July 2, 2024

Social Security Disability Overpayments Due to Earnings

Social Security Disability Insurance

Social Security is a federal social insurance program that provides monthly cash benefits to insured workers and their eligible family members in the event of the worker's retirement, disability, or death. Social Security provides disability benefits (hereinafter referred to as SSDI) to three different groups: (1) disabled workers; (2) disabled widow(er)s of deceased insured workers; and (3) disabled adult children of retired, disabled, or deceased insured workers. Although disabled widow(er)s and disabled adult children are entitled based on a relationship to an insured worker who may be deceased, retired, or disabled, they are often included in the term SSDI because they receive Social Security benefits due to a qualifying impairment. The number and average monthly benefit of each type of disabled beneficiary is in **Table 1**.

Table 1. Number and Average Monthly Benefit of Social Security Disability Beneficiaries by Type, May 2024

Beneficiary Type	Number (in 1,000s)	Average Monthly Benefit
Disabled Workers	7,229	$1,538
Disabled Widow(er)s	199	$927
Disabled Adult Children	1,150	$1,038

Source: SSA, "Benefits Paid by Type of Beneficiary," https://www.ssa.gov/oact/ProgData/icp.html.

Overpayments

An overpayment is an amount paid to an individual that was more than the amount that should have been paid. SSDI eligibility may depend on a number of factors, including earnings, marital status, and disability status. A change in any of these factors may affect continuing eligibility to receive benefits. Overpayments may occur when the agency does not impose deductions, the agency does not suspend, reduce, or terminate payments; or there is a technician error. This may be due to beneficiaries not reporting timely (or at all) or agency failure to take appropriate and timely action.

Earnings as a Source of Overpayments

Substantial Gainful Activity

The Social Security Administration (SSA) reports that *substantial gainful activity* (SGA) is a leading cause of overpayments of Social Security. SGA generally describes a level of earnings and work activity performed or intended for pay or profit. In 2024, the SGA amount is $1,550/month for SSDI beneficiaries ($2,590/month for statutorily blind beneficiaries). With exceptions, beneficiaries are not eligible for benefits in months they earn at least SGA. There is no partial reduction of benefits based on the amount of work activity above SGA.

Return to Work as a Beneficiary

Social Security provides beneficiaries with the opportunity to test their ability to work without losing benefits for months in which they have earnings above the SGA threshold. SSA's work rules are considered to be complex, and the Government Accountability Office reported in October 2015 that difficulty in understanding the rules by both beneficiaries and SSA staff may contribute to overpayments.

The Trial Work Period (TWP) is nine months total during a rolling 60-month window in which earnings exceed an annually adjusted monthly threshold ($1,110/month in 2024). For up to nine months, which do not need to be consecutive, the beneficiary can work any amount above the monthly threshold without losing eligibility for benefits. This means that overpayments do not occur as a result of work activity during the TWP.

The Extended Period of Eligibility (EPE) follows the TWP. The EPE lasts for a minimum of 36 months and may last indefinitely (until benefits are terminated for SGA or medical improvement or the beneficiary reaches full retirement age or dies). With the exception of a grace period comprising the first month of SGA and the following two months, beneficiaries are not eligible for benefits in the months that they engage in SGA.

During the first 36 months of the EPE, benefits are suspended for any month in which beneficiaries engage in SGA. If benefits are paid during months that should have been suspended for SGA, payments for those months are considered overpayments because the beneficiary was not eligible for those benefits.

Beginning with the 37th month of EPE or following the grace period, if a beneficiary engages in SGA, his or her SSDI benefits terminate immediately because of work. Because the individual is no longer eligible for benefits, any benefits received during or after the month with SGA are considered overpayments.

A study from 2019 found that from January 2010 through December 2012, 2.7% of disabled-worker beneficiaries engaged in SGA after TWP and grace period completion, meaning that months with work activity above SGA could cause an overpayment if benefits were paid. Of this group, 71% (or 1.9% of disabled-worker beneficiaries) were overpaid.

Earnings Self Reporting

SSA instructs SSDI beneficiaries to report right away when they:

- start or stop work;
- change duties, hours, or pay rates; or
- start paying disability-related work expenses (these may be deducted from monthly earnings).

SSDI beneficiaries can report by phone or mail or in person. They may also report monthly wages online through the *my Social Security* portal using the *myWageReport* tool.

