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11 UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

12 HUGH HELD and
13 KELLEY RICHARDSON-WRIGHT,
on behalf of themselves
14 and all other similarly situated,

15 Plaintiffs,

16 v.

17 CAROLYN W. COLVIN,
Acting Commissioner of Social
18 Security, in her official capacity,

19 Defendant.
24

Case No. 2:15-cv-1732 PA (JCx)

**DECLARATION OF STEPHEN
BYCHOWSKI IN SUPPORT OF
PLAINTIFFS' OPPOSITION TO
DEFENDANT'S MOTION TO
DISMISS FOR LACK OF
SUBJECT-MATTER
JURISDICTION**

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1 I, Stephen Bychowski, declare as follows:

2 1. I am a member of the Bar of the Commonwealth of Massachusetts. I
3 am one of the attorneys representing Plaintiffs in *Held v. Colvin*, No. 2:15-cv-
4 1732.

5 2. Attached as Exhibit A is a true and correct copy of POMS GN
6 00210.800 downloaded from the Social Security Administration's ("SSA") official
7 website.

8 3. Attached as Exhibit B true and correct copy of POMS SI 02201.005
9 downloaded from SSA's official website.

10 4. Attached as Exhibit C is a true and correct copy of POMS SI
11 02201.025 downloaded from SSA's official website.

12 5. Attached as Exhibit D is a true and correct copy of POMS SI
13 02220.001 downloaded from SSA's official website.

14 6. Attached as Exhibit E is a true and correct copy of POMS SI
15 02260.001 downloaded from SSA's official website.

16 7. Attached as Exhibit F is a true and correct copy of POMS GN
17 00210.003 downloaded from SSA's official website.

1 I declare under penalty of perjury that the foregoing is true and correct and
2 that this declaration was signed this 13th day of July 2015 in Boston,
3 Massachusetts.

4
5
6 /s/ Stephen T. Bychowski
Stephen T. Bychowski

EXHIBIT A

Social Security

Official Social Security Website

Menu



Program Operations Manual System (POMS)

TN 16 (09-14)

GN 00210.800 Same-Sex Marriage, SSI Same-Sex Couples, and SSI Deeming from a Same-Sex Ineligible Spouse

Citations:

Social Security Act §1614(b) and §1614(d)

Regulations 20 CFR 416.1801 through 416.1835

A. Introduction to processing SSI claims involving same-sex marriage

Because of the Supreme Court decision in *Windsor*, issued on June 26, 2013, we are now able to process some Supplemental Security Income (SSI) claims, appeals, and post-eligibility actions that require determining a same-sex couple's marital status.

B. Policy for recognition of same-sex marriage for SSI purposes

1. When we will recognize a same-sex marriage for SSI purposes

We will recognize that an SSI claimant is in a same-sex marriage when he or she:

- lives with someone of the same sex; and
- is legally married to that individual under the laws of the state of their permanent home.

2. When we will not recognize a same-sex marriage for SSI purposes

We will not recognize that a claimant and a same-sex individual with whom he or she lives are married for SSI purposes based on:

- his or her entitlement to title II benefits as same-sex spouses;

- his or her non-marital legal relationship (e.g, a civil union, a domestic partnership); or
- holding himself or herself out to the community as married.

IMPORTANT: Do not develop holding out for same-sex couples.

C. When not to use these instructions for determining SSI marital status

Do not use the instructions in GN 00210.800 if:

- the claimant alleges being unmarried, unless we have evidence to the contrary. To resolve evidence contradicting a claimant's allegation that he or she is unmarried, see GN 00305.020 through GN 00305.030.
- the claimant's marriage involves a transgender individual, and GN 00305.005B.5. instructs you to process the case as an opposite-sex marriage.

D. When to recognize a same-sex marriage for SSI purposes, such as eligibility and payment amount

Review all SSI claims, appeals, and post-eligibility actions that have been on hold per GN 00210.005 for possible processing under these instructions.

For new and pending claims and appeals, we follow procedures for determining the month of eligibility based on the date of application as described in GN 00204.007. We will recognize a same-sex marriage for SSI purposes, consistent with these instructions, as early as the date of the application.

For post-eligibility actions, we will recognize a same-sex marriage as of June 26, 2013, the date of the Supreme Court's Windsor decision.

See SI 00501.150 for information on:

- when we apply the marital relationship to determine eligibility and payment amount; and
- when we no longer consider two individuals married.

E. Determining a same-sex couple's marital status for SSI purposes

Step	Action
1	If the claimant alleges that he or she lives with someone in a same-sex marriage : Do not use entitlement to Title II same-sex spouse benefits to recognize a

	<p>Title XVI same-sex marriage;</p> <p>Do not use an allegation of a non-marital legal relationship (e.g., a civil union, a domestic partnership) to recognize a same-sex marriage for Title XVI purposes; and</p> <p>Do not develop for holding out.</p> <p>Go to step 2.</p>
2	<p>Did the claimant celebrate a same-sex marriage in a foreign jurisdiction; that is, somewhere other than in:</p> <p>the 50 United States;</p> <p>the District of Columbia; or</p> <p>the Northern Mariana Islands?</p> <p>If yes, go to GN 00210.006 to determine if the claimant is married for SSI purposes.</p> <p>If no, go to step 3.</p>
3	<p>Does the chart in GN 00210.003 list the state where the claimant makes his or her permanent home?</p> <p>If yes, go to step 4.</p> <p>If no, the claimant is not married for SSI purposes. Do not develop for holding out. Process the MSSICS claim for an unmarried individual. Go to step 6 for documentation requirements.</p>
4	<p>Refer to Columns I and II of the chart in GN 00210.003. Did the claimant marry his or her same-sex spouse during a period when the laws of the state where the marriage took place permitted same-sex marriage?</p> <p>If yes, go to step 5.</p> <p>If no, the claimant is not married for SSI purposes. Do not develop for holding out. Complete the MSSICS claims path for an unmarried individual. Go to step 6 for documentation requirements.</p> <p>NOTE: If the chart in GN 00210.003 directs a hold, then hold the claim per GN 00210.005 until we issue additional instructions.</p>
5	<p>Refer to Columns I and III of the chart in GN 00210.003. Did the claimant make his or her permanent home in a state during a period when the laws of the state recognized same-sex marriage?</p> <p>If yes, the claimant is married for SSI purposes. Go to GN 00210.800F to process the claim as a "force due case.</p> <p>If no, the claimant is not married for SSI purposes. Do not develop for</p>

