



a program of Law Foundation of Silicon Valley

152 North Third Street, 3rd Floor

San Jose, California 95112

MHAP Intake Line (408) 280-2420 • Fax (408) 350-1158 • TTD (408) 294-5667

SOCIAL SECURITY OVERPAYMENTS: REQUEST FOR RECONSIDERATION

What is an overpayment?

The Social Security Administration (“SSA”) may give you more money than you were supposed to receive. This extra money is called an “overpayment.” Overpayments can happen for many reasons. For example, if you do not tell SSA that you receive money from work or another income source, this causes an overpayment. Likewise, if you don’t tell SSA when your living situation changes, this may also cause an overpayment.

Why does an overpayment matter?

SSA can take money out of your SSI and/or SSDI checks to get back the overpayment. SSA can take out up to 10% of your monthly SSI check.¹ For example, if your SSI check is \$895.60 per month, SSA can take out \$89.56. SSA can keep your whole SSDI check to get back the overpayment if you don’t respond to the letter from SSA telling you that you were overpaid. If you do not know if you get SSI or SSDI then you can ask the SSA what type of benefit you get.

SSA was wrong about the overpayment. What can I do?

If you think that SSA is wrong about your overpayment you can file an appeal. The appeal is called a *Request for Reconsideration*.

If you agree that you were overpaid, you have other options. You can ask the SSA to waive your overpayment. If the SSA waives your overpayment, they forgive it. For more on waivers, please see our information sheet, “*Social Security Overpayments: Request for Waiver of Overpayment Recovery*.” You can also ask the SSA to lower the amount that you pay back each month by filling out a Request for Change in Repayment Rate. For more information on this, please read our information sheet, “*Social Security Overpayments: Request for Change in Repayment Rate*.”

¹ 20 C.F.R. § 416.571

What does a Request for Reconsideration do?

Form SSA-561 “Request for Reconsideration” asks SSA to take another look to see if they made a mistake about what you owe them. File a *Request for Reconsideration* if **any** of these things are true:

- You think SSA is wrong about the fact that you were overpaid
- You think that SSA is wrong about the amount that you were overpaid
- You think that someone else should be paying back the money to SSA instead of you

Where do I get the form?

You can get it at your local SSA office, online at <http://www.socialsecurity.gov/forms/> or you can call 1-800-772-1213 to request that the SSA mail you a copy the form

How do I file a Request for Reconsideration?

You can file it online, turn it in to your local office, fax it, or send it by mail.

It is important to be able to prove that you turned in your written request. There are a few ways that help prove this:

1. File the Request for Reconsideration on-line and save or print the page with a confirmation that you filed the Request.
2. You can bring 2 copies of the filled out form to the SSA office. Ask the SSA to date stamp both copies. Give them one copy. Keep the other copy for your records.
3. Fax the form to Social Security and keep a copy of the form and a fax confirmation printout. Call the SSA office to make sure they got your fax.
4. Send the form by certified mail and request a return receipt. Keep a copy of your form and the return receipt in case SSA loses what you turned in.

It is very important to file your appeal as soon as possible.

Try to turn in your Request for Reconsideration within **35 days** from the date on the letter saying you have been overpaid. If they get your Request for Reconsideration within 35 days, SSA should not take money out of your check until they make a decision about your appeal.²

If you miss the 35 day deadline you can still turn it in within **65 days** from the date on the letter saying you were overpaid.

If you wait **more than 65 days** to turn in your Request for Reconsideration, you need to include a letter with your appeal that explains why you have a good reason for not turning in your appeal before the deadline. If the SSA thinks you have a good enough reason, they may still process your appeal. Some examples of good reasons may include: not getting the SSA’s letter in time to appeal by the deadline, not understanding how to turn in your appeal, being very sick or caring for a sick family member.³

² 20 CFR § 404.506; POMS SI 02220.0174.e; GN 02201.011

³ 20 C.F.R. §§ 416.1411, 404.911

On the Request for Reconsideration, should I check off the request for a hearing or a case review?

We recommend choosing a formal hearing. When you request a formal hearing, the SSA will schedule a face-to-face meeting between you and an SSA worker. During the meeting, you can ask the worker to show you how the SSA calculated your overpayment. You can also bring in witnesses or evidence showing the SSA that they made a mistake. If the SSA wants more proof from you, you can ask them for more time to get evidence and can ask them for help getting your evidence if it is hard for you to do on your own.

If you request a case review, the SSA will make a decision about your appeal based only on the information you turn in with your appeal. You should send SSA any papers that help prove your case. If you send in documents after you submit the appeal they will not be included in the case review. The SSA will not talk to you before making its decision.

If you change your mind you can switch from a formal hearing to a case review. But, you cannot change from a case review to a formal hearing. An informal hearing is like a formal hearing but it does not give you as many rights.

DISCLAIMER: This fact sheet is intended to provide accurate, general information regarding legal rights. It does not constitute legal advice. Because laws and legal procedures are subject to frequent change and differing interpretations, the Mental Health Advocacy Project cannot ensure the information in this fact sheet is current nor be responsible for any use to which it is put. Do not rely on this information without consulting an attorney or the appropriate agency about your rights in your particular case or situation.