



HEATHER SCHREIBER'S

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SOCIAL SECURITY ADVISOR

Social Security Planning for Retirement

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Overhauling Overpayments

Our February issue highlighted the ongoing Social Security crisis, from poor customer service to extended delays in processing disability applications. The latest furor — *handling \$23 billion in outstanding overpayments, as revealed in the [SSA's Fiscal Year 2023 Agency Financial Report](#)* — has made headline news.

Media comments have been critical in depicting this aspect of the program, particularly regarding the clawback of overpayments from recipients deemed to be financially vulnerable. As Social Security Commissioner, Martin O'Malley, has warned, in some cases, recovery of overpayments "can result in grave injustices to individuals, as we see from the stories of people losing their homes or being put in dire financial straits when they suddenly see their benefits cut off to recover a decades-old overpayment."

This statement came as part of O'Malley's testimony to members of the Senate Special Committee on Aging and the Senate Finance Committee on March 20, 2024, addressing the conflict that may exist between (a) the Congressional mandate to collect overpayments and (b) the larger purpose of the program, which is to best serve beneficiaries. He further acknowledged that "despite our best efforts, we sometimes get it wrong and pay beneficiaries more than they are due, creating an overpayment."

Federal legislation requires the SSA to make every effort to recover excess payments if the impacted beneficiary fails to respond to an overpayment notice in a timely manner, whether the fault is the beneficiary's failure to report a change or a miscalculation within the agency.

Changing Times

As part of his testimony, Commissioner O'Malley outlined four key changes to the overpayment recovery process:

1. Effective March 25, 2024, the SSA will cease the "heavy-handed practice of intercepting 100% of an overpaid beneficiary's benefit by default," if the beneficiary fails to respond to the SSA's demand for the overpayment. Instead, the overpayment rate will match the current withholding rate of 10% that has been in place for Supplemental Security Income (SSI) recipients.

Historically, an income beneficiary is given 30 days (plus five additional days for mailing time) after receiving an overpayment notice to pay the amount due in full. The recovery process is initiated once a 60-day due process period expires without contact from the claimant. However, an income beneficiary retains the right to appeal the

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