

From: Jennifer Burdick, Community Legal Services of Philadelphia (jburdick@clsphila.org)
Kate Lang, Justice in Aging (klang@justiceinaging.org)
Amy Marinacci, Legal Council for Health Justice (amarinacci@legalcouncil.org)
Kathleen Romig, Center on Budget and Policy Priorities (kromig@cbpp.org)
Rebecca Vallas, The Century Foundation (vallas@tcf.org)

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Reducing the Burden of Overpayments by the Social Security Administration

INTRODUCTION:

The policies of the Social Security Administration (SSA) to collect overpayments currently create serious hardship for people struggling to afford the basic necessities. There is extensive latitude within the Social Security Act for SSA to do a better job at waiving overpayments or making repayment less onerous for people with modest incomes, for the vast majority of overpayments that were not caused by fraud or intentional fault.

The first part of this memo outlines the problems with SSA's overpayment policies, including a summary of the most common causes of overpayments with stories about beneficiary experiences with overpayments. We then turn to solutions within SSA's statutory authority that would address some of these problems, with details on ways SSA can and should do more to prevent overpayments; how the agency should use its statutory waiver authority much more broadly, automate waivers as much as possible, and reduce barriers to apply for and be granted waivers; and finally for those who must repay overpayments, how recovery can be made less onerous.

PROBLEMS:

Receiving an overpayment notice from SSA is often a source of stress and confusion for Social Security and Supplemental Security Income (SSI) beneficiaries. A notice typically informs a beneficiary that they owe thousands, or even tens of thousands of dollars to the agency. At that point, many have long since spent the money covering their basic needs. Beneficiaries report experiencing significant stress when they find out they may owe SSA money, often far more than they can afford to repay. Many struggle to understand the reasons they were overpaid, and to navigate the repayment process. Notices often fail to provide basic information about the cause of the overpayment and are issued years after the overpayment occurred. The process for appeals and waivers are unnecessarily burdensome, so most qualifying beneficiaries do not benefit from these sources of relief.

Overpayments are very common, especially among disability beneficiaries. Though the agency does not publish the number of people who have received such notices, experts estimate it numbers in the millions.¹ A study by SSA's inspector general estimated that 44% of disability beneficiaries had been overpaid during a 10-year period.²

¹ <https://kffhealthnews.org/news/article/social-security-overpayments-investigation/>

² <https://oig-files.ssa.gov/audits/full/A-01-14-24114.pdf>

Overpayments are often caused by SSA processing delays or errors, or by beneficiary mistakes which stem from misunderstandings or innocent mistakes. The financial rules governing SSI and the return-to-work rules governing SSDI are particularly complicated. SSI requires beneficiaries to report any changes in life circumstances, from a change in work hours to a person moving out of the home.³ When these changes are not reported promptly, beneficiaries are often overpaid. Even beneficiaries who report changes to SSA promptly can be overpaid because of SSA processing delays.⁴ Some overpayments are simply incorrect, for example counting an exempt resource, but the beneficiary does not know enough about SSA's rules to realize that SSA made a mistake.

Increased administrative funding to SSA's Limitations on Administrative Expenses (LAE) account would likely help address many of the processing challenges that lead to overpayments. SSA has lost thousands of employees due to past hiring freezes and pandemic-era labor force disruptions. The agency needs more money to hire and train a sufficient number of employees to handle these workloads in a timely manner, and to modernize its antiquated IT systems.

SSA is under increasing media scrutiny for its handling of overpayments. The *Washington Post* has written about the agency's collection of decades-old overpayments,⁵ the frequency of overpayments for working disability beneficiaries,⁶ and huge civil monetary penalties assessed on poor and disabled beneficiaries after overpayments.⁷ A recent investigation by Kaiser Health News and Cox Media Group highlighted the hardships caused by Social Security and SSI overpayments.⁸ Good Morning America also aired the story.⁹ Both 60 Minutes and National Public Radio are now doing major investigations into SSA overpayments as well. All of the stories share the same themes: That overpayments harm beneficiaries, who are often unfairly penalized for failing to navigate a confusing and burdensome process.

Overpayments have a variety of causes. Here, we summarize some of the main causes and share stories about beneficiary experiences.

