs. For a current recipient, the agency will recover the overpayment directly from the person's monthly check. For SSI recipients, no more than 10% of the monthly SSI benefit can be withheld.¹ However, for Social Security retirement or disability recipients, there is no such limit. The full monthly Social Security benefit will be withheld unless the individual negotiates a different repayment rate.² Thus, for someone who relies on the monthly SSI or Social Security check to meet basic needs, promptly requesting a lower repayment rate can help avoid financial crises due to the automatic withholding.

An individual can use [Form 634](#) to request a lower repayment rate. As the agency uses the financial information on Form 634 in determining a repayment rate, it is important to account for all expenses on the form to ensure that the individual can retain as much of their monthly benefit as possible. Expenses include regular monthly costs such as rent, utilities, food, and gas or public transit passes, as well as costs that can occur on a less frequent basis, such as car insurance, toiletries, clothing, and medical expenses. Expenses also include other miscellaneous expenses which may reasonably be considered as part of the individual's standard of living.³

Generally, the agency attempts to negotiate a repayment rate that will allow recovery of all outstanding amounts within 12 months, or at the most within 36 months.⁴ However, if the financial information on Form 632 indicates that the individual cannot afford that repayment rate without financial hardship, then the monthly amount is limited to the difference between the person's income and expenses. A decision on the repayment rate is an administrative action and not an initial determination; therefore it cannot be appealed.⁵

1 [20 CFR § 416.571](#); [POMS SI 02220.016](#).

2 [POMS GN 02210.010](#).

3 [20 C.F.R. § 404.508](#); [20 CFR § 416.553](#).

4 [POMS GN 02210.030](#).

5 [20 CFR § 404.903\(e\)](#).

For those receiving a Medicare Part D low-income subsidy, a Social Security rule allows the repayment amount to be set as low as \$10 per month without financial development.⁶ Social Security representatives rarely give information on this rule to people who have overpayments, making it important for advocates and individuals to be proactively informed about the rule. A request under this rule can be as simple as a written statement asking for a \$10 per month payment plan, stating that the person receives the Medicare Part D low-income subsidy, and citing the relevant Social Security rule. To verify whether someone is receiving the low-income subsidy, an individual can call the plan they use for prescription drug coverage, or call Medicare at 1-800-633-4227.

Additional Resources

For information on the different options in dealing with an overpayment, including when an individual might decide to file an appeal, request a waiver, or negotiate a payment plan:

- [Social Security Overpayments and Low-Income Clients](#), Chapter Summary, National Center on Law & Elder Rights

Helping a client with overpayment questions? Justice in Aging provides legal professionals with advice on SSI and Social Security as part of NCLER's case consultation service. Through this service, Justice in Aging, the National Consumer Law Center, and the ABA Commission on Law and Aging provide free case consultations to legal and aging network professionals on a range of legal issues impacting older adults.

Please contact ConsultNCLER@acl.hhs.gov for free case consultation assistance. Sign up for our email list and access more resources at NCLER.acl.gov.

⁶ [POMS GN 02210.030](#) at (C).