

Overpayments in the Social Security Administration's Programs: In Brief

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Introduction

An overpayment in Social Security Administration (SSA) programs occurs when the agency pays a beneficiary more than it should have paid (i.e., more than the beneficiary was entitled to receive). SSA's overpayments can occur for a variety of reasons originating from either the agency or the beneficiary. Once SSA has determined that an overpayment has been made, the overpayment becomes a debt owed to the federal government, and the agency will attempt to recover the overpayment through different repayment options.

Some overpayments in SSA's programs can be large for individuals or households. In certain cases, overpayments can accumulate over several years before SSA identifies that the payments were inaccurate and can sometimes total thousands of dollars. Repaying the overpayment debt can sometimes create financial hardship for overpaid individuals. Congress has shown interest in reducing the occurrence of overpayments in SSA's programs and the financial hardship for overpaid individuals who have relied on the overpayments in their financial decisionmaking.¹

To help policymakers understand the current policies for SSA's overpayments, this report provides summarized information on (1) the amount of overpayments; (2) the major causes of those overpayments and corresponding policies aimed to reduce the occurrence and amount of overpayments; and (3) the statutory and regulatory requirements for overpayment recovery, including overpayment notices, liable individuals, appeal and waiver rights, recovery methods, and the look-back period.

The Amount of Overpayments

SSA administers the Old-Age, Survivors, and Disability Insurance (OASDI, commonly known as Social Security) and the Supplemental Security Income (SSI) programs (described below).² In August 2024, SSA paid approximately \$121.4 billion to about 68.1 million OASDI beneficiaries and approximately \$5.5 billion to about 7.4 million SSI recipients (including 2.5 million individuals receiving both OASDI and SSI benefits).³

Improper payments occur when SSA pays a beneficiary an amount that is different from the amount the agency should have paid (i.e., generally the amount a beneficiary was entitled to receive).⁴ Improper payments can be overpayments, when SSA pays the beneficiary more than the correct amount, or underpayments, when SSA pays someone less than the correct amount. This report focuses on the agency's overpayments.⁵ In FY2022, SSA paid an estimated \$6.5

¹ For example, see U.S. Congress, House Committee on Ways and Means, Subcommittee on Social Security, *Protecting Beneficiaries from the Harm of Improper Payments*, hearing, 118th Cong., 1st sess., October 18, 2023, H.Hrg. 118-SS03, <https://www.govinfo.gov/content/pkg/CHRG-118hhrg55064/pdf/CHRG-118hhrg55064.pdf>.

² SSA also administers the Special Veterans Benefits (SVB) program. The SVB program is authorized under Title VIII of the Social Security Act. SVB became effective in May 2000 and provides monthly benefits to certain veterans of World War II who were previously eligible for SSI payments and reside outside of the United States. Due to the small size of the SVB program, this report focuses on the OASDI and SSI programs.

³ SSA, "Monthly Statistical Snapshot, August 2024," https://www.ssa.gov/policy/docs/quickfacts/stat_snapshot/2024-08.html.

⁴ SSA considers a payment *improper* if it differs from the amount a beneficiary was entitled to receive due to (1) SSA's mistake in computing the payment, (2) SSA's failure to obtain or act on available information affecting the payment, (3) a beneficiary's failure to report an event, or (4) a beneficiary's incorrect report. For more information, see SSA, *FY2023 Agency Financial Report*, p. 175, <https://www.ssa.gov/finance/2023/Full%20FY%202023%20AFR.pdf>.

⁵ Not all overpayments are improper payments. For example, statutory benefit continuation allows a Social Security (continued...)

billion in overpayments (or 0.5% of total benefit outlays) in the OASDI program and \$4.6 billion in overpayments (or 8.0% of total benefit outlays) in the SSI program (see **Table 1**). SSA recovered \$4.9 billion in OASDI and SSI overpayments during FY2023 and had a \$23 billion uncollected overpayment balance at the end of FY2023.⁶

Table 1. Social Security Administration (SSA) Improper Payments in FY2022

	OASDI		SSI	
	Amount (in Billions)	Percent of Outlays	Amount (in Billions)	Percent of Outlays
Total Outlays	\$1,269.6	100.00%	\$57.6	100.00%
Improper Payments	8.3	0.66	5.3	9.20
Overpayments	6.5	0.51	4.6	8.02
Underpayments	1.8	0.14	0.7	1.18

Source: SSA, *FY2023 Agency Financial Report*, pp. 177 and 182, <https://www.ssa.gov/finance/2023/Full%20FY%202023%20AFR.pdf>.

Notes: OASDI is the Old-Age, Survivor, and Disability Insurance program or Social Security. SSI is the Supplemental Security Income program. Data are estimates from SSA. Components may not sum to totals due to rounding.

