

If you're 60 or over, call your local legal aid office:

Eastern CT	800-413-7796	Western CT	800-413-7797
Hartford Area	860-541-5000	Bridgeport Area	800-809-4434
Stamford Area	800-541-8909	New Haven Area	203-946-4811

If you're under 60, call SLS for help:



Statewide Legal Services
1-800-453-3320
860-344-0380

Search our website for help:



www.ctlawhelp.org

BENEFITS

LEGAL SERVICES

SELF-HELP SERIES

SSDI Overpayments

*Did you get a Notice of
Overpayment from Social Security?*

December 2015



We offer free legal help in many areas, including

- welfare,
- SNAP (food stamps),
- divorce,
- child support,
- domestic violence,
- bankruptcy,
- special education,
- nursing home care,
- health insurance,
- eviction,
- foreclosure,
- and more.

See the reverse side for more about legal services.

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Statewide Legal Services
1-800-453-3320 or 860-344-0380

Search our website for help:



www.ctlawhelp.org

If you're over 60, call your local legal aid office.

Connecticut Legal Services

www.ctlegal.org

Bridgeport

211 State Street 203-336-3851

New Britain

16 Main Street 860-225-8678

New London

153 Williams Street 860-447-0323

Stamford

20 Summer Street 203-348-9216

Waterbury

85 Central Avenue 203-756-8074

Willimantic

872 Main Street 860-456-1761

Greater Hartford Legal Aid

www.ghla.org

999 Asylum Avenue

Hartford, CT 06105

860-541-5000

New Haven Legal Assistance Association

www.nhlegal.org

426 State Street

New Haven, CT 06510

203-946-4811

Consumer Law Project for Elders

Free legal assistance to people 60 and over throughout Connecticut who have money/debt problems.

1-800-296-1467

SSDI Overpayments

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This booklet was produced by Connecticut Legal Services, Greater Hartford Legal Aid, New Haven Legal Assistance Association, and Statewide Legal Services of Connecticut. The information in this booklet is based on laws as of 12/2015. We hope that the information is helpful. It is not intended as legal advice. For advice on your situation, call Statewide Legal Services or contact a lawyer.

If you are denied both reconsideration and a waiver

If you are denied both reconsideration of the overpayment and a waiver (with or without a personal conference), Social Security can begin taking money from your check.

Social Security can take your whole check until you have paid back the overpayment, but you can ask them if they can set up a payment plan to pay back a little each month. They will try to set up payments so the overpayment will be paid off in three years.

If the appeal or waiver is granted after the hearing before the ALJ, you may get back some or all of the money Social Security has taken out of your check.

Because overpayment law is complicated and appeals can be confusing, it is best to talk with a lawyer as early as you can.

If you have very low income, call the Statewide Legal Services hotline at 860-344-0380 (Central CT & Middletown) or 1-800-453-3320 (all other areas in Connecticut).

Did you get a *Notice of Overpayment* from Social Security?

A *Notice of Overpayment* is a letter that says you owe Social Security money. The notice may say Social Security is going to take some or all of your Social Security Disability Insurance (SSDI) check to repay what you owe.

If the *Notice of Overpayment* is about a Supplemental Security Income (SSI) overpayment, you should look at the legal aid booklet on *SSI Overpayments* because the rules are different.

This booklet tells you what to do if all of these are true:

- you get SSDI;
- Social Security sent you a *Notice of Overpayment*; and
- you don't agree with something in the *Notice of Overpayment* or you can't afford to pay back the money.

Don't ignore the notice. If you think there is a mistake, **ask Social Security for an appeal form right away.**

What can cause an overpayment?

Overpayments can happen for any of the following reasons:

- ▶ You don't let Social Security know right away when you start working.
- ▶ You don't let Social Security know right away each time your earnings change.
- ▶ You don't tell Social Security about another disability payment you get, such as *workers' compensation* (also known as workers' comp).
- ▶ You let Social Security know about changes, but they don't put the information into their computer system.
- ▶ You earn more money than Social Security allows while collecting SSDI benefits.
- ▶ You are no longer disabled but you keep getting SSDI.

Social Security says I have unreported income. What does that mean?

Unreported income means that you worked but you didn't let Social Security know. It could also mean they have no record that you informed them on time.

- Social Security counts income for the month when it is **earned**, not when it is paid.
- Even if you work for only a short time, you must let Social Security know.
- You must let Social Security know each time your earnings in a month go up or down.

You need to report earnings and changes by the 10th of the next month.

If you had income or your income changed during this month:	You must tell Social Security about that income no later than this date:
January	February 10
February	March 10
March	April 10
April	May 10
May	June 10
June	July 10
July	August 10
August	September 10
September	October 10
October	November 10
November	December 10
December	January 10

At the conference, you have the right

- to bring someone with you,
- to testify,
- to ask questions, and
- to show proof about the things you say.

To support your waiver request, you must show you did your best (given your medical, language, or understanding problems) to

- give Social Security all the information it needed on time,
- tell Social Security the truth, and
- give back any payments that you should have known were wrong.

Let Social Security know if you made decisions that you might not have made otherwise based on what Social Security told you. You will be asked about your household budget.

