

INSTRUCTIONS TO APPEAL SOCIAL SECURITY BENEFITS THAT HAVE STOPPED BECAUSE OF AN OUTSTANDING WARRANT OR A PROBATION/PAROLE VIOLATION

You have been notified by Social Security that your benefits are going to stop because you have an outstanding felony warrant or there is a warrant because you are in violation of parole or probation. (Misdemeanor warrants should not affect your benefits.) You probably did not know that you even had a warrant until you received this notice. You can make efforts to resolve this and the attached "Request for Good Cause" form can help you. **You must take the form to the local social security office and file it.**

There are two parts to the attached form of Appeal:

1. A section to Request Time to get proof that the warrant has been satisfied or if you can't satisfy the warrant, to get proof that you fall into an exception. (request for good cause exception to fugitive felon non-payment provision)
2. A section to request Social Security continue your benefits for 90 days while you get the proof you need. (appealing social security's decision to stop your benefits)

APPEAL FOR 90 DAY PAYMENT CONTINUATION

SSI RECIPIENTS: If you are on Supplemental Security Income (SSI) and you want your benefits to continue, **YOU MUST FILE** the attached Appeal Form with Social Security, **WITHIN 10 DAYS** of receiving the "Advance Notice of Suspension." (this is the letter from Social Security that told you that your benefits are going to stop.)

SSDI RECIPIENTS: If you are on Social Security Disability Income (SSDI) and you want your benefits to continue, **YOU MUST FILE** the attached Appeal Form with Social Security, **WITHIN 30 DAYS** of receiving the "Advance Notice of Suspension." (this is the letter from Social Security that told you that your benefits are going to stop.)

What if I missed the deadline?

If the SSI 10 day / SSDI 30 day deadline has passed, you may also use this form to Request a Good Cause *Extension* to file your Appeal for Payment Continuation. In addition to requesting payment continuation, you should explain your reason why you did not timely file your request to have benefits continued. (There is a space provided on the form for this explanation.) Social Security may or may not allow the extension and continue or re-instate benefits.

REQUEST FOR GOOD CAUSE EXCEPTION TO FUGITIVE FELON NON-PAYMENT PROVISION

What if I missed the deadlines and an unreasonable amount of time has passed to request that my benefits be reinstated? (For example: 6 months)

You should always try to get the extension to file the request, however, **FILE THE FORM EVEN IF YOU ARE NOT REQUESTING PAYMENT CONTINUATION** because

The form also requests that you be given 90 days to submit proof that:

1. You have satisfied the warrant (mandatory good cause exception); or
2. That your benefits should be reinstated under the discretionary good cause exceptions.

PLEASE NOTE: You should immediately contact your social security service representative, in person, and request that they telephone the issuing agency and confirm its unwillingness to extradite - this would be the most simple method to have your benefits continued under the discretionary good cause exception (assuming you meet all the other requirements).

(See page 3 for an explanation of these exceptions)

If I am not requesting that my benefits continue - How long do I have to file this form to Request a Good Cause Exception to the Fugitive Felon Non-Payment Provision?

If you are requesting this Appeal under the Mandatory Good Cause exception, you may do so at any time, there is no expiration. (You should always anticipate that you will be able to satisfy the warrant and therefore should always try to file this appeal under that exception.)

If you are requesting this Appeal under the Discretionary Good Cause exception, you have 12 months to do so after receiving the Advanced Notice of Suspension.

What if my warrant or charges are violent in nature or drug related?

You CANNOT file under the *Discretionary* Good Cause exception if the warrant or underlying charges are violent or are drug related. If this is the case, the only way you can satisfy the warrant is by satisfying one of the requirements under the Mandatory Good Cause Exception. Social Security will not have the ability to overlook the warrant under the discretionary exception.

What if I pled guilty to or was convicted of any felony after the date of the warrant?