Overview of OASDI and SSI

OASDI is a work-based federal insurance program that provides monthly cash benefits to workers and their eligible family members in the event of a worker's retirement, disability, or death.⁷ Workers obtain insurance protection (i.e., insured status) by working for a sufficient number of years in jobs covered by Social Security (i.e., jobs in which the workers' earnings were subject to the Social Security payroll tax). Benefits are based on the worker's career-average earnings in jobs covered by Social Security, and the program is financed primarily by payroll taxes, which are credited to the Social Security trust funds.⁸

SSI is a federal assistance program that provides monthly cash payments to aged, blind, or disabled individuals who have limited income and resources (e.g., assets). The program is intended to provide eligible individuals with a guaranteed minimum income for meeting basic needs, such as food and shelter. SSI provides a flat maximum monthly benefit, which is reduced by any countable income. Federal SSI benefits and administrative costs are financed by annual appropriations from general revenues. Some states complement federal SSI payments by providing state supplementary payments (SSPs), which are financed solely with state funds. States may elect to have SSA administer the SSPs on their behalf, provided they pay a user fee on each SSP to the federal government.⁹

Major Causes of Overpayments

SSA's overpayments can occur for a variety of reasons originating from either the agency or the beneficiary. Eligibility and benefit amounts for OASDI and SSI are dependent on a number of

Disability Insurance (SSDI) beneficiary or SSI recipient to continue receiving benefits and associated health care coverage while appealing a medical cessation determination at the level of reconsideration or administrative law judge hearing. Overpayments accumulate during the appeals process if the medical cessation decision is upheld. See 42 U.S.C. §§423(g) and 1383(a)(7) and SSA, Program Operations Manual System (POMS), DI 12027.010, DI 12027.050, and SI 02301.300.

⁶ SSA, *FY2023 Agency Financial Report*, p. 172, Figure 4.

⁷ See CRS In Focus IF10426, *Social Security Overview*.

⁸ For more information, see CRS In Focus IF10426, *Social Security Overview*.

⁹ For more information, see CRS In Focus IF10482, *Supplemental Security Income (SSI)*.

factors, which may include age, marital status, household composition, dependency for support, employment and earnings, financial resources, and income or benefits from other sources.¹⁰ Some factors may be a major cause of overpayments for only one program, while others may affect both OASDI and SSI.

Beneficiaries might not report changes in their income, employment, resources, family, or living arrangements accurately or promptly to the agency. The agency might not process the information promptly, or it may have errors in data entry, the application of policy, or administrative process resulting in overpayments. Regardless of the factor, time is a critical element, because OASDI and SSI eligibility and benefit amounts are determined on a monthly basis. Monthly eligibility and benefit determinations increase the likelihood of incurring an overpayment before a report can be correctly processed. Similarly, monthly overpayments may accrue before quarterly or annual data could detect a missed report or reporting error.

SSA's efforts to reduce overpayments generally include automation, additional training for SSA staff, policy simplification, new reporting tools for beneficiaries, use of nonmedical redeterminations and limited issue reviews to assess continuing eligibility, and the detection and verification of wages through administrative data sources.

Miscalculation by SSA

Eligibility and benefit amounts for Social Security and SSI depend on several factors. Some calculations can be complex and require manual employee actions.¹¹ Historically, failure to correctly apply the Windfall Elimination Provision (WEP, explained later), adjustment for the family maximum,¹² and retirement insurance benefit limitation (also known as the widow's limit)¹³ were leading causes of Social Security overpayments as a result of computation errors.¹⁴

The Office of Management and Budget's "Program Integrity Scorecard" includes a statement from SSA about efforts to reduce miscalculation in the Social Security program:

To reduce overpayments that occur because we did not take timely or appropriate actions, we will continue examining our internal policies and procedures for opportunities to improve. We will clarify, simplify, and streamline our policies and business processes. We will implement automation solutions, where possible, and issue training and reminders to improve technician accuracy and understanding, as needed.¹⁵

¹⁰ Other eligibility criteria listed on [Paymentaccuracy.gov](https://www.paymentaccuracy.gov) include military status, prisoner status, address and residency, and death data.

¹¹ SSA, Office of the Inspector General, *Incorrect Old-Age, Survivors and Disability Insurance Benefit Payment Computations That Resulted in Overpayments*, May 26, 2022, <https://oig.ssa.gov/assets/uploads/a-07-18-50674.pdf>.

¹² The total amount of Social Security benefits payable to a family based on a retired, disabled, or deceased worker's record is capped by the maximum family benefit. For more information, see CRS Report R42035, *Social Security Primer*.

¹³ Generally, a survivor can receive no larger benefit than what the deceased worker would have received. For more information, see CRS In Focus IF12091, *Social Security: The Widow(er)'s Limit Provision*.

¹⁴ SSA, *FY2020 Agency Financial Report*, p. 188, <https://www.ssa.gov/finance/2020/Full%20FY%202020%20AFR.pdf>.

¹⁵ Office of Management and Budget, *Social Security Administration, Old-Age, Survivors, and Disability Insurance (OASDI), Payment Integrity Scorecard, Q1 2024*, [https://www.cfo.gov/wp-content/uploads/scorecards/FY24-Q1/Old%20-Age,%20Survivors,%20and%20disability%20Insurance%20\(OASDI\).pdf](https://www.cfo.gov/wp-content/uploads/scorecards/FY24-Q1/Old%20-Age,%20Survivors,%20and%20disability%20Insurance%20(OASDI).pdf).

