

Processing New Waiver Requests After a Previous Request Was Denied

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Office of Audit Report Summary

Objective

To determine whether the Social Security Administration (SSA) properly applied res judicata for waiver requests made after a previous request was denied.

Background

An individual or their representative payee may request SSA waive recovery of an overpayment at any time. SSA stops debt-collection activity if the debtor requests SSA waive recovery of the overpayment. If SSA denies a request for waiver and the debtor does not timely file an appeal, the denial decision becomes final under res judicata unless certain criteria are met.

Res judicata applies to administrative proceedings and means the matter has been decided and may not be pursued further by the same parties. SSA applies res judicata at all levels of the claims process to avoid unnecessarily deciding an issue the Agency has already decided based on the same facts, issues, parties, and time period.

From 1 segment of the Master Beneficiary Record, we identified 1,352 debtors with an at-fault waiver denial since January 1, 1995, and a new protest since January 1, 2010. We randomly selected 100 debtors from this population for our review.

Results

SSA did not always properly apply res judicata for waiver requests made after a previous request was denied. We determined 9 of 100 overpayment protests were processed in error. The errors resulted from technicians' misapplication of SSA's res judicata policy. Based on this error rate, we estimate SSA did not collect overpayments from 2,434 debtors across all 20 segments of the Master Beneficiary Record for a minimum of 12 months following the new waiver request. As a result, we estimate approximately \$25.9 million in overpayments remains uncollected.

Recommendations

We recommend SSA:

1. Reinstigate collection actions for the remaining four debtors identified in our sample, as appropriate.
2. Identify and re-institute collection actions, where needed, for all debtors who submitted a new request for waiver following an at-fault waiver denial.
3. Incorporate SSA's res judicata policy into SSA's *Waiver Decisionmaker* policy, or other appropriate policy, to alert technicians to review prior debt decisions.
4. Provide reminder items for technicians about identifying and processing res judicata in cases to ensure all appropriate debts are collected and not incorrectly waived.

SSA agreed with our recommendations.