- **Excess resources:** The leading cause of overpayments in SSI is exceeding the program's resource limits (\$2,000 for an individual and \$3,000 for a married couple). This statutory limit is extremely low and outdated, making it easy to exceed. Some 70,000 beneficiaries are suspended due to excess resources each year and another 40,000 are terminated.¹⁰ Beneficiaries also do not always understand the complex rules about which resources count, or how they might avoid exceeding the limit. For example:
 - **Underutilized workaround through ABLE accounts:** Many overpayments due to resources are completely preventable. About 44% of SSI beneficiaries (over 3 million

³ <https://www.ssa.gov/ssi/reporting/changes>

⁴ <https://www.ssa.gov/legislation/WorkCDRFY2021.pdf>

⁵ https://www.washingtonpost.com/politics/social-security-treasury-target-hundreds-of-thousands-of-taxpayers-for-parents-old-debts/2014/04/10/74ac8eae-bf4d-11e3-bcec-b71ee10e9bc3_story.html

⁶ <https://www.washingtonpost.com/news/federal-eye/wp/2015/11/02/watchdog-cash-benefit-program-overpaid-disabled-workers-by-11-billion-over-nine-years/>

⁷ <https://www.washingtonpost.com/politics/2022/05/20/social-security-fraud-penalties/>

⁸ <https://kffhealthnews.org/news/article/social-security-overpayments-investigation/>

⁹ <https://www.goodmorningamerica.com/news/video/social-security-agency-demands-money-back-overpayments-103272603>

¹⁰ https://www.ssa.gov/policy/docs/statcomps/ssi_asr/2021/sect11.html

people) qualify for ABLE accounts, and after a recent expansion, a majority will soon be eligible.¹¹ These accounts allow SSI beneficiaries to hold 50 times more savings—up to \$100,000—which do not count toward SSI’s resource limits. Funds from ABLE accounts may be used by beneficiaries to pay for a very broad set of “qualified disability expenses,” including housing, transportation, health, and basic living expenses.¹² However, few beneficiaries are aware of the accounts, and even fewer have opened them. To date, only about 137,000 ABLE accounts have been set up, accounting for less than 1 percent of SSI beneficiaries currently eligible.¹³

- Charles¹⁴ is an SSI beneficiary in Chicago who was saving up to move out of his dilapidated and rodent-infested apartment into a new, better place. Gathering the money to cover a security deposit and first month’s rent for a decent apartment put him just over the \$2,000 resource limit. SSA didn’t detect he was over the resource limit for several months, and then sent him a notice suspending his SSI benefits and assessing an overpayment of several thousand dollars – many times more than he had exceeded the resource limit. Charles was eligible for an ABLE account but had never heard of this option for saving money and maintaining his SSI benefits.
- **Cash-value life insurance policies:** One reason beneficiaries exceed the resource limit is confusion over life insurance policies. While term policies are exempt, the cash surrender value of whole life policies counts as resources. Many SSI recipients are not sophisticated consumers and don’t know their life insurance policy could have a cash value while they are alive. They understand the value only to be payable on their death, and many obtain these policies to ensure they do not burden their family to pay for their funeral and burial costs when they die. The paper value of whole life policies grows over time, and because SSI’s resource limit is so low, can easily exceed it. About 3 in 10 people with lower incomes have life insurance.¹⁵ Low-income, Black, and Latino policyholders are the most likely to have whole life policies, because policies designed to pay for funerals and burial arrangements are most popular for these groups.¹⁶
- Maria, a woman with psychiatric impairments in New York City receiving SSI, had her benefits suspended and was notified of a \$19,000 overpayment due to a \$15,000 whole life insurance policy whose cash surrender value had risen over time to \$1,600. When combined with her small savings account, she was ineligible for being over the \$2,000 resource limit. She bought the policy because she and her family struggled to pay for her mother’s funeral, and she didn’t want to leave her family in the same situation when she passed away. She had no idea it had value before her death. When her SSI was suspended, she was overwhelmed and frightened, and cashed out the policy, using the proceeds to purchase an exempt \$1,500 burial account. With the help of an advocate, she was reinstated, and after six years of several levels of appeal, and extreme worry and uncertainty, Maria’s overpayment was finally waived.