SSA's Office of Inspector General (OIG) noted that legislation would be required to simplify computations, because the Social Security Act outlines how SSA must determine entitlement and compute benefits in various situations.¹⁶

Pensions Based on Noncovered Employment

Social Security benefits for individuals also receiving pensions based on earnings from employment not covered by Social Security may be subject to the WEP and Government Pension Offset (GPO).¹⁷ The WEP reduces the Social Security benefits of certain retired or disabled workers who are also entitled to pension benefits based on earnings from jobs that were not covered by Social Security and thus not subject to the Social Security payroll tax. The GPO adjusts the Social Security spouse's or widow(er)'s benefits of most people who also receive pensions based on noncovered employment from federal, state, or local government. Incorrect application of the WEP and GPO policy has been a source of calculation errors by the agency.¹⁸

Lack of data on receipt of pensions based on noncovered employment is also a cause of overpayments due to the WEP and GPO. A September 2023 OIG audit found that SSA is reliant on beneficiaries to report their noncovered pensions to the agency (except for federal employees for whom the Office of Personnel Management sends monthly pension notifications). SSA requested a data collection or data match with the Internal Revenue Service (IRS) to provide noncovered pension information from IRS Form 1099-R. IRS indicated that although it is authorized to share information with SSA for administration of SSI, it is not permitted to disclose noncovered pension information to SSA for administration of Social Security.¹⁹

Earnings

Earnings are a major cause of Social Security Disability Insurance (SSDI) and SSI overpayments.²⁰ When SSDI beneficiaries and SSI recipients work, their earnings amounts are one factor in determining whether they remain eligible for monthly benefits.²¹ SSDI and SSI have complex rules—including various statutory and regulatory work rules (called work incentives)—on whether and how much earnings count when determining eligibility for both programs and SSI payment amounts.²² Failure to understand the complex rules regarding work and reporting earnings may be one reason that SSDI beneficiaries and SSI recipients may not report earnings

¹⁶ SSA OIG, *Incorrect Old-Age, Survivors and Disability Insurance Benefit Payment Computations*.

¹⁷ For additional information on the WEP and GPO, see CRS In Focus IF10203, *Social Security: The Windfall Elimination Provision (WEP) and the Government Pension Offset (GPO)*.

¹⁸ SSA, *FY2023 Agency Financial Report*, pp. 178-180.

¹⁹ SSA OIG, *Government Pension Data for the Windfall Elimination Provision and Government Pension Offset Determinations*, September 28, 2023, p. 5, <https://oig.ssa.gov/assets/uploads/a-13-20-50970.pdf>.

²⁰ For more information on earnings as a source of overpayments, see CRS In Focus IF12702, *Social Security Disability Overpayments Due to Earnings*, and CRS In Focus IF12693, *Supplemental Security Income (SSI) Overpayments Due to Earnings*. Earnings may also cause overpayments for beneficiaries receiving retirement or survivor benefits if they are younger than the full retirement age and work more than certain amounts. See SSA, *How Work Affects Your Benefits*, January 2024, <https://www.ssa.gov/pubs/EN-05-10069.pdf>; and CRS Report R41242, *Social Security Retirement Earnings Test: How Earnings Affect Benefits*.

²¹ For more information, see CRS Report R44948, *Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI): Eligibility, Benefits, and Financing*.

²² SSA, *Red Book*, August 2023, <https://www.ssa.gov/redbook/>. See also testimony of David Weaver, Associate Commissioner for the Office of Research, Demonstration, and Employment Support, SSA, before the House Committee on Ways and Means; June 16, 2015, https://www.ssa.gov/legislation/testimony_061615.html.

promptly to the agency. SSA might not correctly process reports in a timely manner. Delays in reporting earnings and processing earnings reports can result in overpayments.

SSA has taken multiple approaches to address overpayments related to the accuracy of earnings reporting. For example, SSA has developed tools for SSDI beneficiaries and SSI recipients to report their work activity and earnings online or over the phone. SSA also verifies wages and detects unreported work through matches with data from multiple state and federal agencies. However, these data are generally available only annually or quarterly, meaning that monthly overpayments may occur before they can be detected with these matched data.²³

SSA is also implementing the Payroll Information Exchange, under which individuals may authorize SSA to receive their wage and employment information from their employers through participating payroll data providers.²⁴ These data would be sent to SSA on or around the seventh of the month for the previous month. SSA would obtain that information directly from the payroll data providers, reducing reporting requirements for these individuals and improving accuracy.²⁵

Marital Status and Dependency

Marital status can affect eligibility for OASDI and eligibility and payment amounts for SSI. SSA must establish the existence, duration, and validity of a marriage when the marriage is a factor in determining entitlement to some OASDI auxiliary (e.g., spouse or survivor) benefits.²⁶ For example, spousal and survivors' benefits require a minimum length for a marriage, while a child beneficiary generally becomes ineligible for benefits upon marrying.²⁷ Under SSI, for example, having an SSI-eligible spouse means that payments are determined using a couple rate compared to an individual rate.²⁸

SSA relies on individuals to report and provide evidence of marital status, because there is no comprehensive national system with these data.²⁹ To improve such reporting, as of 2009, SSA policy instructs employees to ask applicants for name change replacement Social Security cards if they are receiving benefits or are representative payees and then update applicable records to reflect the change in marital status.³⁰ The National Association for Public Health Statistics and Information Systems (Naphsis) explains the difficulty with providing a national source of administrative data for marriage and divorce: Vital records data are maintained by state vital

²³ For additional information, see CRS In Focus IF12702, *Social Security Disability Overpayments Due to Earnings*, and CRS In Focus IF12693, *Supplemental Security Income (SSI) Overpayments Due to Earnings*.

