

DATE

Social Security

ADDRESS

RE:

SSN:

Dear Sir or Madam:

I am writing about a SSI 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 defeats 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; *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.

DEFEAT THE PURPOSE

Recovery will defeat the purpose of Title XVI where the person from whom recovery is sought needs substantially all of his current income to meet ordinary and necessary living expenses. 20 C.F.R. § 416.553. To determine whether an individual needs substantially all his current income to meet ordinary and necessary living expenses, SSA compares monthly household income to expenses. Ordinary and necessary expenses include, but are not limited to:

Fixed living expenses such as rent or mortgage payments;

Utilities, taxes, food, household and personal care items, transportation, insurance (life, homeowners, car, medical, etc.);

Medical payments paid by the family;

Court ordered payments paid directly to the court;

Tuition and school expenses;

Expenses for the support of others for whom the individual is legally responsible; and

Miscellaneous expenses which may be reasonably considered as part of the individual's standard of living, such as newspaper, hairdresser, pet maintenance, entertainment, charitable donations.

POMS SI 02260.020. I generally have very little, if any, income left over after paying the monthly household expenses, therefore recovery should be found to meet the defeats the purpose provision.

Additionally, I meet the resource requirement for defeats the purpose. An individual cannot have more than \$3,000 in resources or \$5,000 if the individual has one household family member. If the individual has more than one household family member, add \$600 for each additional member. POMS SI 02260.020.

[Add facts of the case here developing financial situation if not clear on expense chart including how client is paying bills if expenses exceed income (eg. credit cards, loans, in arrears, etc.).]

Sincerely,

CLIENT NAME

Completed with the assistance of a legal advocate.