¹¹ <https://crsreports.congress.gov/product/pdf/IF/IF10363>

¹² <https://secure.ssa.gov/poms.nsf/lnx/0501130740>

¹³ <https://nast.org/able/>

¹⁴ A pseudonym for an actual beneficiary, as with all beneficiary stories in this document

¹⁵ LIMRA 2023 Insurance Barometer Study

¹⁶ Ibid.

- **Excess earnings:** For many beneficiaries, earning over certain thresholds triggers changes in benefit amounts and eligibility. These thresholds are low, and so many working beneficiaries exceed them. The leading cause of overpayments in Social Security is earning more than the “substantial gainful activity” threshold in SSDI, only \$1,470 per month in 2023. Overpayments among working disability beneficiaries are very common. Over 7 in 10 SSDI beneficiaries who exhaust the program’s work incentives experience an overpayment, with a median of over \$9,000.¹⁷ Likewise, the second leading cause of overpayments in SSI is excess earnings. SSI’s earned income disregard is just \$65 *per month*, after which benefits are reduced. Finally, younger retirees and survivors who earn more than Social Security’s annual earnings test (\$21,240, or about \$1,770 per month) are frequently overpaid. The earnings rules are particularly difficult to understand for beneficiaries who receive both Social Security and SSI. As SSAB reported: “The alarmingly common overpayments among disability beneficiaries who work feeds a perception that work doesn’t pay and creates confusion, heartache, hardship and hassle for both the individual and the Social Security Administration.”¹⁸ For those beneficiaries who are working, reporting their earnings to SSA is difficult.
- *Tijee is a young adult who receives SSI due to his severe disabilities, and who is also working part-time. He, with support of his mother, has repeatedly tried to report his wages on the SSA Mobile Wage Reporting App. When his mother entered all his wage information from August in the app in September 2023, the app told her that the wages could not be submitted, and advised her to call SSA. The app finally allowed her to report Tijee’s September wages in October, but she still has not been able to report his August wages. In the past, she has traveled to the local SSA field office to leave Tijee’s pay stubs in the drop box, but when she did that, SSA reported they did not receive the pay stubs. Tijee and his mother want to comply with SSA’s policies, but they have trouble using the app, and between working-full time, and trying to support her disabled son and his job, his mother does not have time to bring pay stubs to SSA’s field office, particularly since that does not always seem effective.*
- **In-kind support and maintenance:** In-kind support and maintenance (ISM) is when someone else provides food and/or shelter to an SSI beneficiary. The ISM rules are the third leading cause of overpayments in SSI. These rules are extraordinarily burdensome and complex, making them difficult to understand and comply with. They are laid out in 250 single-spaced pages of instructions to SSA employees, the complexity of which makes it “virtually impossible to attain consistency,” according to the Social Security Advisory Board.¹⁹
- *June is an older woman with significant mental health issues who lives in New York. She had to move to an apartment owned by her adult daughter because she could no longer afford the rent on her previous apartment. She made a timely report to SSA of her move to the new apartment, but it took SSA a few months to determine she was receiving in-kind support and maintenance*

¹⁷ <https://www.ssa.gov/policy/docs/ssb/v79n2/v79n2p65.html>

¹⁸ <https://s3-us-gov-west-1.amazonaws.com/cg-778536a2-e58c-44f1-9173-29749804ec54/uploads/2023/03/Raising-the-Alarm-on-the-Unintended-Consequences-of-Social-Securitys-Return-to-Work-Policies-508.pdf>

¹⁹ https://s3-us-gov-west-1.amazonaws.com/cg-778536a2-e58c-44f1-9173-29749804ec54/uploads/2019/11/2015_SSI_Statement.pdf

from her adult daughter. SSA then reduced her SSI benefits by one-third and found she had been overpaid around \$1,200. An advocate assisted June with a waiver application, and helped June and her daughter with completing a rental agreement and June began paying her daughter \$327 in rent each month. June already had her own SNAP benefits for food. With this documentation, SSA agreed to remove ISM and June's SSI returned to the full monthly benefit, which allowed her to better afford all of her household bills.