²⁴ Equifax Workforce Solutions is the sole provider as of the date of this report.

²⁵ SSA, "Use of Electronic Payroll Data to Improve Program Administration," 89 *Federal Register* 11773, February 15, 2024, <https://www.federalregister.gov/documents/2024/02/15/2024-02961/use-of-electronic-payroll-data-to-improve-program-administration>. With respect to accuracy, see also Drew R. Counselman and Vincent J. Pellegrini, *Evaluation of Payroll Information Exchange (PIE) Wage Data Accuracy*, SSA, January 18, 2023, <https://www.regulations.gov/document/SSA-2016-0039-0008>.

²⁶ SSA, *FY2023 Agency Financial Report*, p. 178.

²⁷ For the definitions of *spouse*, *surviving spouse*, *divorced spouse*, and *child*, see 42 U.S.C. §416. See also CRS Report R41479, *Social Security: Revisiting Benefits for Spouses and Survivors*. For eligibility for child benefits, see 42 U.S.C. §§402(d) and 416(e), 20 C.F.R. §404.350, and CRS In Focus IF12069, *Social Security: How Do Children Qualify for Benefits?*

²⁸ For further information on types of OASDI beneficiaries and SSI recipients whose benefits could be affected by marriage, see SSA OIG, *Impact of Undetected Marriages on Social Security Administration Payments*, April 2024, <https://oig.ssa.gov/assets/uploads/012317.pdf>.

²⁹ SSA OIG, *Impact of Undetected Marriages*; SSA, *FY2020 Agency Financial Report*, p. 202.

³⁰ SSA, POMS, RM 10205.105.

records offices, which do not necessarily have ownership of marriage and divorce data, as these data may be collected by counties or municipalities or may be part of the court system.³¹

As of October 2024, individuals in 21 states can apply online for name change replacement Social Security cards.³² SSA verifies the marriage electronically through Naphsis but can use this information only for certain purposes. SSA's application reminds applicants that any individual receiving benefits must also contact his or her local SSA field office to report a marriage.³³

Factors Affecting Only SSI

SSI eligibility is determined, in part, by an individual's assets and income. Income is also used to determine SSI payment amounts. With specified exclusions, income is any cash or item individuals receive in-kind that can be used to meet their needs for food or shelter.³⁴ SSA reports that the major causes of overpayments in the SSI program are changes in financial accounts, wages (earnings, discussed previously), and in-kind support and maintenance.³⁵

According to SSA and SSA's OIG, periodic reviews of recipients' nonmedical eligibility factors (income, resources, and living arrangements)—known as *redeterminations*—are an effective tool for ensuring that recipients are still eligible and receiving the correct amount of SSI, preventing and reducing improper payments. The OIG notes that the nature of the SSI program can make redeterminations complex and time-consuming for staff. As a result, employees may make errors or fail to develop all relevant information. These errors can result in overpayments, which create a burden on recipients and administrative costs to SSA.³⁶

Financial Accounts

The value of an individual's or couple's resources is one of the factors in determining eligibility for SSI. Resources include items such as cash, bank accounts, financial assets, land, life insurance, and anything that could be converted to cash and used for food or shelter.³⁷ A May 2023 OIG audit found that financial accounts are a leading cause of overpayments in the SSI program.³⁸

To address this, since June 2011, SSA has implemented the Access to Financial Institutions (AFI) program when processing initial SSI applications and periodic eligibility redeterminations. AFI verifies bank account balances and searches for undisclosed accounts at potential locations based on the individual's address. SSI claimants and recipients are required to give SSA permission to

³¹ Naphsis, "Naphsis Response: Impact of Undetected Marriages on Social Security Administration Payments (012317)," May 19, 2024, <https://oig.ssa.gov/assets/uploads/012317naphsisngocomments.pdf>.

³² SSA, POMS, RM 10205.630. These 21 states are Arkansas, Colorado, Connecticut, Delaware, Georgia, Hawaii, Idaho, Iowa, Kentucky, Maine, Maryland, Michigan, Missouri, Montana, Nebraska, North Dakota, Rhode Island, South Dakota, Virginia, Wisconsin, and Wyoming.

³³ SSA OIG, *Impact of Undetected Marriages*; and Naphsis, "Naphsis Response."

³⁴ SSA, "SSI Income," <https://www.ssa.gov/ssi/text-income-ussi.htm>.

³⁵ SSA, *FY2023 Agency Financial Report*, p. 183.

³⁶ SSA OIG, *Challenges in Recovering SSI Overpayments*, July 2024, <https://oig.ssa.gov/assets/uploads/a-07-21-51018.pdf>.

³⁷ SSA, "Understanding Supplemental Security Income SSI Resources—2024 Edition," <https://www.ssa.gov/ssi/text-resources-ussi.htm>.

