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December 4, 2023

The Honorable Sherrod Brown, Chairman
Subcommittee on Social Security, Pensions and Family Policy
United States Senate
503 Hart Senate Office Building
Washington, DC 20510-3505

Dear Chairman Brown:

The National Retiree Legislative Network (NRLN) represents the interests of more than 2 million retirees and future retirees. When a federal agency has made a massive blunder impacting Americans, such as the Social Security Administration's (SSA) gigantic overpayment to Social Security beneficiaries, the NRLN believes that Congress has the duty to rectify the action by not holding beneficiaries accountable for the SSA's mistakes.

The [Inspector General's report](#) in November 2023 on the Social Security Administration stated: "According to SSA, in FY [Fiscal Year] 2023, it recovered over \$4.9 billion in overpayments...Still, at the end of the FY, SSA had a \$23 billion uncollected overpayment balance."

The NRLN commends you for pressing Martin O'Malley, SSA Commissioner nominee, during the November 2 Senate Finance Committee hearing about concerns you have heard from Ohioans regarding Social Security overpayments. We share the same concerns for our members and all retirees on Social Security.

We wholeheartedly agree with you that, **"Social Security is a solemn promise to the American people. People who have paid into Social Security all of their lives deserve to know that their government will protect that promise."**

Current Social Security Overpayment Recovery

I read the statement that Kilolo Kijakazi, Acting Commissioner for SSA, gave at the October 18, 2023, House Subcommittee on Social Security hearing. The following words from her were of particular interest to me.

"Under federal law, SSA must pay beneficiaries only the amounts authorized by law *and* must seek recovery of overpaid amounts, unless circumstances warrant waiver of such overpayment⁽¹⁾. There are no statutory time limits on recovering overpayments, and Federal law requires that SSA use specific recovery methods, including mandatory adjustment from benefits owed to the individual⁽²⁾. Additional collection tools are authorized for certain overpayment debts⁽³⁾. SSA is required by law to notify individuals before we use certain collection tools⁽⁴⁾."

NRLN's Proposed Change to Future Overpayment Recovery

The NRLN proposes that the existing SSA overpayments be waived and the current Social Security Code of Federal Regulations be replaced with statutory language similar to the NRLN's proposal on pension recoupment that was enacted in the SECURE 2.0 Act of 2022.

Prior to the new law, a company could "recoup" or recover pension overpayments made to a retiree when it discovered them, no matter how long it had been. With the new law, the Company doesn't have a fiduciary

obligation to recoup; but if it does recoup it must be done within three years of initial overpayment and may not recoup more than 10% of overpayment per year. The same rules should apply to Social Security overpayment recovery. In addition, there should be no recovery action by SSA if it will cause the Social Security beneficiary to be at or below the Federal Poverty Level.

Damage to Individuals from SSA's Clawback

I'm sure you have read the September 15, 2023 article [*Social Security Overpays Billions to People, Many on Disability. Then It Demands the Money Back*](#) by Kaiser Family Foundation News and Cox Media Group that cited examples of the hardships caused for individuals by SSA's overpayment clawback.

The KFF story quotes Rebecca Vallas, a senior fellow at the Century Foundation, as saying that the SSA overpayment situation amounts to a crisis. "Overpayments push already struggling beneficiaries even deeper into poverty and hardship, which is directly counterproductive to the [SSA] goals"

According to a May – June 2023 survey by the Nationwide Retirement Institute, 21% of Americans now rely on Social Security as their sole source of retirement income, up from 13% in 2014. A June 2, 2023 article by the Center on Budget Policy Priorities reported that without Social Security benefits, 37.7% of older adults would have incomes below the official poverty line. Even with Social Security benefits, 10.3% of Social Security recipients are at the poverty level or below.

The Federal Poverty Level for an individual in 2023 is \$14,580. Social Security benefits lift 15.4 million older adults above the poverty line. Since much, if not all, of Social Security overpayments have been spent, clawing back the overpayments are sure to push more Americans into poverty and possibly bankruptcy.

Make Future Better for Social Security Beneficiaries

The NRLN urges you to provide leadership in your role as Chairman of the Senate Subcommittee on Social Security, Pensions and Family Policy to promote the introduction and passage of a bill that waives the current overpayments and includes the above NRLN proposal going forward.

Alyson Parker, NRLN Legislative Director in Washington, DC, parkerstrategies@gmail.com or 813-545-6792, will contact your Legislative Director to learn if the NRLN can be of assistance in rectifying the SSA overpayment issue and create a better future for older Americans.

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Copy to:

Thom Tillis, Ranking Member, Subcommittee on Social Security Pensions and Family Policy
Majority Leader Schumer
Minority Leader Mitch McConnell
Ron Wyden, Chairman, Committee on Finance Chairman
Mike Crapo, Ranking Member, Committee on Finance

(1) See 42 U.S.C. § 404(f) ("With respect to any delinquent amount, the Commissioner of Social Security may use the collection practices described in sections 3711(f), 3716, 3717, and 3718 of title 31 and in section 5514 of title 5, all as in effect immediately after April 26, 1996.") See also 42 U.S.C. §1383(b)(5)(A).

(2) See, e.g., 31 U.S.C. §§ 3716(a)(1) and 3720A(b).

(3) See 42 U.S.C. § 404(a)(1) ("Whenever the Commissioner of Social Security finds that more or less than the correct amount of payment has been made to any person under this title, proper adjustment or recovery shall be made. . . ."); 42 U.S.C. § 1383(b)(5)(A);

(4) See e.g., 31 U.S.C. § 3716(a)(1) and 3720A(b).