Other Sources of Earnings Data

SSA verifies wages and detect unreported work through matches with data from multiple state and federal agencies.

SSA verifies earnings by consulting sources in order: paystubs on file in SSA systems, an SSA-approved wage verification company, beneficiary-provided paystubs, verified wages for Supplemental Security Income (SSI) for beneficiaries who also receive SSI benefits, the National Directory of New Hires (NDNH), earnings records in the Master Earnings File (MEF), or a request to the employer.

When an SSDI beneficiary does not report substantial earnings, SSA uses other methods to identify the earnings. The Continuing Disability Review Enforcement Operation uses earnings from the MEF to alert technicians to conduct a work continuing disability review (CDR). SSA also uses quarterly earnings received from the Department of Health and Human Services' Office of Child Support Enforcement (OCSE) to generate CDR alerts.

Wage information obtained from NDNH and some federal and state databases is considered third-party information and may only be used as wage evidence when the worker agrees with the information on the query. SSA requires additional documentation for these sources.

National Database of New Hires (NDNH)

The OCSE and SSA have a memorandum of agreement that allows a file match and authorized SSA employees to query the NDNH to establish or verify eligibility and/or continuing entitlement for SSDI. This database contains quarterly new hires, quarterly wages, and unemployment information reported by the states and the District of Columbia to OCSE. Wages are posted quarterly to the database based on when the earnings are paid to the recipient. An alert for a work review is usually generated when quarterly earnings are at least three times the monthly SGA amount and indicate that the beneficiary has completed the TWP.

Master Earnings File (MEF)

Annual wage and self-employment data from the Internal Revenue Service (IRS) are stored in the MEF. The match compares the annual earnings amount reported on IRS Form W-2 or Schedule SE to set thresholds and verified earnings (if any) reported to SSA for the tax year. An alert for a work review is usually generated when earnings are greater than or equal to 12 months of SGA for that enforcement year.

Payroll Information Exchange

Section 824 of the Bipartisan Budget Act of 2015 (P.L. 114-74) authorizes SSA to enter into information exchanges with payroll data providers to obtain wage and employment information. In September 2019, SSA awarded the Payroll Information Exchange (PIE) contract to Equifax Workforce Solutions. In its February 15, 2024, Notice of Proposed Rulemaking, an individual would authorize SSA to receive wage and employment information from his or her employer(s) through a participating payroll provider. Individuals providing wage and employment data through the PIE would have reduced reporting requirements because SSA would obtain that information directly from the payroll data provider. The comment period closed on April 15, 2024.

Recovery of Overpayments

Recovery of Social Security overpayments is authorized under Section 204 of the Social Security Act. Once SSA has determined that an overpayment has been made, the agency notifies the liable recipient or *representative payee* (a person or an organization that receives and manages Social Security or SSI payments for a recipient who is incapable of managing his or her own payments). Overpayment notices explain the reason for the overpayment, the overpayment amount, repayment options, and appeal and waiver rights.

SSA generally recovers overpayments through an adjustment of benefits payable, a full refund or installment payments by the overpaid recipient, or other methods. In March 2024, SSA announced changes to overpayment policies, including lowering default payment amounts, extending repayment plan lengths, and making it easier for beneficiaries and recipients to request waivers.

Consequences for Repeated Failure to Report Earnings

SSA may consider the use of punitive actions to deter future overpayments when individuals repeatedly fail to report earnings as required, though an SSA Office of the Inspector General's report from 2017 noted that SSA had not used this authority in the cases it studied. The report listed the actions available to the agency as follows:

> Similar fault provisions grant SSA the authority to withhold the full monthly payment from an individual who knowingly makes an incorrect or incomplete statement or conceals information material to a determination.
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> Administrative sanctions may be applied when an individual makes a false statement, misrepresents a material fact, or fails to disclose information that is material to a determination. When sanctions are applied, payments are withheld as a penalty for improper actions and are not used to reduce or recover an overpayment.

For Additional Information

CRS Report R44948, *Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI): Eligibility, Benefits, and Financing*

SSA, *The Red Book—A Guide to Work Incentives and Employment Supports*, https://www.ssa.gov/redbook/

SSA, *Working While Disabled: How We Can Help*, https://www.ssa.gov/pubs/EN-05-10095.pdf

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