³⁸ Testimony of Tonya Eickman for SSA OIG at U.S. Congress, House Committee on Ways and Means, Subcommittee on Social Security, *Protecting Beneficiaries from the Harm of Improper Payments*, hearing, 118th Cong., 1st sess., October 18, 2023, <https://oig.ssa.gov/congressional-testimony/2023-10-18-protecting-beneficiaries-from-the-harm-of-improper-payments/>.

request their financial records from any financial institution as a condition of their eligibility for the program.³⁹ In 2023, the OIG recommended that SSA study expanding AFI searches between the initial SSI application and subsequent eligibility redeterminations, which the agency agreed to do.⁴⁰

In-Kind Support and Maintenance

SSI considers most forms of income in determining program eligibility and payment amounts. The Social Security Act and SSA's regulations include special rules for evaluating in-kind support and maintenance (ISM),⁴¹ which refers to certain in-kind (non-cash) assistance that a person receives from someone else who paid for it, such as shelter.⁴² The manner in which SSA values ISM depends on a person's living arrangements in addition to certain other factors.⁴³ According to SSA, studies show that many of the errors associated with ISM are due to the complexity of the statute and the agency's policies concerning ISM.⁴⁴

SSA made several recent changes to agency regulations regarding the counting of ISM and other assistance for SSI that took effect on September 30, 2024.⁴⁵ These changes may lessen the likelihood of improper payments by reducing reporting burden and simplifying calculations. They include changing the definition of *public assistance household*⁴⁶ and no longer counting food as part of ISM.⁴⁷ Another change alters the threshold at which SSA determines that the SSI recipient is receiving a rental subsidy. SSA notes that this change "tends to reduce or eliminate the amount of ISM counted towards an individual's SSI payment, which generally results in a higher SSI payment amount."⁴⁸

Statutory and Regulatory Requirements

Once SSA has determined that an overpayment has been made, the agency notifies the liable beneficiary immediately by mail if an address is available.⁴⁹ An overpayment notice explains why the individual has been overpaid, the overpayment amount, repayment options, and appeal and

³⁹ SSA, POMS, SI 00515.001; and 42 U.S.C. §1383(e)(1)(B).

⁴⁰ SSA OIG, *The Social Security Administration's Major Management and Performance Challenges During Fiscal Year 2023*, November 3, 2023, p. 18, <https://oig.ssa.gov/assets/uploads/022330.pdf>.

⁴¹ 42 U.S.C. §1382a(a)(2)(A); 20 C.F.R. §416.1130. SSA, POMS, SI 00835.001.

⁴² Prior to September 20, 2024, ISM also included food. Shelter includes room, rent, mortgage payments, real property taxes, heating fuel, gas, electricity, water, sewerage, and garbage collection services.

⁴³ SSA, POMS, SI 00835.005.

⁴⁴ SSA, *FY2016 Agency Financial Report*, p. 195, <https://www.ssa.gov/finance/2016/Full%20FY%202016%20AFR.pdf>

⁴⁵ Martin O'Malley, Commissioner, SSA, "Statement on Patrice: The Movie and SSI Enhancements Rolling Out," September 30, 2024, <https://blog.ssa.gov/statement-on-patrice-the-movie-and-ssi-enhancements-rolling-out/>.

⁴⁶ SSA, "Social Security to Expand Access to SSI Program by Updating Definition of a Public Assistance Household," press release, May 9, 2024, <https://www.ssa.gov/news/press/releases/2024/#5-2024-3>. See also SSA, "Expand the Definition of a Public Assistance Household," 89 *Federal Register* 28608, April 19, 2024.

⁴⁷ Though SSA is omitting food expenses from ISM calculations, it will still ask a question about food as part of its broader determination of the value of ISM for SSI applicants and recipients. See SSA, "Omitting Food from In-Kind Support and Maintenance Calculations," 89 *Federal Register* 21199, March 27, 2024.

⁴⁸ See SSA, "Expansion of the Rental Subsidy Policy for Supplemental Security Income (SSI) Applicants and Recipients," 89 *Federal Register* 25507, 25508, April 11, 2024.

⁴⁹ SSA, "Overpayments," March 2024, <https://www.ssa.gov/pubs/EN-05-10098.pdf>.

waiver rights.⁵⁰ SSA generally recovers overpayments by adjusting benefits payable to current beneficiaries, collecting a full repayment or installment payments from the overpaid beneficiary, reducing tax refunds due to the beneficiary, or using other methods. The recovery of overpayments from OASDI and SSI programs is authorized under the Social Security Act,⁵¹ including individuals liable for overpayments, rights for appeal and waivers, methods for overpayment recovery and related limitations, and minimum repayment amounts (for SSI). Many important features of overpayment recovery, such as the procedure for requesting appeal and waivers and the schedule of repayment, have been established by SSA through regulations and subregulatory policies.⁵²

Liable Individuals

This section explains who is liable for SSA's overpayments under the OASDI and SSI programs.