Social Security will use the information you give them to decide if you can pay back the overpayment. If they decide that you must pay it back, they will tell you how much they will take from your check each month.

If your waiver request is denied

If your waiver request is denied after a personal conference, you will need to ask for a hearing in front of an *Administrative Law Judge* (ALJ). You must ask for the hearing within 65 days of the date on the denial letter. Asking for an ALJ hearing on your waiver request will not stop Social Security from taking some or all of your check to repay what you owe.

If your waiver request is denied and there was no personal conference, you will need to ask for a reconsideration of your waiver request. You have 65 days from the date of the denial notice to ask for reconsideration of the waiver denial.

If your request for reconsideration is denied

If Social Security denies your request for reconsideration, you can ask for a **hearing in front of an Administrative Law Judge (ALJ)**. You must ask for the hearing within 65 days from the date of the reconsideration denial letter. Asking for an ALJ hearing will not stop Social Security from taking some or all of your check to repay the money you owe.

If you haven't already requested a waiver, this would be a good time to do so.

How to ask for a waiver

To ask for a waiver, fill out and file **Form SSA-632-BK** with Social Security. Use this form if you want to ask Social Security

- to not collect (or *waive*) the money,
- to make you pay back only some of the money (called a *compromise*), or
- to set up a payment plan that you can afford.

To be granted a waiver, Social Security must decide that you are *without fault* in causing the overpayment and that

- collecting it would *defeat the purpose* of the SSDI program, or
- be unfair (*against equity and good conscience*).

You have a right to a *personal conference* with Social Security before it makes a decision about your waiver request. You have the right to look at your file with a Social Security worker who can answer your questions. You can look at your file up to five days before the conference.

To prove you told Social Security on time about any changes, this is what you should do:

- ▶ **Write a letter** telling Social Security about the income or how it changed. Sign and date the letter. Make a copy of the letter and keep the copy for yourself.
- ▶ **Make copies of your paystubs** and include them with the letter.
- ▶ **Send the original letter** by certified mail with a return receipt requested. You must do this at the post office window. Keep the receipt from the post office.
- ▶ **Keep the return receipt**, which is the signed post card that comes back to you in the mail showing that Social Security got your letter.

What if I got a termination notice?

Sometimes when people have an overpayment, they also get a *Notice of Termination*, which is a notice saying benefits will end.

If you get a termination notice, contact Social Security to appeal the termination right away.

- ▶ **You have 65 days from the date of the termination notice to appeal.**

If you have a good reason for appealing after the 65 days, explain your reasons to Social Security and file the appeal form late with your reasons on it.

If you are being terminated because Social Security says you have medically improved, you must file **Form 795 within 15 days of the date of the termination notice** to keep getting benefits while you appeal.

What can I do if there is an overpayment?

If you get a *Notice of Overpayment*, you can:

- ▶ **Ask for *reconsideration of the overpayment*** if you don't think you were overpaid or you think the amount is wrong. It is important to ask for reconsideration quickly. Try to ask within 35 days of the date on the overpayment notice.
- ▶ **Ask for a *waiver*** if you agree that you were overpaid but you want to be excused from paying the money back.
- ▶ **Ask for lower amounts to be taken out of your SSDI check** by using the budget part of the waiver form to show your *financial hardship*.
- ▶ **If Social Security terminates you from the SSDI program** completely because you earned too much money but you now are so disabled that you can only work couple of hours at minimum wage, or you can't work at all, you can **ask for *Expedited Reinstatement***. Expedited reinstatement means you will get up to six months of SSDI while Social Security decides if you are still disabled.

What are the time limits?

If you ask for reconsideration within 35 days of the date of the overpayment notice, Social Security won't take money out of your SSDI check while they are making a decision about your reconsideration request.

You *must* ask for reconsideration within 65 days of the date on the notice. If you ask within 65 days, Social Security should *stop* taking money out of your check while they are making a decision about your request.

If you have a good reason for asking for reconsideration *after* 65 days, explain your reasons to Social Security and send the form in late with your reasons on it.

You can ask for a waiver anytime.

If you ask for a waiver, Social Security will stop taking money out of your SSDI check while they are making a decision on your waiver request. You may want to wait to ask for a waiver until you find out if your reconsideration is denied.

How to ask for reconsideration

To ask for reconsideration, fill out and file **Form SSA-561-U2** with Social Security. On the form, explain

- why you think you have not been overpaid, or
- why you think the amount is wrong.

If Social Security says you earned more than you actually did, include copies of your paycheck stubs as proof of what you really earned. Keep copies for yourself.

On the form, you will have to say how you want the case to be handled. You can ask for a *case review*, an *informal conference*, or a *formal conference*.

- ▶ A **case review** means a Social Security worker will look at your file again and make a decision about whether or not you have to pay back the money.
- ▶ In an **informal conference**, you will
 - meet with a Social Security worker to go over your file, and
 - have a chance to explain what happened.

You can also

- give Social Security new information about your situation, and
- bring other people with you to help explain your case.

The worker will decide if have to pay back the money.

- ▶ A **formal conference** is more like a court hearing. You'll present your case, and you can bring people with you to help explain your case.