



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

November 23, 2021

Acting Administrator Block
Office of Information and Regulatory Affairs
Office of Management and Budget

Submitted via www.reginfo.gov.

Re: Request for Waiver of Overpayment Recovery or Change in Repayment Rate
OMB Control Number: 0960-0037
ICR Reference Number: 202106-0960-008

Dear Acting Administrator Block:

Thank you for the opportunity to submit comments on Social Security Administration's (SSA's) revised Form SSA 632-BK. These comments are submitted on behalf of the undersigned co-chairs of the Social Security Task Force of the Consortium for Citizens with Disabilities (CCD). CCD is the largest coalition of national organizations working together to advocate for federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society.

We fully agree with the comments that Justice in Aging Submitted to SSA on this issue on October 19, 2021, Docket ID number SSA 2021-0024, submitted as an attachment.

I. While We Applaud Streamlining SSA-632-BK, Some Edits Are Concerning.

In general, we support SSA's effort to streamline this form and make it easier to understand and use. We applaud SSA for removing questions related to information they already have in their system and encourage them to use that same strategy to eliminate questions seeking information they have across all their public forms. This is an excellent strategy to reduce the administrative burden placed on beneficiaries (addressed more below).

However, there are several edits we believe should be revised or the previous question should be retained.

- 1) We are concerned that Question 2 under Section 2, formerly Question under Section 4, has eliminated options for answering "What is your reason for requesting a waiver."

Currently, individuals requesting a waiver can also indicate:

- o "I thought I still had a disability that would make me eligible for benefits. I filed an appeal and I fully cooperated with Social Security."

- “I was age 18 and receiving SSI when the overpayment occurred,” and
- “None of the above, please explain:”

We urge OIRA to request SSA to retain these options in Question 2. Removing these options could be confusing and discourage individuals who are eligible for a waiver from requesting one when they received statutory benefit continuation while pursuing an appeal from a denial of continuing disability review or age 18 redetermination.

- 2) Question 4 under Section 2, formerly Question 6 under Section 4, adds a question asking the individual first if they are requesting a waiver for the remaining balance of the overpayment, and then asks if they are requesting a waiver of the entire overpayment amount.

Currently beneficiaries are only asked if they are requesting a waiver for the entire overpayment amount. We urge OIRA to encourage SSA to leave this question as it currently stands only asking if the individual is requesting a waiver for the entire overpayment amount. If a question is added about requesting a waiver for the remaining balance, it should come after the question about whether the individual is requesting a waiver for the entire overpayment amount, not before.

- 3) We are concerned that Question 5 under Section 3 has been changed to ask, “Are you currently receiving SSI payments as your only source of income?” (emphasis added).

We believe the revision is misleading. Adding “as your only source of income” may result in concurrent beneficiaries or others who have a small amount of other income in addition to their SSI benefits to think they need to complete the rest of the form. Instead, we recommend the form simply ask “Are you currently receiving SSI payments?” and then direct anyone who answers “Yes” to go to page 9 to sign the form, and submit it without completing the financial information on the rest of the form.

- 4) We recommend amending Question 6 under Section 3, to ask if someone is receiving additional means-tested benefits including TANF for SNAP benefits.

As noted above, completing the income and expense questions are burdensome on beneficiaries by requiring them to acquire information and documents to explain their financial lives. This process is time consuming, sometimes costly, and can be stressful. Because the receipt of any means-tested benefits indicates the beneficiary has insufficient income to meet their personal needs independently, and cannot afford to repay an overpayment, all recipients of means tested benefits should be able to skip the bulk of this form.

- 5) Question 9 in Section 5, Assets – Things You Have and Own, does not include ABLE Accounts in the list of financial accounts.

Advocates at CCD member organizations have repeatedly received the question from individuals completing Form SSA-632-BK if they should include information about their ABLE Account. We have suggested that they include the account, specifying that it is an ABLE Account under “Type of Account.” ABLE Accounts should be included in the financial accounts given in the directions for Question 9 if they should be listed, or applicants should specifically be directed to

exclude ABLÉ Accounts. The POMS regarding overpayment waivers should also be updated to specify that assets in ABLÉ Accounts are not considered when determining if an individual has assets that can be used to repay an overpayment.

- 6) Question 8 under Section 5, formerly Question 17 under Section 6, does not reflect SSA policy.

As currently stated, this question suggests that if the applicant is seeking an Overpayment Waiver for a child, the parents' income information is only necessary if the child's income and assets help with food and household items. This is misleading because in our member organization's considerable experience, SSA claims representatives cannot approve the waiver if the parent does not provide their income. We urge OIRA to require SSA to clarify its practices regarding whether the child's parents' (or guardians) information for assets, income and expenses are necessary to have an Overpayment Waiver granted on children's cases, and ensure that the questions on the form reflect this policy.

- 7) Question 14, formerly Question 23, is very challenging for beneficiaries to complete.

This question requires people to estimate their expenses on a monthly basis, even though they may not keep track of or calculate many of these expenses on a monthly basis. Many people, for example, do not buy personal items or need personal services every month (e.g., shampoo, clothes, or haircuts) and it is challenging to try to guess how those costs break down monthly. Many beneficiaries do not or in some cases (due to disability) cannot keep track of every purchase they make. As a result, many beneficiaries underreport their expenses, which can negatively impact their Overpayment Waiver application by making it appear the beneficiary has more discretionary income than they have

We recommend SSA streamline this question. The purpose of the question, we speculate, is to ascertain whether the beneficiary has money left over each month. It would be much more efficient for SSA to ask "Do you have money left over at the end of the month?" instead of asking people to recall every purchase they make. If SSA needs additional information, it should ask only for estimates of typical monthly expenses (rent, utilities, insurance). As long as the stated income is no more than \$200 (per family member) more than the expenses, SSA should presume that any beneficiary who reports to not have excess income at the end of the month, in fact, does not.