Primary and Contingent Liability

The beneficiary who received the overpayment is *primarily* (directly) liable for the overpayment. Thus, he or she is the main person responsible for repaying the overpayment. Under current practice, SSA will generally withhold a portion of monthly benefit payments to this individual until an amount equal to the overpayment has been withheld.⁵³ Primarily liable individuals generally include those receiving benefits,⁵⁴ such as retired or disabled workers under OASDI who receive payments based on their own earnings records and SSI recipients who receive benefits based on their own income and resources.

An individual who has received OASDI benefits based on the same earnings record as the overpaid beneficiary may be *contingently* liable for the primary beneficiary's overpayment. Such individuals include eligible spouses, widow(er)s, children, and parents. While SSA generally first seeks repayment from the beneficiary who is primarily liable, SSA will withhold a portion of monthly benefits payable to individuals who are contingently liable until an amount equal to the overpayment has been refunded.⁵⁵

Joint and Several Liability

Joint and several liability means that two or more people have equal responsibility for the repayment of an overpayment. Each person may be primarily liable for the repayment of the entire overpayment.⁵⁶ Joint and several liability typically appears in the context of a relationship between a representative payee and a beneficiary. A *representative payee* is an individual or organization appointed by SSA to receive Social Security or SSI benefits for someone who cannot manage or direct someone else to manage his or her benefits. The primary responsibilities of a

⁵⁰ 20 C.F.R. §404.502a.

⁵¹ For OASDI, see the Social Security Act, §204, or 42 U.S.C. §404. For SSI, see the Social Security Act, §1631(b), or 42 U.S.C. §1383(b).

⁵² For regulation, see 20 C.F.R. §404.502 for OASDI and 20 C.F.R. §416.537 for SSI.

⁵³ SSA, "Change in Title II Overpayment Default Rate of Benefit Withholding," March 25, 2024, [https://secure.ssa.gov/apps10/reference.nsf/links/03262024103100AM/\\$file/EM-24011+SEN++Change+in+Title+II+Overpayment+Default+Rate+of+Benefit+Withholding_Redacted.pdf](https://secure.ssa.gov/apps10/reference.nsf/links/03262024103100AM/$file/EM-24011+SEN++Change+in+Title+II+Overpayment+Default+Rate+of+Benefit+Withholding_Redacted.pdf); 42 U.S.C. §1383(b).

⁵⁴ 42 U.S.C. §§404(a) and 1383(b)(1)(A); 20 C.F.R. §§404.502(a)(1) and 416.537(a).

⁵⁵ 20 C.F.R. §404.502(a)(2); SSA, "Change in Title II Overpayment Default Rate of Benefit Withholding."

⁵⁶ SSA, POMS, GN 02205.007.

representative payee include using the benefits to pay for the current needs of the beneficiary and properly saving the benefits not needed at the present time.⁵⁷

Generally, a beneficiary and the representative payee are jointly and severally liable if they both had knowledge of the event/information that led to the overpayment. A representative payee may also be primarily liable for an overpayment. For example, if a representative payee misused the funds and the beneficiary did not have access to the funds, then the representative payee would be primarily liable for the overpaid benefits, and the beneficiary is not jointly liable. Similarly, if a beneficiary fails to inform a representative payee of a change that would impact eligibility, then only the beneficiary may be held primarily liable for the overpayment.⁵⁸

Appeal and Waiver Rights

Overpaid beneficiaries (or their representatives) may appeal determinations by requesting reconsideration when they dispute the facts or amounts of overpayments.⁵⁹ An individual generally has to request reconsideration within 60 days of the date the individual received the overpayment notice.⁶⁰

Overpaid individuals may request that SSA waive recovery of the overpayments if they believe they should not have to pay the money back.⁶¹ SSA stops overpayment recovery effective the month it receives the waiver request. The agency also refunds any amount it recovered after the receipt of the waiver request.⁶² When a waiver request is approved, the individual does not have to repay the debt.⁶³ A request for waiver of recovery can be submitted at any time, even after SSA has fully recovered the debt.⁶⁴

Under current law, SSA is to waive recovery of an OASDI or SSI overpayment if the overpaid individual is without fault in causing the overpayment and the recovery would (1) defeat the purpose of the statute or (2) be against equity and good conscience.⁶⁵ *Without fault* means that facts show that the individual did not cause the overpayment.⁶⁶ Recovery of an OASDI overpayment *defeats the purpose of the program* if recovery would deprive the overpaid individual of the income and resources required for ordinary and necessary living expenses.⁶⁷ In addition, SSA generally considers recovery of an overpayment to defeat the purpose of the program if the overpaid individual receives payments from SSI.⁶⁸ Recovery of an overpayment would be *against equity and good conscience* for either of two reasons:

1. The overpaid individual relinquished a valuable right or put himself or herself in a worse financial position because of the receipt of Social Security

⁵⁷ For additional information on representative payee responsibilities, see SSA, *A Guide for Representative Payees*, March 2022, <https://www.ssa.gov/pubs/EN-05-10076.pdf>.

⁵⁸ SSA, POMS, GN 02205.007.

⁵⁹ See 20 C.F.R. §§404.502a and 416.1413(b).

⁶⁰ SSA, POMS, GN 02201.025 and SI 02220.017.

⁶¹ 20 C.F.R. §§404.909 and 416.1409. On September 27, 2024, SSA updated POMS by combining waiver approval procedures for both the OASDI and SSI overpayments. See SSA, POMS, GN02250.301.