- **Temporary institutionalization:** SSI claimants who are hospitalized for an entire calendar month are ineligible for payments for that month unless they prove eligibility for up to 3 months of “temporary institutionalization benefits” *while they are still hospitalized*. Because of challenges doing business with SSA that are inherent in medical situations that require hospitalization, many people receive SSI for which they are technically not qualified, and are later assessed an overpayment for thousands of dollars. Approximately 30,000 people per year were overpaid due to institutionalization, typically because they did not submit their proof of eligibility in time.²⁰
- *Rose is a 94-year-old Russian speaking Holocaust survivor. She was able to live in her own apartment with her SSI benefits until she was hospitalized for a stroke. She was in the hospital for less than 90 days receiving treatment, including speech therapy. After her return home, SSA reduced her SSI to \$30 because the agency thought that she was still in an institution. Also, SSA sent her an overpayment notice for \$2,652. Rose was eligible for temporary institutionalization (TI) benefits. But, due to her lack of knowledge of the TI process, and her physical and mental inability to report to SSA that her stay in the hospital would be less than 90 days, she could not comply with SSA's reporting requirements. An advocate assisted her in having the overpayment waived and having her SSI put back up to the full benefit rate, but this is not a process she could navigate on her own.*

SSA has broad statutory authority to waive overpayments when the beneficiary is not at fault in causing the overpayment, including when repaying the overpayment would defeat the purpose of the program, when it would violate “equity and good conscience,” or when the amount is below certain thresholds.²¹ However, SSA interprets this authority very narrowly. For example, the agency typically finds beneficiaries to be at fault if they didn’t understand that their whole life insurance policy has a cash surrender value, forcing beneficiaries to repay their entire benefit amount for any month in which they held a whole life policy with a cash value that exceeded the resource limit, or when working beneficiaries report their earnings and rely on SSA to notify them promptly if they are no longer eligible for benefits.

The agency’s guidance says the “defeats the purpose” exception is met if “the overpaid individual needs substantially all of their current income to meet their current ordinary and necessary living expenses” which is surely the case for most SSI beneficiaries.²² Seven in ten SSI beneficiaries have family income below \$30,000; over half live below the federal poverty threshold.²³ But few have their overpayments

²⁰ https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202105-0960-001

²¹ https://www.ssa.gov/OP_Home/ssact/title02/0204.htm?_ga=2.1785269.566920399.1695669667-1354771148.1654613625

²² <https://secure.ssa.gov/poms.nsf/lnx/0502260020>

²³ <https://www.ssa.gov/policy/docs/rsnotes/rsn2022-01.html>

waived. Agency regulations also define violations of equity and good conscience very narrowly, applying only in cases where the beneficiary has taken an action (like enrolling in school or quitting a job) that they wouldn't have if not for the overpaid benefits, or in cases where the beneficiary's auxiliary received the overpayment while living separately from the beneficiary.²⁴

The agency requires qualifying beneficiaries to complete a burdensome process to obtain waivers. Many struggle to do so. As a result, the agency only waives a small fraction of overpayments, even though many overpayments fall into one or more of these categories. For example, in FY2020, SSA collected \$3.8 billion in overpayments and had another \$8.4 billion scheduled for repayment, but waived only \$254 million.²⁵

When beneficiaries are overpaid, they have several options: **appeal** the overpayment, ask SSA to **waive** it, or seek a **payment plan**. It can be difficult for overpaid beneficiaries to understand which of these options apply to their case, whether to pursue them, or how to proceed. For example, the waiver and appeal forms ask the beneficiary if the overpayment is a mistake and whether it is their fault. This can be difficult to discern, especially when a misunderstanding or a processing lag caused the overpayment. Many beneficiaries struggle to decide what, if any, paperwork to complete.

