

The Social Security Administration's Wage Garnishment Rules for Overpayments

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Effective January 22, 2004, the Social Security Administration (SSA) may, in certain circumstances, garnish a person's wages in order to collect overpayment amounts owed. However, the situations under which Social Security can take such action are limited and there are several steps that can be taken by individuals to avoid this garnishment altogether.

Advocacy Tips: Avoiding the Possibility of Wage Garnishment Altogether

Individuals cannot always avoid receiving overpayments from SSA. However, individuals should report their income in a timely manner so that SSA has the information to properly calculate their benefit eligibility and amount. When individuals fail to report their income to SSA, overpayments will likely occur and SSA will seek return of the benefits through the overpayment process.

SSA will only garnish wages of individuals as a last resort. An individual and/or his or her advocate will have plenty of opportunities to resolve an overpayment situation prior to the notice of a garnishment of wages. These include:

1. Filing a Request for Reconsideration of the overpayment;
2. Filing a Request for Waiver of Overpayment Recovery;
3. Negotiating a repayment plan with the local office.

Whose Wages Can Or Cannot Be Garnished?

Fortunately, SSA will only garnish the wages of current or past benefit recipients in specific, limited circumstances. SSA allows individuals many opportunities to

address their overpayment prior to actually garnishing wages. Therefore, the group of people affected by these rules should be rather limited.

SSA will not garnish the wages to collect either an **SSDI overpayment** or an **SSI overpayment** if any of the following are applicable:

1. The wages are paid by the United States government;
2. The individual had been involuntarily separated from employment and has not been reemployed continuously for at least 12 months;
3. The individual's benefits are stopped during the Extended Period of Eligibility because of engagement in substantial gainful activity;
4. The individual's Medicare entitlement is continued under the extended Medicare rules; or
5. The individual's ticket under the Ticket to Work Program is currently "in use".

SSA will not garnish wages to collect an **SSDI overpayment** if any of the following are applicable:

1. The individual is currently receiving SSDI payments;
2. SSA has not completed its billing system sequence (i.e., initial notice of overpayment, reminder notice, and past-due notice) or has suspended or terminated collection activity in accordance with applicable rules such as the Federal Claims Collection Standards;
3. The individual has made an installment payment arrangement with SSA and has not failed to make a payment for two consecutive months;
4. The individual has requested a waiver of the overpayment and SSA has not made an initial determination to deny the waiver request; or
5. The individual has requested reconsideration of the initial overpayment determination and SSA has not yet affirmed all or part of the initial determination.

SSA will not garnish wages to collect an **SSI overpayment** if any of the following are applicable:

1. The individual is receiving SSI cash benefits;
2. The individual's current SSI cash benefits are being offset to collect the overpayment;
3. SSA has not completed its billing system sequence (i.e., initial notice of overpayment, reminder notice, and past-due notice) or has suspended or terminated collection activity in accordance with applicable rules such as the Federal Claims Collection standards;
4. The individual has made an installment payment arrangement with SSA and has not failed to make a payment for two consecutive months;

5. The individual has requested a waiver of the overpayment and SSA has not made an initial determination to deny the waiver request; or
6. The individual has requested reconsideration of the initial overpayment determination and SSA has not yet affirmed all or part of the initial determination.

What process will SSA follow before actually garnishing wages?

Before a person's wages can be garnished, they must be sent written notice. Among other information, the notice must state that SSA has determined that the payment of a debt is past due, the nature and amount of the debt, and a payment schedule. SSA will order the employer to garnish wages 60 days after the date of this notice if no action is taken by the individual.

What can an individual do to stop the garnishment after receiving the Notice?

An individual has a few options to stop the garnishment within 60 days of receiving the notice:

1. Pay the debt in full;
2. Request a review of the debt or the payment schedule. While this review is pending, SSA will not garnish wages;
3. Request to pay the debt by monthly installments to SSA. As long as the individual does not miss more than two consecutive months of payments, no wage garnishment order will be issued.

After the 60 days have passed, SSA will begin garnishing the wages if none of the above options are exercised by the individual.

A person can still request a review of the debt or the payment schedule outside of the 60 day deadline. However, a request filed outside of the 60 day deadline will not stop the current garnishment of wages while SSA reviews the request, with two exceptions. The first exception is SSA determines the individual had **good cause** for missing the 60 day deadline. The second exception occurs when 60 days have passed since the filing and SSA has not made a decision. If this occurs, SSA must stop garnishing wages until a decision is made.

If SSA finds good cause for missing the 60 day deadline, the filing will be treated as timely and garnishment will not begin or will cease. In determining if there is good cause, SSA will consider any circumstances that kept the individual from making the request on time, whether SSA action misled the individual, and/or whether any physical, mental, educational, or linguistic limitation prevented the individual from timely filing.

How much is SSA allowed to garnish from a person's wages?

SSA is allowed to recoup the lesser of 15% of your disposable pay or the amount by which your disposable pay exceeds thirty times the minimum wage.

Disposable pay is defined as that part of your total compensation (including, but not limited to, salary or wages, bonuses, commissions, and vacation pay) after deduction of health insurance premiums and amounts withheld as required by law. Other amounts withheld include federal, state, and local taxes.

Can an individual have the amount garnished reduced?

Absent fraud, SSA may reduce the amount of wages garnished from an individual's paycheck if the individual can prove the garnishment is causing him or her a financial hardship. Financial hardship is defined as a situation in which withholding a particular amount from the individual's pay would deprive the individual of income necessary to meet ordinary and necessary living expenses. This request for reduction can be made at any time, and, no withholding will occur if the request is made within 60 days of the notice of garnishment.