⁶² SSA, POMS, GN 02201.019.A and SI 02260.001.A.3.

⁶³ 20 C.F.R. §413.551; SSA, POMS, GN 02250.360 and SI 02260.001.A.2.

⁶⁴ SSA, POMS, GN 02201.019.A and SI 02260.001.A.3.

⁶⁵ 42 U.S.C. §§404(b) and 1383(b)(1)(B).

⁶⁶ 20 C.F.R. §§404.507, 510-511, and 416.552.

⁶⁷ 20 C.F.R. §§404.508 and 416.553.

⁶⁸ SSA, POMS, SI 02260.020.B.

overpayments. For example, an individual may have purchased a more expensive home in light of the awarded amount of the Social Security benefit but is unable to afford the home after the discovery of a Social Security overpayment.

2. The individual was receiving OASDI benefits on the same earnings record as the overpaid beneficiary or SSI payments as an eligible couple, was living in a separate household from the overpaid beneficiary at the time of the overpayment, and did not receive the overpayment.⁶⁹

Administrative Waiver Tolerances

SSA also waives an SSI overpayment recovery if recovery would impede the efficient or effective administration of the program—that is, the average cost to recover an overpayment is equal to or greater than the amount of the overpayment.⁷⁰ Under current practice, SSA typically does not recover an SSI overpayment if the amount is \$30 or less⁷¹ or if the overpayment was caused by countable resources exceeding the statutory limit⁷² by \$50 or less.⁷³ In these cases, the overpaid individual is deemed to be without fault.

SSA also waives an OASDI or SSI overpayment if the liable person requests a waiver and the total amount of the overpayment is at or below a certain threshold unless there is some indication that the person may be at fault. The threshold amount was \$1,000 until it was increased to \$2,000 starting May 20, 2024.⁷⁴

Recovery Methods

If the overpaid individual does not request reconsideration, request a waiver, or repay in full, SSA usually recovers the overpayment through one of several options. For current beneficiaries, SSA usually recovers the overpayment through internal collection tools (e.g., withholding ongoing monthly payments). If the overpaid individual's benefits end, SSA can recover overpayments through authorized external debt collection methods, such as federal tax return offset.

Internal Collections

For current beneficiaries, SSA generally recovers this debt from the overpaid beneficiary (or the representative payee) through an adjustment to ongoing benefit payments. SSA withholds a portion of the beneficiary's ongoing payments each month until the debt has been fully repaid.⁷⁵ The rate of recovery through benefit adjustment in OASDI is generally different from that of SSI. Benefit withholding begins approximately 60 days after SSA sends the overpayment notice.

To recover an OASDI overpayment, SSA used to generally withhold the *full* monthly benefit in default. The overpaid individual could request to change the rate of recovery—to an amount no less than \$10 per month—if he or she was unable to meet ordinary and necessary living expenses

⁶⁹ 20 C.F.R. §§404.509 and 416.554.

⁷⁰ 42 U.S.C. §1383(b)(1)(B); 20 C.F.R. §416.555.

⁷¹ SSA, POMS, SI 02260.030.

⁷² The countable resource limit is \$2,000 for an individual and \$3,000 for a couple. These limits are not adjusted for inflation. See 20 C.F.R. §416.1205.

⁷³ 20 C.F.R. §416.556.

⁷⁴ SSA, POMS, GN 02250.350.

⁷⁵ 42 U.S.C. §§404(a) and 1383(b)(1)(B); 20 C.F.R. §§404.502(a) and 416.571.

if the entire Social Security monthly benefit were withheld.⁷⁶ On March 25, 2024, SSA reduced the default withholding rate from 100% of the monthly benefit to 10% (but no less than \$10 except for special situations), excluding cases of fraud convictions or similar fault determination.⁷⁷ An overpaid individual may request a recovery rate greater than 10% of the monthly benefit. This new default rate is automatically applied to overpayments created on or after April 15, 2024. Overpaid individuals who are currently repaying at rates greater than 10% can request a recovery rate as low as 10% (but no less than \$10).

For the recovery of SSI overpayments, federal law requires the rate of adjustment to be the *lesser* of (1) 10% of the overpaid individual's total monthly income (countable income plus SSI and any state supplementary payment)⁷⁸ or (2) the recipient's entire SSI monthly benefit.⁷⁹ If the overpaid individual receives income only from SSI, SSA may withhold 10% of the monthly benefit payment until the overpayment is fully repaid, provided that the debt is not appealed or waived.

In addition, the cross-program recovery method allows SSA to recover overpayments in OASDI or SSI from a debtor by withholding a portion of ongoing monthly benefits payable to the individual under either of the two programs (subject to certain limits).⁸⁰ For example, SSA may recover SSI overpayments from a person's monthly OASDI benefits.

