

INSERTS

Statutory Benefit Continuation (SBC)

I am not at fault regarding the overpayment for statutory benefit continuation because the appeal was made in good faith and I cooperated with the appeal. POMS SI 02260.007(2)(a) states that:

In a medical cessation case (including disability redetermination cases) involving an overpayment of statutory benefit continuation payments, the individual is entitled to waiver consideration if the cessation determination was appealed in good faith. The regulations state we will assume the appeal was made in good faith unless the individual fails to cooperate in connection with the appeal, e.g., if he/she fails, without good reason, to give us medical or other evidence we request, or go for a physical or mental examination when requested, in connection with the appeal.

“In most cases, it would be appropriate to find that where the individual acted in good faith to pursue the appeal the individual is without fault in causing the overpayment.” POMS SI 02260.007(2)(b).

Economic Impact Payment (EIP)

The alleged overpayment was caused because my account was over the resource limit. However, my account balance included Economic Impact Payment (EIP) stimulus funds that should have been excluded from my account balance. “Resource exclusions for pandemic-related disaster assistance are not time-limited exclusions. Retained disaster assistance is excluded from resources indefinitely.” EM-21050 REV 5. Once the EIP funds are properly excluded from my account balance, I am not over resource and therefore there was no overpayment.

Federal Tax Returns

The alleged overpayment was caused because my account was over the resource limit. However, my account balance included my federal tax refund which should have been excluded from my account balance. “The law excludes all Federal tax refunds and advance tax credits from resource counting for a period of 12 months after the month of receipt.” POMS SI 01130.676. Once the federal tax refund is properly excluded from my account balance for 12 months, I am not over resource and therefore there was no overpayment.

Holocaust Reparations

The alleged overpayment was caused because my account was over the resource limit. However, my account balance included Holocaust reparation payments that should have been excluded from my account balance. "Effective on or after August 1, 1994, exclude from income and resources payments received from any source before, on, or after that date by individuals because of their status as victims of Nazi persecution." POMS SI 01130.610; SI 00830.710; SI 00830.712; SI 01130.612. Once the reparation payments are properly excluded from my account balance, I am not over resource and therefore there was no overpayment.

Nursing Home (< 90 days)

I was in a medical, rehabilitation, or nursing home facility for less than 90 days, so I was eligible for Temporary Institutionalization (TI) Benefits under POMS SI 00520.140. I was not aware of how to access TI benefits and I did not know that I needed my doctor to fill out a form and send it to SSA to show I would be in the facility for less than 90 days. Since I was in the facility for serious medical conditions, I was not in a position to understand and comply with SSA’s reporting requirements. Also, I am a ____ - year-old native speaker of [LANGUAGE] and all of my notices have been in English. If I had been able to understand and comply with SSA’s reporting requirements, then I would have received TI benefits and had no overpayment.

Nursing Home (> 90 days)

I was in a medical, rehabilitation, or nursing home facility for more than 90 days. Since I was in the facility for serious medical conditions, such as _____, I was not in a position to

understand and comply with SSA's reporting requirements. Also, I am a ___-year-old native speaker of [LANGUAGE] and all of my notices have been in English. I am not at fault in causing the overpayment. SSA must consider all of the circumstances surrounding the overpayment in each case taking into account any physical, mental, educational or linguistic limitations (including any lack of facility with the English language) the person has. In evaluating the evidence, SSA must consider, among other things, the individual's ability (as determined by age, comprehension, education, memory, physical and mental condition (**which may include medical institutionalization during part or all of the overpayment period**), linguistic limitations, etc.) to understand and comply with the reporting requirements. POMS GN 02250.005; *see also* POMS SI 02260.010. "If the evidence clearly shows the individual did not understand and comply with reporting responsibilities, that individual can usually be found without fault. Resolve any doubt in favor of the individual." POMS GN 02250.005.