

DATE

Social Security

ADDRESS

**RE:**

**SSN:**

Dear Sir or Madam:

I am writing about a SSDI overpayment of \$\_\_\_\_\_ for [MONTH] to [MONTH] based on a notice dated \_\_\_\_\_. This letter is in support of the attached Request for Waiver of Overpayment. The overpayment should be waived because I am not at fault and recovery is deemed to defeat the purpose.

**NO FAULT**

[Add facts of the case here indicating why the individual was not at fault]

I am not at fault in causing the overpayment. SSA must consider all of the circumstances surrounding the overpayment in each individual 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 the individual's:

understanding of and agreement to comply with reporting requirements,  
knowledge of the occurrence of events that should have been reported,  
efforts to comply with the reporting requirements,  
understanding of the obligation to return payments not due,  
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,  
ability to recognize inconsistencies and evaluate the reasonableness of SSA's actions,  
experience in dealing with government agencies, and  
understanding of the language used by SSA.

POMS GN 02250.005. "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.

**DEEMED TO DEFEAT THE PURPOSE**

[I am OR my dependent is] a current recipient of [SSI or TANF or VA pension based on need] so recovery should be deemed to defeat the purpose and **no financial development is necessary**. Per SSA's directions, "deemed to defeat the purpose" is always reviewed before "defeat the purpose" and if the former applies, then the latter is not needed.

SSA "will waive an overpayment when an individual requests a waiver, we find that the overpaid individual is without fault, and recovery would defeat the purpose of Title II of the Social Security Act. **Before you determine if a waiver request meets the defeats the purpose provision**, consider whether you can approve the waiver under one of the following provisions: Administrative tolerance, see GN 02250.350; Against equity and good conscience, see GN 02250.150; or Deemed to defeat the purpose, see GN 02250.110 (*emphasis added*)." POMS GN 02250.100.

"It is assumed that a person does not have sufficient funds to meet ordinary and necessary living expenses if he qualifies for public assistance. Therefore, if a person receives cash public assistance, recovery is deemed to defeat the purpose." POMS GN 02250.110. As used in this section, "SSI payments, VA service and nonservice related disability pensions and AFDC payments are public assistance." POMS GN 02250.110. SSA should only go on to review a SSDI waiver under the defeat the purpose provision if it cannot be approved under one of the other three provisions first.

Sincerely,

CLIENT NAME

*Completed with the assistance of a legal advocate.*