

EM - Emergency Message

Effective Date: 03/25/2024

Identification Number: EM-24011 SEN

Intended Audience: All
RCs/ARCs/ADs/FOs/TSCs/PSCs/OCO/OCO-CSTs

Originating Office: ORDP OISP

Title: Change in Title II Overpayment Default Rate of Benefit Withholding

Type: EM - Emergency Messages

Program: Title II (RSI)

Link To Reference: See References at the end of this EM.

SENSITIVE - NOT TO BE SHARED WITH THE PUBLIC**Retention Date: October 25, 2024****A. Purpose**

The purpose of this Emergency Message (EM) is to provide interim guidance and inform technicians that we are changing the existing policy and procedure for recovering a Title II overpayment. Policy has been to default to full benefit withholding to recover a Title II overpayment. Effective March 25, 2024, we will apply a default 10 percent withholding rate, or \$10.00 per month, whichever is more, to an overpaid individual's monthly benefit amount. This policy change only applies to legally defined overpayments and does not apply to individuals who have been convicted of fraud or who have a similar fault determination.

B. Background

This update to SSA policy will reduce the financial hardship experienced by overpaid individuals, who are in full benefit withholding (i.e., LAF D) or repaying at a rate of greater than 10 percent, as well as individuals who will need to repay an overpayment created on or after April 15, 2024.

C. New Procedure

When we determine that an individual receiving Title II benefits is overpaid, we will still send them a notice requesting a full and immediate refund, and inform them of their right to request a waiver of recovery or request a reconsideration of the overpayment. If the overpaid individual does not repay, request a waiver, or request a reconsideration prior to the end of the 60-day due process period, we will, in most cases, automatically recover the overpayment by withholding 10 percent of their Title II monthly benefit credited (MBC) amount, or \$10 per month, whichever is more. We will recover the overpayment by withholding until the overpayment is fully recovered.

In most situations, technicians will not need to take manual action on **new** overpayments that are created on or after April 15, 2024. Most of the newly posted Title II overpayments will default to the 10 percent benefit withholding for recovery, on the first day of the July Current Operating Month (COM), which is June 26, 2024.

We will issue a one-time notice to all overpaid individuals, who are currently repaying an overpayment at a rate greater than 10 percent, giving them the option to request a lower rate of recovery. For manual overpayment notices requiring fill-ins, we will make corresponding updates to paragraphs in the Manual Adjustment, Credit, and Award

Process (MADCAP) system, AURORA, and the Document Processing System (DPS). Technicians should use the applicable paragraphs for all new manual overpayment notices.

NOTE: All new overpayments will have a due process recovery date of COM plus three months, which replaces the existing policy of COM plus two months. Extending the due process recovery date will help SSA ensure that overpaid individuals are afforded the 60-day due process period, as well as provide Systems time to implement the actions required to align with the new policy. The change in due process recovery date of COM plus three months will apply to all future overpayments.

IMPORTANT: This policy change only applies to legally defined overpayments, as described in [GN 02201.001](#), and does **not** apply to certain records or overpayments (see Section F.).

D. Guidance for New Overpayments Created on or After April 15, 2024

For most situations, technicians will **not** need to take manual action on new overpayments that are created on or after April 15, 2024.

The required \$10.00 minimum withholding rate will remain in effect for most individuals. For examples on how the automatic 10 percent and \$10.00 minimum withholding will be applied to new overpayments, see below:

- If the overpaid individual's total monthly benefit credited (MBC) is \$1,200.00, and they do not have any Medicare involved, we will withhold \$120.00 per month, which is 10 percent of their total monthly benefit.
- If the overpaid individual's total monthly benefit credited (MBC) is \$50.00, and they do not have any Medicare involved, we will withhold \$10.00 per month.