Requesting an overpayment waiver presents its own complications. SSA's recently revised waiver form ([Form SSA-632-BK](#)) is improved from previous versions—it is shorter and no longer has open-ended questions. However, even with these changes, the form is still burdensome. It is 10 pages long and asks most beneficiaries to provide a detailed accounting of their assets and income — from the make and model of their car to the interest earned on their savings accounts. They must also provide detailed records of their monthly expenses. Some expenses are typically the same each month (like rent and utilities) and others have a roughly stable average (like groceries and gas). However, many expenses vary significantly over time (like medical and dental costs, car and home repairs, clothing, and insurance premiums). Every month brings some of these irregular costs, and they are often substantial. Many beneficiaries struggle to account for expenses like these, and only list their more regular expenses. As a result, they appear to SSA to have money left over in their monthly budgets that they never actually experience—and so the agency puts them on repayment plans they cannot afford. To substantiate their accounting, beneficiaries must furnish many supporting documents that may be difficult to obtain, such as rent or mortgage information; utility, medical, credit card, or insurance bills; canceled checks; bank statements; pay stubs; and tax returns. SSA estimates that this lengthy, complex, and burdensome form takes 120 minutes to complete. Yet few overpaid beneficiaries complete it successfully and so only a small fraction receive waivers.

The recent revisions on form SSA-632-BK only allow a narrow number of beneficiaries to skip this extensive financial accounting: current SSI recipients, or people with Title II overpayment waivers who also have dependents that receive SSI, TANF, or needs based VA pensions. This is far more narrow than previous versions of the SSA-632-BK, which allowed anyone who received needs-based cash benefits to skip the financial questions. Presumably, these policies are supposed to make it easier for claimants who are clearly very poor to get their overpayments waived by establishing that collection of their

²⁴ https://www.ssa.gov/OP_Home/cfr20/404/404-0509.htm

²⁵ <https://s3-us-gov-west-1.amazonaws.com/cg-778536a2-e58c-44f1-9173-29749804ec54/uploads/2023/03/Raising-the-Alarm-on-the-Unintended-Consequences-of-Social-Securitys-Return-to-Work-Policies-508.pdf>

overpayment “defeats the purposes of the act,” but the revised questions make clear how illogical this policy has become. For example, why do only former Title II recipients, and not former SSI recipients, who have dependents who receive SSI, TANF or other benefits, get the benefit of this presumption, as they did via previous versions of this form? What about people who rely on SNAP benefits to meet their families’ basic nutritional needs? Or people who qualify for Medicare Part D Low-Income Subsidy? The new form also doesn’t allow people who receive state-based General Assistance benefits to skip the financial accounting for all of their income and expenses. The qualifications for these programs establish that claimants are too poor to pay back overpayments, and their receipt of these benefits should make completing the financial questions on this form unnecessary.

For small overpayments of \$1,000 or less, SSA’s guidance allows the agency to grant “administrative waivers” by verbal request, with no paperwork required.²⁶ However, few beneficiaries are aware of this threshold or that they may receive a waiver without filling out the 10-page form. The recently revised form does, for the first time, inform beneficiaries of the threshold and advises them to call the agency, which is an important step. But it still places the onus on the beneficiary to ask for a waiver.

If beneficiaries do not apply for or qualify for appeals or waivers, they must repay the entire overpayment, which can cause financial hardship for many. The default repayment for Social Security beneficiaries is the withholding of their *entire benefit* until the full overpayment is recouped. Social Security is the biggest source of income for most retirees. For 4 in 10 retirees, Social Security provided at least 50 percent of their income, and for 1 in 7 it provided at least 90 percent of income.²⁷ Just under 20% of Social Security beneficiaries live in households at or below 150% of the federal poverty line.²⁸ SSDI beneficiaries, who are more likely to be overpaid, are even more reliant on their benefits.²⁹

SSI beneficiaries, by definition, live lives of financial precarity. While their default repayment plan of 10% is relatively less harsh, it is nonetheless extremely difficult for most SSI beneficiaries to receive a reduced benefit. The typical beneficiary has no other source of income, and the maximum federal benefit is only 75% of the federal poverty line.³⁰ Reduced benefits make it difficult for them to stay current on housing, utility, transportation, food, and medical costs.

It is possible for overpaid beneficiaries to arrange for an alternative repayment plan, but this, too, requires a complex and burdensome form, this one 8 pages long. Like the waiver form, it can only be completed on paper; it requires a detailed accounting of assets, income, and expenses.

