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Overpayment Clawbacks

Capping Social Security clawbacks at 10% for some beneficiaries is among the changes that the new SSA commissioner plans to propose.

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Martin O Malley speaks at the national convention of the American Federation of State County and Municipal Employees in 2008. (Jim West/Alamy Stock Photo)

By Fred Clasen-Kelly, KFF Health News (TNS)

The Social Security Administration's new chief is promising to overhaul the agency's system of clawing back billions of dollars it claims was wrongly sent to beneficiaries,

saying it “just doesn’t seem right or fair.”

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mindless way that we recover those overpayments,” is among his top priorities.

He said he has concrete steps in mind, such as establishing a statute of limitations, shifting the burden of proof to the agency, and imposing a 10% cap on clawbacks for some beneficiaries.

“We do have the ability and we do have the authority to address many of these injustices,” he said, suggesting that the SSA won’t have to wait for congressional action.

The pledge comes after an [investigation by KFF Health News and Cox Media Group](#) television stations revealed that SSA routinely reduces or halts monthly benefit checks to reclaim billions of dollars in payments it sent to beneficiaries then later said they should not have received.

In some cases, years passed before the government discovered its mistake and then imposed debts that sometimes have reached tens of thousands of dollars on people who cannot afford to pay. KFF Health News and Cox Media Group discovered that more than 2 million people a year [have been hit](#) with overpayment demands.

Most overpayments are linked to the [Supplemental Security Income program](#), which provides money to people with little or no income, who are disabled, blind, or at least age 65. Others are connected to the [Social Security Disability Insurance program](#), which aids disabled workers and their dependents.

O’Malley said the agency plans to cease efforts to claw back years-old overpayments and halt the practice of terminating benefits for disabled workers who don’t respond to overpayment notices because they did not receive them or couldn’t make sense of them.

“We’re not fulfilling congressional intent by putting seniors out of their homes and

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The agency later restored some of her benefit allowance: She gets \$616 a month. That’s not enough to cover rent in Savannah, where even modest studio apartments can run \$1,000 a month.

In January, she fell ill and landed in intensive care with pneumonia. “I signed a [Do Not Resuscitate form] and a nurse asked, ‘Do you know what this means?’” Woods said. “I told her there was no reason to revive me if my heart stops. They have already ruined my life. I’m beyond exhausted.”

After KFF Health News and Cox Media Group published [the series “Overpayment Outrage,”](#) hundreds of disability beneficiaries came forward with troubling accounts, including how the government sent them overpayment notices without explanation and threatened to cut off their main source of income with little warning.

Members of Congress publicly demanded that SSA fix the problems. Democratic Sen. Ron Wyden of Oregon said he would meet monthly with agency officials [“until it is fixed.”](#)

Sens. Gary Peters and Debbie Stabenow, both Michigan Democrats, sent a [letter dated Feb. 29](#) to the SSA, saying many overpayments were caused by the agency. They asked officials to explain what is causing the problems.

“It’s absolutely critical that the agency is accurately administering these benefits,” Peters said in written response to an interview request. “I’ve heard from too many people across Michigan who have faced financial hardship after the agency sent them incorrect payments.”

The agency recovered \$4.9 billion of overpayments during the 2023 fiscal year, with an additional \$23 billion in overpayments still uncollected, according to its latest [annual financial report](#).

O'Malley said he wants to address overpayment clawbacks as part of a larger effort to

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contact the SSA after receiving a clawback letter.

"To be honest, a lot of problems [are caused by] our notices being hard to read," O'Malley said. "In fact, one might argue that the only thing that's really clear about the notice is to call the 800 number."

The agency's toll-free number, O'Malley said, is on his fix-it list, too.

Callers complain of [lengthy hold times](#) and often are unable to reach an agent for help, according to [congressional members](#), disability attorneys, and others.

O'Malley pointed to a 27-year low in staffing. "We've been unpacking many of these customer service challenges," he said. "There's not one of them that hasn't been made worse by the short staff."

Still, he said, the overpayment process is unfair. Beneficiaries often must produce evidence to show they did not receive extra money, O'Malley noted.

"One would assume that in a country where people are innocent until proven guilty," he said, "that the burden should fall more on the agency than on the unwitting beneficiary."

Advocates for the poor and disabled said they are hopeful O'Malley will stick to his commitments.

"Overpayments have long plagued our clients and caused severe hardship," said Jen Burdick, an attorney with [Community Legal Services of Philadelphia](#), which represents clients who have received overpayment notices. "We are heartened to see that SSA's new commissioner is taking a hard look at overpayment policy reforms and optimistic and hopeful his administration will provide these folks some long-needed relief."

Mike Pistorio is worried that change won't come fast enough for him.

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benefits to pay rent.

“What makes me mad is none of this is my fault,” said Pistorio, who lives in Middletown, Pennsylvania, and worked as a plumber until his health faltered. “The stress of this has made my diabetes go up.”

Pistorio said the agency has offered to deduct \$269 a month from his benefits to pay off his debt—an amount he says he cannot afford.

“I have told them ‘I will lose my housing,’” Pistorio said.

— *David Hilzenrath of KFF Health News and Jodie Fleischer of Cox Media Group contributed to this report.*

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