

March 8, 2024

Commissioner Martin O'Malley
Social Security Administration
6401 Security Boulevard
Baltimore, Maryland 21235

Subject: Improper Overpayments Issued to Holocaust Survivors

Dear Commissioner O'Malley,

The majority of the remaining Holocaust survivors and their eligible family members who live in the United States are receiving some form of Holocaust Reparations Payments.¹ Many also receive SSI.² Unfortunately, some of those who receive SSI benefits are improperly charged with overpayments when SSA erroneously counts Holocaust Reparations Payments toward the SSI income or resource limits.³

The Nazi Persecution Victims Eligibility Act⁴ already “excludes from income and resources **any** payments made to individuals because of their status as victims of Nazi persecution.” Unfortunately, many SSA staff are not aware of this provision and are thus improperly charging overpayments.⁵

We ask that you take the following actions to provide relief to these vulnerable people:

- 1) Immediately remove outstanding improperly calculated overpayments caused by Holocaust Reparations, and reinstate full benefits;
- 2) Issue an Emergency Message reminding staff of the provisions of [POMS SI 01130.610](#) to protect these individuals and consider issuing ongoing annual reminders thereafter; and
- 3) Place prominent flags on the electronic and paper files for all Holocaust Reparations recipients, directing staff to the relevant POMS and EM so that these improperly issued overpayments do not recur.

¹ A January 23, 2024, report by the Conference on Jewish Material Claims Against Germany (the “Claims Conference”) estimated that of the 245,000 survivors world-wide, 38,400 reside in the United States (and 14,655 of those reside in New York). Of the NY population, 89% are receiving ongoing payments from the Claims Conference, with an additional 4% receiving reparations from other entities. <https://www.claimscon.org/forms/Demographics/Demographics-report-Global-WEB2.pdf>, at pp. 19, 12, 18, 5.

² A recent Chicago report indicated that many Holocaust survivors living in the US live below the poverty line and are thus likely receiving SSI. Report on 2023 services by Holocaust Community Services provided to me by Yonit Hoffman, Ph.D., Senior Director, Holocaust Community Services, Council for Jewish Elderly (CJE) Senior Life, Jewish United Fund of Metropolitan Chicago.

³ See attached report from New York Legal Assistance Group.

⁴ P.L. 103-286, [POMS SI 01130.610](#).

⁵ Because SSA does a first-of-the-month balance check on SSI recipient bank accounts and only looks at the total balance and not any credits/debits in the account, SSA can only see that a recipient is over the resource limit. Without a flag, SSA staff don't see (and therefore don't exclude) the excludable funds. This is why there are so many improper resource overpayments for accounts with excludable funds (reparations, pandemic benefits, federal tax refunds).

The plight of these survivors is often further worsened by SSA's current guidance on Temporary Institutionalization (TI).

Like many aging Americans, Holocaust survivors are often institutionalized in hospitals or nursing homes for 90 days or less. Currently, SSI recipients who are hospitalized for an entire calendar month are ineligible for SSI payments for that month unless they affirmatively prove, while they are hospitalized, that TI benefits are necessary by providing a written physician's certification that medical confinement is not expected to last more than 90 days *and* a written statement that TI benefits are needed to maintain their home. They must do this before getting released from the hospital or nursing home.⁶ Understandably, many claimants do not know that they must provide this documentation, are unable to provide it due to their illness, or are impeded by language barriers, as is the case with many Holocaust survivors.⁷

To provide further relief to these vulnerable individuals (and to reduce overpayments and save agency resources), we encourage you to do the following:

- 1) Push forward with the NPRM RIN: 0960-AI84, "Changes to our Temporary Institutionalization Benefits Policy," which would "allow for the retroactive application of temporary institutionalization benefits for beneficiaries who were institutionalized no more than 90 days, when the beneficiary applies for it after discharge from their temporary institutionalization;"⁸
- 2) For a TI lasting no more than 90 days, if an overpayment is created and a waiver request is needed, change the POMS to presume the person who was institutionalized is not at fault in creating the overpayment (thus increasing the odds of waiver); and
- 3) For TI lasting *over* three months, where documentation is not timely submitted and an overpayment is created, presume no fault for the first 3 months (allowing for waiver), and then consider whether the remaining overpayment period can be waived under current rules.