Current policy allows low-income beneficiaries who receive a full Medicare Part D subsidy (Low-Income Subsidy or “Extra Help”) to repay their Social Security overpayments at \$10 per month, greatly reducing the financial burden of overpayment—without filling out the burdensome alternate repayment paperwork.³¹ However, few beneficiaries eligible for this relief are able to access it, because most are

²⁶ <https://secure.ssa.gov/poms.nsf/lnx/0502260030>

²⁷ <https://www.ssa.gov/policy/docs/workingpapers/wp116.html>

²⁸ “Who Is Receiving Social Safety Net Benefits” available at:

<https://www.census.gov/library/visualizations/interactive/social-safety-net-benefits.html>

²⁹ <https://www.urban.org/sites/default/files/alfresco/publication-pdfs/412847-How-Important-is-Social-Security-Disability-Insurance-to-U-S-Workers-.PDF>

³⁰ <https://www.cbpp.org/research/social-security/supplemental-security-income>

³¹ <https://secure.ssa.gov/poms.nsf/lnx/0202210030>

not aware that they can simply ask for it. Even many experienced advocates do not know about this policy.

SSA doesn't include any information about this option in overpayment notices, collection notices, the informational brochure entitled "Important Information About your Appeal, Waiver Rights and Repayment Options," the form on which beneficiaries ask for a repayment plan, or the SSA website. Furthermore, even when beneficiaries know about the policy and act promptly to request it, they often miss one or more checks entirely before effectuation of a lower repayment plan. This causes hardship among beneficiaries who, by definition, have very limited incomes and resources, and have been determined to need help to afford basic health care expenses. About one in five Social Security beneficiaries (13 million) qualify for full Part D subsidies—and thus, also qualify for the \$10 per month repayment plan, should they be overpaid by SSA. And yet very few receive this relief.

SOLUTIONS:

SSA can and should do more to prevent overpayments. For example:

- **Inform SSI beneficiaries about ABLE accounts:** Many overpayments based on excess resources in SSI could be prevented if qualifying beneficiaries used ABLE accounts. SSA should provide beneficiaries with information about ABLE accounts, with a clear explanation of how shifting savings and retroactive payments to such an account would allow them to hold much more than \$2,000 and stay in compliance with SSI rules—thus avoiding overpayments, suspension, and termination. The notification should explain how to set up an account, and that it could be used for qualifying disability expenses including housing, transportation, health, and basic living expenses.
- **Inform SSI beneficiaries about resources that are excluded:** Many overpayments based on excess resources can be successfully appealed if people knew that money they have saved was excluded. For example, federal tax refunds are excluded from being counted as a resource for 12 months, and pandemic-related Economic Impact Payments (EIPs) are excluded indefinitely. SSA should provide beneficiaries overpaid due to excess savings a clear explanation of common exclusions and a process to show the portion of money in the account was due to an excluded resource.
- **Automate earnings reporting:** A 2015 law gave SSA the authority to automate earnings reporting through a data sharing agreement. The agency is currently working on a notice of proposed rulemaking to implement its access to and use of wage and employment information held by payroll data providers.³² Such regulations should include strong protections including a presumption that overpayments caused by earnings are not the claimant's fault when they agree to participate in this automated data-sharing process. They would also include robust due process rights for beneficiaries, such as an opportunity to dispute inaccurate earnings reports before benefits are reduced based upon them.
- **Remind SSDI beneficiaries of earnings reporting requirements:** Mailing reminder letters and/or postcards to a targeted group of SSDI beneficiaries who are most at risk of unreported earnings and overpayments could be a cost-effective way of reducing work-related overpayments.³³ Data

³² RIN 0960-AH88, <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202304&RIN=0960-AH88>

³³ <https://www.sciencedirect.com/science/article/pii/S1936657423000110?via%3Dihub>

analytics can be used to identify which SSDI beneficiaries should receive a mailing, and when the reminder should be sent. Targeted earnings reporting reminders mailed to SSI beneficiaries generated an estimated \$6 in savings for every \$1 spent by SSA.³⁴