You CANNOT file under the *Discretionary* Good Cause exception if have been convicted of or have pled guilty to any subsequent felony crimes since the warrant was issued. If this is the case, the only way you can satisfy the warrant is by having it dismissed, Social Security will not have the ability to overlook the warrant under the discretionary exception.

If you filed this Appeal under the Mandatory Good Cause exception (because you are not sure about the nature of the warrant) and are not able to satisfy the warrant under that exception you should not be precluded from trying to meet the requirements under the Discretionary Good Cause exception. (See the Definitions for Exceptions) You should check the statement under the Mandatory Good Cause Exception reserving your right.

What if the 90 days passes by and I was unable to satisfy the warrant or get proof to support the Discretionary Good Cause Exception?

You should file a Request for Reconsideration, stating that you are continuing to work on this issue. Your benefits will stop and there is no mechanism to extend the payment period any further. Your payments will resume after the warrant has been resolved.

DEFINITIONS OF MANDATORY AND DISCRETIONARY GOOD CAUSE

MANDATORY GOOD CAUSE: Your benefits will continue if you can submit proof to Social Security that a court has

found you not guilty of the criminal offense or probation/parole violation; or

dismissed the charges relating to the criminal offense or parole/probation violation;
or

vacated the warrant for your arrest for the criminal offense or probation/parole violation; or

issued any similar exonerating order or taken similar exonerating action (e.g., the criminal offense on which the warrant is based is either no longer considered a crime punishable by death or confinement of more than one year or no longer enforced).

OR

Individual Erroneously Implicated: You were mistakenly implicated in connection with the criminal offense by reason of identity fraud.

DISCRETIONARY GOOD CAUSE: If good cause cannot be found based on mandatory good cause, recipients will be given the opportunity to establish good cause based on mitigating circumstances. Good cause based on mitigating circumstances will be found if the factors in either Option A or Option B are met. If the required factors are not present on the warrant or in SSA records, SSA cannot establish good cause unless the recipient provides the needed evidence.

a. Option A

Find good cause if:

The criminal offense or probation/parole violation on which the recipient was charged or convicted was non-violent and not drug related. For a probation/parole violation the original offense was also non-violent and not drug related; **and**

The recipient was not convicted of or pled guilty to any subsequent felony crimes since the warrant was issued; **and**

The law enforcement agency that issued the warrant reports that it will not extradite the fugitive or is unwilling to act on the warrant.

b. Option B

Find good cause if:

The criminal offense or probation/parole violation on which the recipient was charged or convicted was non-violent and not drug related For a probation/parole violation the original offense was also non-violent and not drug related; **and**

The recipient was not convicted of or pled guilty to any subsequent felony crimes since the date the warrant was issued; **and**

The warrant is/was the only existing warrant and was issued 10 or more years prior to the date the Fugitive Felon Match processed the current warrant information; **and**

The recipient lacks the mental capacity to resolve a warrant as evidenced by one of the disability diagnostic codes listed in SI 00530.920; or is incapable of managing payments; or is legally incompetent; or Social Security has appointed a representative payee to handle his/her payments; or is residing in a long-term care facility, such as a nursing home or mental treatment/care facility.

RESOLVING THE WARRANT

You can fix this problem several ways:

You may appear before the Court that has issued the warrant and resolve the pending matters before the Court.

You may contact the Public Defender's office in the county in which the warrant is outstanding to inquire about getting help resolving the warrant.

1. If you are unable to appear before the Court because you are unable to travel due to health reasons, or if an interruption in your health care regimen (like going to doctor's appointments) would harm your health, you need to get a letter from your doctor stating this. The public defender will need this letter as a tool to negotiate with the District Attorney's Office and/or to convince a judge.
2. If the Public Defender thinks that warrant will be resolved, ask the Public Defender to get an Order signed retroactively or *nunc pro tunc*. This is especially helpful in disputing the overpayment that may follow.
3. If the warrant's underlying charges are serious (i.e. violent or drug related) and/or the warrant/charges are recent, it is unlikely that the public defender's office will convince the District Attorney's Office and/or a judge to be sympathetic.