External Debt Collection

If the overpaid individual is not currently receiving benefits, SSA offers the option to repay the overpayment debt in full or in monthly installments. The debt is typically considered *delinquent* when the individual has made no voluntary repayments or it has been 30 days since the last voluntary repayment.⁸¹

For delinquent debt, SSA can turn to authorized external debt collection tools for enforced repayment, including, for example, the Treasury Offset Program (TOP), which can offset money from federal tax refunds and other federal or eligible state payments (i.e., administrative offset),⁸² as well as administrative wage garnishment (AWG).⁸³ Under current practice, SSA does not charge interest on delinquent overpayment debt.⁸⁴

⁷⁶ 20 C.F.R. §404.502(c).

⁷⁷ SSA, "Change in Title II Overpayment Default Rate of Benefit Withholding."

⁷⁸ For the purpose of SSI, countable income includes the individual's gross income minus applicable exclusions. Social Security benefits, after the first \$20 per month, are countable income. For more information, see CRS In Focus IF10482, *Supplemental Security Income (SSI)*.

⁷⁹ 42 U.S.C. §1383(b)(1)(B).

⁸⁰ For more information, see 42 U.S.C. §1320b-17; 20 C.F.R. §§404.530 and 416.572; and SSA, POMS, GN 02210.008 and SI 02220.020.

⁸¹ 31 C.F.R. §5.1; SSA, POMS, GN 02215.235. In cases of the debtor submitting a reconsideration or waiver request, the delinquency date will be 30 days after an affirmation decision on a reconsideration request or a denial decision on a waiver request.

⁸² U.S. Department of the Treasury, Bureau of the Fiscal Service, "Treasury Offset Program," <https://www.fiscal.treasury.gov/TOP/>.

⁸³ 20 C.F.R. §§422.401-422.445. Based on the garnishment order, the debtor's employer withholds up to 15% of the debtor's disposable pay. Disposable pay is that part of the worker's total compensation (such as salary or wages, bonuses, commissions, and vacation pay) from an employer remaining after deductions for health insurance premiums and any other amounts required by law to be withheld. Amounts required to be withheld include deductions such as Social Security contributions and other withholding taxes but do not include amounts withheld under court order.

⁸⁴ For more information, see U.S. Government Accountability Office, *Disability Insurance: SSA Needs to Better Track Efforts and Evaluate Options to Recover Debt and Deter Potential Fraud*, GAO-16-331, April 2016, pp. 19-20, (continued...)

In some cases, SSA may stop its debt collection efforts if the overpayment is temporarily unrecoverable. The overpayment will remain on the benefit record for collection when a future recovery method is available. For example, a former childhood beneficiary may not be aware of an overpayment if the overpayment was found when the individual was a minor and the notice was addressed to the representative payee. SSA may resume its collection efforts through voluntary repayment plans, external debt collection tools, and adjustment of future benefits when the person applies for his or her own OASDI or SSI benefits, which could be more than 40 years later.⁸⁵

Look-Back Period

The *look-back period* for SSA's overpayments refers to the number of years SSA can look back to identify overpaid benefit amounts. Current laws and regulations do not limit SSA's look-back period. Based on SSA's explanation in its policy manual, SSA can determine an overpayment amount based on overpayments that occurred at any time in the past, taking into account the beneficiary's complete payment history.⁸⁶

Laws, regulations, and policies have limited SSA's use of certain external debt collection tools, such as recovering delinquent OASDI and SSI debts via TOP or AWG. Currently, SSA may refer debts with delinquency dates after May 19, 2002, to TOP for recovery.⁸⁷ Subject to certain employment limitations, SSA uses AWG at the same time as TOP and other collection tools.⁸⁸ SSA does not select debts that are delinquent for more than 10 years for AWG. However, if a debt becomes delinquent for more than 10 years after the AWG process begins, SSA does not stop the garnishment.⁸⁹ Additionally, SSA generally does not apply external debt collection tools to debt incurred prior to an individual attaining age 18.⁹⁰ Those limitations do not affect the look-back period but may limit SSA's ability to recover certain older delinquent debt.

<https://www.gao.gov/products/gao-16-331>. With respect to debts that are in the process of being repaid, such as through benefit withholding, SSA has determined that it does not have the authority to charge interest. However, SSA does have the authority to charge interest on *delinquent* overpayment debt, but the agency has not done so due to resource constraints and competing priorities.

⁸⁵ SSA OIG, *Recovering Title II Overpayments Made to Childhood Beneficiaries*, July 2016, <https://oig-files.ssa.gov/audits/full/A-04-16-50110.pdf>.

⁸⁶ SSA, POMS, GN 02201.003.

⁸⁷ SSA, POMS, GN 02201.029, GN 02201.030, GN 02210.217, and SI 02220.012.

⁸⁸ SSA, POMS, GN 02201.040. The receipt of AWG payments does not preclude SSA from using other debt collection methods. SSA's system automatically updates the balance of the debt being collected under AWG, TOP, and others, thus preventing excess collections.

⁸⁹ SSA, POMS, GN 02201.040. The 10-year delinquency limitation is not specified in law or regulations. AWG does not include federal salary offset, which is not subject to the 10-year delinquency limitation. See SSA, POMS, GN 02201.043.

⁹⁰ 42 U.S.C. §404 (f)(2); SSA, POMS, GN 02201.030, SI 02220.012, GN 02201.031, SI 02220.013, GN 02201.040, GN 02201.043, GN 02201.032, and SI 02220.014.

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