- **Improve interface available at mySocialSecurity account:** SSA should improve the interface available online, by having a user-friendly portal where beneficiaries can track their current status, easily report changes, track overpayments, and access information and forms. Real-time updates can alert beneficiaries to potential issues before they become larger problems.
- **Improve wage reporting application:** Many beneficiaries report having difficulty using the SSA Mobile Wage Reporting App. It asks claimants to report gross monthly wages, without the ability to report multiple jobs separately. It is difficult for some claimants who have numerous part-time or gig jobs to combine these wages. The Mobile Wage Reporting App is glitchy, and many claimants say SSA routinely claims they did not receive wages they tried to report through the app. It is essential that SSA ensure its mobile app functions more reliably.
- **Simplification:** To the extent possible within its statutory authority, SSA should simplify SSI program rules and SSDI work incentive rules. The agency is already taking important steps to simplify ISM rules, through proposed regulations to eliminate food from consideration, simplify rules for renters, and exempt more public assistance households from ISM. The agency could do more to simplify other SSI program rules and SSDI work incentive rules to prevent overpayments.
- **Timely processing:** The size of overpayments snowballs the longer the agency takes to detect overpayments. For example, it takes SSA 16 to 31 months, on average, to detect an SSDI overpayment due to work, and often much longer.³⁵ Delays and backlogs have been fueled by underfunding and understaffing at SSA.³⁶ However, there is more the agency can do to automate processing, which would speed things up and limit the amount of overpayments.

When beneficiaries are overpaid, the agency should use its statutory waiver authority much more broadly, automate waivers as much as possible, and reduce barriers to apply for and be granted waivers.

- **Use statutory waiver authority more broadly.** SSA has broad authority to waive overpayments but uses it very narrowly. Many of these restrictions are codified in the regulations, while others are in place through sub-regulatory policies. The “equity and good conscience” criteria could be expanded through a regulatory change. As it is, the overly narrow regulations on this criteria do not line up at all with the plain language of the term “against equity and good conscience.” The “defeats the purpose” criteria could also be used more broadly. For example, any Social Security or SSI beneficiary who receives SNAP or Extra Help has been determined not to be able to afford basic living expenses. These beneficiaries could be identified through data matches and have their overpayments automatically waived.³⁷ This would provide relief to struggling beneficiaries and ease the administrative burden on SSA. SSA should also reform its sub-regulatory policy on when repayment would defeat the purpose of the program. For example, that policy requires

³⁴ https://www.nber.org/system/files/working_papers/w27875/w27875.pdf

³⁵ https://www.ssa.gov/disabilityresearch/documents/POD_IB6_Overpayments_Brief.pdf

³⁶ <https://www.ssa.gov/budget/assets/materials/2024/FY24-JEAC.pdf>

³⁷ Automatically waiving overpayments would involve a regulatory change removing the requirement that a beneficiary request a waiver before SSA can waive an overpayment. 20 CFR § 404.502a, § 416.558.

SSI beneficiaries to repay up to \$91 per month (10 percent of the federal benefit rate) if they have more than \$55 left over after expenses at the end of the month--in other words, more than many can afford. The statutory language is more flexible, allowing repayments to be waived if “substantially all” a beneficiary’s income be required for reasonable and necessary expenses.

- **Simplify requirements around “defeat the purpose of the act.”** It is a waste of SSA’s and beneficiaries’ time to do a full financial accounting for and collect documentation from beneficiaries seeking overpayment waivers, when SSA usually already has sufficient information to know the person is so low-income that they do not have the resources with which to pay back an overpayment. Regulatory and sub-regulatory guidance should be updated to minimize the number of claimants who need to provide unnecessary financial information.
- **Automatically grant partial waivers for SSI beneficiaries who exceed the resource limit by a small amount:** SSA has a sub-regulatory policy in place for waiving overpayments when SSI beneficiaries exceed the resource limit by less than \$50 in a month, or when the total amount of the overpaid benefits is more than the amount the resources exceeded the resource limit.³⁸ This policy allows partial waivers--for example, requiring beneficiaries to repay the amount they exceeded SSI’s resource limit, rather than their entire benefit amount for the months in which they exceeded it. However, in practice, SSA employees rarely find that the SSI beneficiary was “without fault” in causing the overpayment when exceeding the resource limit, so this policy is under-utilized. SSA should encourage its employees to waive these overpayments.
- **Automatically grant administrative waivers for small overpayments.** The agency allows waivers for overpayments of \$1,000 or less, but most overpaid beneficiaries don’t know to ask for them, or otherwise don’t successfully complete the process. The agency could change its regulations to allow for automated waivers. Instead of notifying beneficiaries that they owe the agency and can call to request a waiver, SSA could notify them why they have been overpaid and that the overpayment has been waived.
- **Streamline overpayment relief paperwork.** Although SSA has taken the first step toward streamlining the overpayment waiver paperwork with their revised Form SSA-632-BK, the agency could do more. For example, SSA should remove the requirement that beneficiaries provide a detailed accounting of monthly expenses, but instead allow beneficiaries to provide a self-attested estimate of how much remains at the end of the month. SSA should make a waiver application available online, so beneficiaries can complete it, submit it, and track it online. It could also pre-fill information, and—in the online version—only show questions relevant to the beneficiary’s situation.

