

## When can I file a waiver?

You can file a Request for Waiver of Overpayment at any time until the overpayment has been paid back in full. If you file a Request for Waiver, Social Security will usually not collect the overpayment until they have decided if your Request for Waiver should be approved. If you file a Request for Waiver and it is denied, you may file another if your financial situation gets worse.

### **What if the overpayment is my fault but I can't afford to pay all the money back at one time?**

You can agree to a repayment plan with SSA where you pay back a small amount of the overpayment each month. This amount comes directly out of your monthly check until the overpayment is paid in full. If you are receiving SSI, the monthly payment amount could be as low as \$10 per month.

### **Where can I get legal help with an overpayment problem?**

You can contact us for help with your overpayment problem. We can review your papers and give you legal advice on how you should proceed.

### **We may also be able to represent you.**

Additional information may be found at:

**LawHelp.org/SC**

South Carolina's guide to free legal resources

## Public Benefits Cases Accepted

Food Stamps  
Medicaid  
Medicare  
Social Security  
Supplemental Security Income  
TANF/FI  
Unemployment Compensation  
Veterans Benefits

## Other Legal Representation

Consumer & Bankruptcy  
Education  
Employment  
Family  
Federal Income Tax  
Housing  
Migrant Farm Workers  
Probate

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*Balancing the Scales of Justice*

# OVERPAYMENT OF SOCIAL SECURITY



## Our Mission

South Carolina Legal Services is a statewide law firm that provides civil legal services to protect the rights and represent the interests of low-income South Carolinians.

## For Free Services

1 (888) 346-5592

[contactus@sclegal.org](mailto:contactus@sclegal.org)

[www.sclegal.org](http://www.sclegal.org) / [www.lawhelp.org/sc](http://www.lawhelp.org/sc)

[www.probono.net/sc](http://www.probono.net/sc)

## What is an overpayment and should I appeal?

An overpayment occurs when an agency says they paid you too many benefits and tells you to pay them back. Overpayments usually occur because the agency does not think that you are still eligible for benefits or that you were not eligible for the amount of benefits you received.



If Social Security tells you that they overpaid your benefits, you have the right to appeal. You can appeal if you do not believe an overpayment occurred or if you believe Social Security miscalculated the amount of the overpayment. You must file an appeal within **60 days** of the Notice of Overpayment. You may get the appeal form from your local Social Security office, by calling Social Security at **1-800-772-1212**, or online at [www.ssa.gov](http://www.ssa.gov).

If you do not file an appeal within the 60 day time limit, then you lose your right to object to the overpayment.

## What if I can't afford to pay the overpayment back?

Social Security (SS) can decide to not collect the overpayment in certain circumstances.

- You can ask that Social Security not collect, or waive, the overpayment. You may make this request by filing a Request of Waiver of Overpayment.
- To qualify for a waiver, you must show that:
  - 1) you were not at fault for causing the overpayment,
  - 2) paying back the money would cause a financial hardship for you.



## What does “financial hardship” mean?

A financial hardship means that you will not have enough money left over to pay the overpayment after you pay all of your necessary monthly expenses. SSA considers necessary monthly expenses to be rent/mortgage, utilities, car payments, gas, insurances, taxes, credit card bills, etc. SSA only considers the minimum monthly payments.

## What does it mean to not be at fault for creating the overpayment?

### An overpayment may not be your fault if:

- You reported income to SSA within 30 days, but SSA did not enter the information into your file.
- You were not aware of the income or asset.
- You had a representative payee appointed for you and they failed to report income or assets. In this case, SSA could go after the representative payee for reimbursement.

If you did not timely report earnings or assets to SSA, and an overpayment occurred, then you are not eligible for a waiver.