OVERPAYMENTS

You will get a "*Notice of Overpayment*" from Social Security. For any period of time that you had an outstanding warrant, you were not eligible to receive benefits. So either from August 1996 for SSI or January 2005 for SSDI, or from the time the warrant was issued (whichever is later) you were "overpaid" benefits and Social Security will attempt to collect the money that you were paid.

When you receive a *Notice of Overpayment* you should **immediately** file a ***Request for Waiver***. This should stop all recovery actions. If Social Security is going to deny the Request they are required to set up a meeting with you to discuss your situation.

If the Request for Waiver is denied, you should file a Request for Reconsideration. If the Request for Reconsideration is denied, you should file a Request for Hearing. (Recovery actions may have resumed at this point.) You must file these requests within 60 days of any notices of denial. In order to avoid any recovery actions you should always file your appeals ***as soon as possible***.

**REQUEST FOR GOOD CAUSE EXCEPTION TO FUGITIVE FELON NON-PAYMENT PROVISION
AND APPEAL FOR PAYMENT CONTINUATION**

NAME OF WAGE EARNER, SELF-EMPLOYED PERSON, OR SSI CLAIMANT	SOCIAL SECURITY NUMBER	(Do not write in this space)
NAME OF PERSON MAKING STATEMENT <i>(If other than above wage earner)</i>	RELATIONSHIP TO WAGE EARNER, SELF-EMPLOYED PERSON, OR SSI CLAIMANT	

REQUEST FOR GOOD CAUSE EXCEPTION TO FUGITIVE FELON NON-PAYMENT PROVISION

<input type="checkbox"/> Discretionary Good Cause <i>(request within 12 months of Notice)</i> <input type="checkbox"/> Unwilling to Extradite - <i>I hereby request that a Social Security Service Representative contact the issuing agency to confirm unwillingness to extradite.</i> or <input type="checkbox"/> 10yr old Warrant / Mental Illness	<input type="checkbox"/> Mandatory Good Cause <i>(may be requested at any time)</i>
---	--

The following statements are true:

I have not been convicted of or pled guilty to any subsequent felony crimes since the warrant was issued.

To the best of my knowledge, the criminal offense or probation/parole violation for which I was charged or convicted was non-violent and not drug related. For a probation/parole violation, the original offense was also non-violent and not drug related.

I am residing in a long-term care facility.

PROOF of Satisfied Warrant or which satisfies the Discretionary Exception Is Attached Will be forthcoming

APPEAL FOR 90 DAY PAYMENT CONTINUATION

<input type="checkbox"/> I hereby request that my benefits be continued for a period of 90 days pending the outcome of my Request for Good Cause.	<input type="checkbox"/> Title II (SSDI/Retirement) [must request within 30 days of receipt of Notice to Suspend] <input type="checkbox"/> Title XVI (SSI) [must request within 10 days of receipt of Notice to Suspend]
---	---

I am Requesting a Good Cause Extension to Appeal for Payment Continuation. *(Complete this only if the SSI 10 day or SSDI 30 day deadline has passed)* **I hereby certify that a timely Appeal for Payment Continuation was not filed because:**

I declare under penalty of perjury that I have examined all the information on this form, and on any accompanying statements or forms, and it is true and correct to the best of my knowledge. I understand that anyone who knowingly gives a false or misleading statement about a material fact in this information, or causes someone else to do so, commits a crime and may be sent to prison, or may face other penalties, or both.

SIGNATURE OF PERSON MAKING STATEMENT

Signature <i>(First name, middle initial, last name)</i> (Claimant MUST sign this form)	Date <i>(Month, day, year)</i>
Sign Here X	Telephone Number <i>(Include Area Code)</i>

Mailing Address	
City and State	ZIP Code