II. SSA Underestimates the Public Reporting Burden Related to Completing the SSA-632

In addition to our concerns about specific questions, we also have serious concerns about SSA's burden estimate. SSA estimates in the Supporting Statement 0037 that it takes respondents an average of 120 minutes to complete the SSA 632-BK, and then respondents spent up to 60 minutes travelling to SSA Field Offices to complete these forms. Task Force member Community Legal Services of Philadelphia reviewed the time logs of twenty recent overpayment waiver cases they assisted in and found that the advocate time alone (meaning the time that their advocates spend helping with overpayment forms) averaged 10.5 hours—which far exceeds

SSA's estimate. Not included in these time estimates is the time spent by other assisters (family members, case managers, other community members) on the waiver request, or beneficiaries' time spent collecting relevant documents.

Overpayment waiver claims can be very time consuming. The form is long—and just completing it takes almost two hours. But successfully completing the form also requires beneficiaries to gather a number of supporting documents including, but not limited to, rent or mortgage information; recent utility, medical, credit card and insurance bills; tax returns, current pay stubs, recurrent bank statements or checks. Collecting these sorts of documents can be very time-consuming, particularly for beneficiaries who are limited-English proficient or have disabilities that make completing these sorts of tasks daunting. It can also require beneficiaries to have to make appointments and go to many places (former employers, banks, etc) to request these documents and often pay for them as well.

These cases are also time consuming because they are not timely processed. It often takes more than a year (sometimes two years) to get a decision on a waiver request. There is no way to check the status of a pending Overpayment Waiver online: beneficiaries and their representatives spend substantial time calling SSA Field Offices (and often waiting on hold) in order to get updates on these requests.

SSA also estimates that the cost burden to complete these forms is \$0: this is not the case. As noted above, the form explicitly requests that beneficiaries collect and provide a variety of substantiating documents. Such a request is costly. Because the form must be printed and sent in, those documents also must be printed. For beneficiaries fortunate enough to have their own printers, the cost is likely minor, related to use of paper, ink, and stamps. Many under-resourced beneficiaries do not have luxury items like personal printers and are forced to pay to print these documents at an office supply store.

Because we believe SSA's has underestimated both the time and financial burden of the SSA-632-BK, we recommend additional studies be conducted in order to ascertain the true administrative burden to the public created by this form.

III. Proposals SSA Should Take Steps to Minimize the Administrative Burden the SSA 632-BK and SSA 634-BK Impose on the Public.

Finally, the SSA-632-BK and SSA 634-BK are being sent exclusively to beneficiaries who have already been adjudicated to have seriously work-limiting disabilities. As such, it is paramount that SSA take steps to ensure that these forms are as accessible as possible.

- 1) As a preliminary matter, the form should be accessible to beneficiaries.

Some recommendations to improve the accessibility of the form include:

- SSA ensuring that the form is written in as clear and concise language as possible and analyzing the form for literacy level.
- SSA making this form available in multiple languages. SSA collects information about literacy and limited-English proficiency status as part of its disability adjudications.

SSA is aware that many of its beneficiaries who have been found eligible for SSA benefits are limited English proficient, or lack literacy, and are not able to read these critical forms. Because the inability to respond to this form could lead to a reduction or recoupment of benefits, it essential that SSA provide these in a language the beneficiary can read, whenever possible.

- For beneficiaries that SSA is aware are illiterate, SSA should also be doing telephonic outreach.
- 2) SSA should prioritize making the SSA 632-BK available online.

Community Legal Services of Philadelphia, a CCD member who provides direct representation to SSI and SSDI applicants and recipients, reports that almost all of their clients face Notice of Planned Actions due to overpayments at some point while they are benefit recipients. All of those beneficiaries should be considering seeking Overpayment Waivers, but many do not because they are not aware of the Overpayment Waiver process, or report difficulty finding and submitting these forms. One obstacle is that many under-resourced clients do not have printers. In the past, they have been able to get these sorts of forms at SSA Field Offices, but those offices are currently closed. We recommend making the form available online to prevent this problem.

- 3) Ensure SSA takes steps to equally prioritize processing Overpayment Waivers across offices.

As noted above, Community Legal Services of Philadelphia reports that processing of Overpayment Waivers differs wildly between Field Offices in Philadelphia: one office in that region tends to process these waivers within two months, in other offices it can take more than two years. These long-delays create significant burdens to beneficiaries. SSA should examine the processing times of overpayment waivers across offices and work to shorten long waiting times.

- 4) SSA should automatically waive overpayments caused by statutory benefit continuation.

SSA policy acknowledges that many Overpayments occur for current recipients when they request benefit continuation pursuant to a continuing disability review. SSA's internal regulations state:

“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. ... 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.

Many beneficiaries do not know to ask for a waiver or that their waiver request will get more favorable treatment because it occurred due to statutory benefit continuation during a continuing disability review.

- 5) Create an Overpayment Waiver Status Portal.

Some SSA Field Offices take a very long time to process overpayment waiver requests. This delayed timeline can cause stress and anxiety on the public. Moreover, the only way to check the status of Overpayment Waiver requests is to call the SSA Field Office, meaning many members of the public, and SSA staff, spend time on calls related to learning the status of pending claims. It would benefit the public and increase efficiency if Overpayment Waiver Status's were available online, possibly through a portal or on MySSA accounts.

Thank you for the opportunity to comment on these proposed regulations.

Respectfully submitted,

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Tracey Gronniger, Justice in Aging
Bethany Lilly, the Arc of the United States
Jeanne Morin, National Association of Disability Representatives