For beneficiaries who must repay their overpayments, SSA should make recovery less onerous.

- **End full benefit recoupment for Social Security overpayments.** SSA should consider a less harsh default repayment schedule for Social Security beneficiaries, as the statute does not require 100% withholding. Withholding the entire benefit amount causes hardship for the large proportion of beneficiaries who rely heavily on their benefits to meet their basic living expenses.
- **Automate \$10 repayment plans for low-income beneficiaries.** Before initiating recoupment, SSA should use the information already in its systems to identify Social Security beneficiaries enrolled in 100% Medicare Part D subsidy and automatically allow the \$10 monthly repayment

³⁸ <https://secure.ssa.gov/poms.nsf/lnx/0502260035>

plan already permitted by its guidance. SSA should also consider expanding this policy to include Social Security beneficiaries who receive SNAP, because they have also been determined to require assistance to meet their basic needs. SSA should at minimum include information about eligibility for minimum repayment plans in Notices of Overpayment, billing notices, their website, and other written materials.

- **Simplify rules for overpayments caused by cash surrender value of life insurance.** SSA should expand its “unknown asset” policy to include overpayments in which beneficiaries are unaware that their life insurance policy has cash value. Under these rules, assets do not count against a beneficiary’s resource limit during the period that they were unaware of them, and only apply the value of the asset prospectively after the beneficiary becomes aware of the resource.³⁹ SSA should advise people of the availability of this process in the overpayment notice.
- **Simplify rules for waiver of overpayments caused by temporary institutionalization:** SSA should update the sub-regulatory guidance on temporary institutionalization.⁴⁰ For overpayments during an institutionalization of three months or less – which in fact were temporary – SSA should find people without fault for causing the overpayment without further development. For overpayments of four or more months, SSA should consider whether the hospitalization was initially expected to last less than 90 days, and waive that portion of overpayment, and separately consider whether the rest can be waived under current rules. The agency should presume no fault on the part of the beneficiary. It is indisputable that hospitalized persons have significant burdens to providing verifications to SSA, and many claimants either do not know that they have to document eligibility for ongoing benefits for a temporary hospitalization or are not capable of doing so due to the hospitalization.⁴¹

SSA should report more statistics about overpayments. Legislation passed in 2015 requires SSA to report to Congress annually on the number and total value of overpayments recovered or scheduled to be recovered in the previous fiscal year, and the number and total value of overpayments waived during the previous fiscal year.⁴² However, more information about overpayments should be published by SSA, for a better understanding of the scope of the issue, including:

- How many beneficiaries were assessed an overpayment in the previous year, and how many beneficiaries have an outstanding overpayment on their record
- The average value and the distribution of values of overpayments
- Reasons for overpayments
- Length of time before overpayment identified and notification sent to beneficiaries
- Waivers and appeals granted and denied, and on what basis

³⁹ <https://secure.ssa.gov/poms.nsf/lnx/0501110117>

⁴⁰ <https://secure.ssa.gov/poms.nsf/lnx/0500520140>

⁴¹ SSA’s regulatory agenda includes a possible rule change to expand TI benefit eligibility to people who were in fact, temporarily institutionalized, but could not provide evidence of this before their release from the hospital. This would be a preferable response, but if it is not implemented, at minimum, SSA should direct a finding that there is no fault for such overpayment, rather than simply adding “hospitalization” as one of a number of factors for claims representatives to consider.

⁴² <https://www.ssa.gov/legislation/Agency%20Annual%20Overpayment%20Waivers%20Report%202022.pdf>