

SSA Takes Step Towards Improving Access to Continuing Benefits for SSI Recipients

PRACTICE TIP • November 2021

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On Friday, October 29, 2021, the Social Security Administration (SSA) released a new Emergency Message¹ to its employees, instructing them that when a person receiving Supplemental Security Income (SSI) benefits files a request for reconsideration more than 15 days after the date on a Notice of Planned Action, but within the 65-day appeal period, the recipient must continue to receive their benefits while their appeal is pending, unless they waive this in writing.

When a person's SSI benefits are reduced or suspended, there is a four-step administrative decision and appeals process through SSA: initial determination, reconsideration, administrative law judge hearing, and appeals council. A determination by SSA to reduce or suspend an individual's SSI benefits must be communicated to them in a written Notice of Planned Action that explains the reason for the determination and states they have 60 days plus 5 mailing days in which to file a request for reconsideration. In these cases, under current regulations, the SSI recipient is entitled to continue receiving their full benefits pending a decision on reconsideration if the recipient files the appeal within 10 days plus 5 days for mailing of the date on the notice. SSA calls this "Goldberg Kelly payment continuation" after the name of the U.S. Supreme Court case that established constitutional due process protections for individuals receiving means-tested benefits like SSI.

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Requests for reconsideration and requests for an administrative law judge hearing can be filed online using SSA's iAppeals system. Non-medical appeals from Notices of Planned Action or Notices of Overpayment can be filed at secure.ssa.gov/iAppINMD/start. You do not need to create a *mySSA* online account to file an appeal using the iAppeals system, but you will need to have the notice you are appealing to enter information from it into the system. It can be especially helpful to file the appeal online if you are in danger of missing the deadline for filing—be sure to keep a copy of the receipt showing the date you filed the appeal online.

Appeals may not be timely for two reasons. First, SSI recipients often have difficulty filing requests for reconsideration within 10 days of receiving a notice. Since the COVID-19 pandemic and the closure of SSA's field offices in March 2020, these difficulties have only increased. Second, SSA has faced continued challenges with efficiently and timely processing these requests for reconsideration and ensuring that the agency protects SSI recipients' right to benefit continuation, and the agency expects that these challenges will continue even after the end of the COVID-19 national public health emergency. With the new EM-21064, "Goldberg Kelly Payment Continuation Period," SSA is revising its procedures to provide SSI recipients a better opportunity to exercise their constitutional right to continue receiving benefits while their request for reconsideration is pending.

¹ EM 21064, "Goldberg Kelly Payment Continuation Period" secure.ssa.gov/apps10/reference.nsf/links/10292021100254AM (Oct. 29, 2021).

Now, those who file a request for reconsideration more than 15 days after the date on the Notice of Planned Action, but within 65 days after the date on the notice shall also continue to receive their SSI benefits, unless the recipient waives this in writing. SSA employees must not suggest to SSI recipients that they waive their right to benefit continuation. **This procedure will be in effect until April 29, 2022.**

SSA presumes that the individual received the notice five days after the date of the notice unless they can demonstrate that it was not received within the five days. When an SSI recipient files a request for reconsideration more than 65 days after the date on the notice, an SSA employee must investigate whether they have “good cause” for late filing of their request for reconsideration and payment continuation, following the procedures in POMS SI 04005.015, “Good Cause for Extending the Time Limit.”²

Additional Resources

- [NCLER Chapter Summary: Supplemental Security Income \(SSI\) Basics](#)
- [NCLER Chapter Summary: Social Security Reconsideration Appeals](#)
- [NCLER Practice Tip: Important Change for SSI Recipients and Applicants \(Pandemic-Related Disaster Assistance\)](#)
- [Social Security Administration: Understanding SSI Home Page \(2021\)](#)

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](https://www.ncler.acl.gov).

² POMS SI 04005.015, “Good Cause for Extending the Time Limit” secure.ssa.gov/apps10/poms.nsf/lnx/0504005015 (Jan. 30, 2014).