We know that you and your staff are hard at work providing meaningful revisions to the current overpayment rules to simplify the process and provide relief to thousands. We hope that these implementable suggestions can help achieve the goal of preventing needless hardships for Holocaust survivors.

Sincerely,



David Camp
Chief Executive Officer

⁶ POMS SI 00520.140.

⁷ SSA acknowledges the challenges of providing documents needed to qualify for TI benefits. See Office of Budget and Mgmt., No. 0960-0516, *Addendum to Supporting Statement for Continuation of Supplemental Security Income Payments for the Temporary Institutionalized* (2023), <https://omb.report/omb/0960-0516>.

⁸ <https://www.reginfo.gov/public/do/eAgendaViewRule?publd=202310&RIN=0960-AI84>

Sample of Holocaust Overpayment cases from New York Legal Assistance Group

Case ID#	Legal Prob	Language	Reason for term/OP	Status
23- [REDACTED]	75 - SSI	RUS	< 90 day NH (3 mo reduction to \$30)	full benefit & OP removed
23- [REDACTED]	75 - SSI	RUS	< 90 day NH (3 mo reduction to \$30)	full benefit & OP removed
23- [REDACTED]	75 - SSI	RUS	< 90 day NH (3 mo reduction to \$30)	full benefit & OP removed
23- [REDACTED]	75 - SSI	RUS	term d/t resources (reparations - spouse)	too late recon, reopen TBD
23- [REDACTED]	75 - SSI	RUS	1 mo OP d/t supp reparations	recon approved
22- [REDACTED]	75 - SSI	RUS	< 90 day NH (5 mo reduction to \$30)	full benefit & OP removed
23- [REDACTED]	75 - SSI	RUS	> 90 day NH (5 mo reduction to \$30)	deceased
23- [REDACTED]	75 - SSI	RUS	< 90 day NH (OP < \$1000)	deceased
24- [REDACTED]	75 - SSI	RUS	term/OP d/t resources (reparations & other?)	pending workup
23- [REDACTED]	75 - SSI	RUS	term/OP d/t resources d/t accumulated funds (bank issues, CL dementia, daughter had covid multiple times)	recon pending (GK?)
23- [REDACTED]	75 - SSI	RUS	< 90 day NH (5 mo reduction to \$30)	full benefit & OP removed
23- [REDACTED]	75 - SSI	RUS	8 mo OP d/t resources (reparations - hardship)	recon approved
22- [REDACTED]	75 - SSI	RUS	< 90 day NH (2 mo reduction to \$30)	full benefit & OP removed
23- [REDACTED]	75 - SSI	RUS	old OP d/t ID theft	waiver granted
23- [REDACTED]	75 - SSI	RUS	1 mo OP for receipt of benefits for deceased spouse	pending workup
23- [REDACTED]	75 - SSI	RUS	1 mo OP for EIP (couple rate)	admin waiver granted
22- [REDACTED]	75 - SSI	RUS	benefit reduction & OP d/t ISM	full benefit & OP removed
23- [REDACTED]	75 - SSI	RUS	OP d/t resources (multiple) then term d/t SSA mistakenly thought she was dead	full benefit & waiver pending
23- [REDACTED]	75 - SSI	RUS	< 90 day NH (4 mo reduction to \$30)	full benefit & waiver pending
23- [REDACTED]	75 - SSI	RUS	> 90 day NH (? mo reduction to \$30)	recon pending?
23- [REDACTED]	75 - SSI	RUS	3 mo OP d/t resources (spenddown on burial trust)	recon pending
23- [REDACTED]	75 - SSI	RUS	< 90 day NH (3 mo reduction to \$30)	waiver pending
22- [REDACTED]	75 - SSI	RUS	< 90 day NH (2 mo reduction to \$30)	full benefit & OP removed
23- [REDACTED]	75 - SSI	RUS	OP d/t income (Russian pension - not received)	reopening approved
23- [REDACTED]	75 - SSI	RUS	2 mo OP d/t resources (reparations) - couple	recon approved
23- [REDACTED]	75 - SSI	RUS	term/OP d/t resources (reparations) - couple	recon approved
23- [REDACTED]	75 - SSI	RUS	3 mo OP d/t resources (reparations)	recon approved
22- [REDACTED]	75 - SSI	RUS	1 mo OP d/t resources (reparations)	recon approved
23- [REDACTED]	75 - SSI	RUS	term/2 mo OP d/t resources (reparations)	full benefit & OP removed