In some situations, technicians may need to complete manual inputs for withholding in the Debt Management System (DMS). For an example of when the 10 percent and \$10.00 minimum withholding will not be applied automatically to a new overpayment, see below:

- If the overpaid individual's total monthly benefit credited (MBC) is \$180.70, and they are paying a monthly SMI premium of \$174.70, we **must** prioritize the beneficiary's Medicare premiums (i.e., Parts B, C, and D as explained in [GN 02602.025C.3.](#)). For this example, technicians will only input a recovery amount of \$6.00 per month. In situations such as these, the \$10.00 minimum will not apply since there is not enough money left to meet the minimum withholding requirement after deducting SMI.

There may be some situations, involving Medicare, where we are unable to input any overpayment recovery. See the below example:

- If the overpaid individual's total monthly benefit credited (MBC) is \$50.70, and they are responsible to pay a monthly SMI premium of \$174.70 (LESSDO cases), we will continue to prioritize the beneficiary's Medicare premiums (i.e., Parts B, C, and D as explained in [GN 02602.025C.3.](#)). Their full MBC of \$50.70 will be applied towards the monthly SMI premium. In situations such as these, we will be unable to recover the overpayment.

If an overpaid individual contacts SSA requesting an overpayment recovery rate greater than 10 percent, accept the request and complete the input in DMS. Use the following remarks to annotate the request in DMS:

“BIC XX requested benefit withholding reduction to <enter amount> on MM/DD/YY”

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E. Guidance for Existing Overpayments with a Recovery Rate Greater than 10 Percent

Overpaid individuals, who are repaying an overpayment with a recovery rate greater than 10 percent, will be given the option to request that we reduce their recovery amount to 10 percent, or \$10.00 per month, whichever is more. Requests to reduce overpayment recovery amounts for **existing** overpayments will require manual inputs in DMS.

Overpaid individuals may request that we reduce their existing overpayment recovery rate by contacting the 800# or their local field office for assistance. Unless an exclusion applies (see Section F.), technicians should accept the request and annotate the MBR with a Special Message (SPMSG) using the below language. For guidance on creating a Special Message (SPMSG), please refer to [MS 05206.026](#).

“BIC XX requested benefit withholding reduction to default 10% on MM/DD/YY”

Technicians will manually calculate the 10 percent withholding amount that will be deducted from the overpaid individual's benefit. (b) (7)(E)



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NOTE: The request for a 10 percent overpayment recovery rate will take priority over the recent change to procedure requiring the collection of overpayments within 60 months ([GN 02210.030](#)). In other words, individuals will default to 10 percent withholding even if the amount collected will not facilitate recovery within 60 months.

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NOTE: If the individual has a settlement agreement with the Office of the Inspector General (OIG) or the United States Attorneys' Office (USAO) and the overpaid individual, consult [GN 02201.055](#) and [GN 02230.055B](#).

Direct all program related and technical questions to your Regional Office (RO) support staff or Program Service Center (PSC) Operations Analysis (OA) staff. RO support staff or PSC OA staff may refer questions or problems to their Central Office contacts.

Reference:

- [GN 02201.001](#) - What is a Title Overpayment
- [GN 02201.009](#) – Notification of a Title II Overpayment
- [GN 02201.050](#) – Overpayment Fraud Referral
- [GN 02201.055](#) – Overpayment Recovery after Fraud Conviction
- [GN 02210.001](#) – Overpayment Recovery by Benefit Adjustment
- [GN 02210.030](#) – [Request for Change in Overpayment Recovery Rate, Form SSA-634](#)
- [GN 02230.055](#) – Civil Monetary Penalty (CMP) - Posting
- [MS 01106.015](#) – Establish Offset (Debtor) (DROA)
- [MS 01106.016](#) – Establish Offset (OLP) (DROL)
- [MS 05206.026](#) – Special Message (SPMSG)

- [SM 00610.710](#) - Overpayment Recovery Will Continue Past 2049
- [SM 00610.715](#) - Recovery of an Overpayment when the Overpaid Person is in Ledger Account File Status (LAF) Current Pay (C) or Deferred (D)

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Link to this document:

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