	holding out. Complete the MSSICS claim for an unmarried individual. Go to step 6 for documentation requirements.
6	<p>Record the claimant's allegations regarding the marriage (e.g., date and location of marriage celebration, dates of changes in the state of permanent home) in the STATEMENT OF PERSON (PRINTED REMARKS) portion of the associated remarks for ACLD. This information will appear on the printed output for the claimant's attestation.</p> <p>Add a 626 unit code using the following chart in GN 00210.800F.1.;</p> <p>Prepare a Report of Contact (DROC) containing the rationale for the determination that the claimant is not in a same-sex marriage for any month since the date of application, and record any necessary supporting documentation, including name of the alleged spouse, DOB, SSN, date and location of marriage.</p> <p>Lock the DROC screen.</p> <p>Add a remark to the SSR using one of the five available remark lines: "NOT IN A SAME-SEX MARRIAGE" – SEE DROC</p> <p>NOTE: For every month of eligibility, determine if the claimant's permanent home was in a state that recognized same-sex marriage.</p> <p>Consider the couple married for months when they make their permanent home in a state that recognizes same-sex marriage.</p> <p>Consider them unmarried for months when they make their permanent home in a state that does not recognize same-sex marriage.</p>

F. Processing SSI claims, appeals, and post-eligibility actions when we recognize a same-sex marriage for SSI purposes

1. Processing claims

Take the following steps to process the application.

- Take the application in MSSICS to add the same sex spouse (eligible or ineligible) and document the marriage on the AMAR screen.
- Establish the SSR. The application will stay in payment status H80 because of the edit condition (ECI: CD), "Sex for both members of a couple cannot be identical."
- Ensure the remark "M02 REQD-WINDSOR CASE MM/DD/YYYY" is present on the SSR as cited in GN 00210.800F.1.b. in this section.
- Input "WDSR" in the Case Characteristic Data (CG) field.

- On the development worksheet (DW01), enter the code (from the chart below) that applies to the status alleged by the claimant at the time of the application as the first four positions of the unit code.

IMPORTANT: Retain this unit code, regardless of the determination or changes made in the adjudicative level of the case.

Type of Same-Sex Relationship Alleged When Claim Established	Code
Marriage	626M
Civil Union	626C
Domestic Partnership	626D
Reciprocal Beneficiary	626R
Other	626O

a. Mandatory Case Review by Technical Expert (TE) or Management Official

Take the following steps prior to processing SSI claims, appeals, and post-eligibility actions: MSSICS cases:

- The technician initiating the initial claim, appeal, or post-eligibility event must prepare a Report of Contact (DROC) containing the rationale for proposed FO determination and any necessary supporting documentation. The technician must lock the DROC screen.

EXAMPLE: "M02 PROCESSING REQUIRED AS COUPLE IS IN A SAME-SEX MARRIAGE. PER GN 00210.800, WE CAN CONSIDER THE COUPLE MARRIED FOR SSI PURPOSES BECAUSE THE COUPLE RESIDES IN A STATE THAT RECOGNIZES SAME-SEX MARRIAGE. INCOME AND RESOURCES FOR BOTH MEMBERS OF THE COUPLE WERE RECORDED IN THE MSSICS PATH. E-COMPUTATION PERFORMED AND STORED IN THE ELECTRONIC FOLDER."

- A TE or management official must review and document approval on a separate DROC indicating the FO determination is accurate in accordance with policy. The TE or management official must lock the DROC screen.

NOTE: If a force due transaction (M02) is involved, the DROC used to approve the FO determination may also be used to document approval of the force due transaction. This will satisfy the policy requirement in SM 01701.001. Once the review is completed and documented, the TE or management official may process the force due action through Direct SSR Update using his or her PIN.

Non-MSSICS cases:

- The technician initiating the initial claim, appeal, or post-eligibility event must prepare an

SSA-5002 (Report of Contact) containing the rationale for proposed FO determination and any necessary supporting documentation. The technician must store the SSA-5002 in the Certified Electronic Folder (CEF), if one exists, or the Non-Disability Repository for Evidentiary Documents (NDRED).

EXAMPLE: "M02 PROCESSING REQUIRED AS COUPLE IS IN A SAME-SEX MARRIAGE. PER GN 00210.800, WE CAN CONSIDER THE COUPLE MARRIED FOR SSI PURPOSES BECAUSE THE COUPLE RESIDES IN A STATE THAT RECOGNIZES SAME-SEX MARRIAGE. INCOME AND RESOURCES FOR BOTH MEMBERS OF THE COUPLE WERE RECORDED ON PAPER SSA-8000 AND FAXED INTO NDRED. E-COMPUTATION PERFORMED AND STORED IN NDRED."

- A TE or management official must review and document approval on a separate SSA-5002 indicating the FO determination is accurate in accordance with policy. Store the SSA-5002 in the CEF, if one exists, or NDRED.

NOTE: If a force due transaction (M02) is involved, the SSA-5002 (Report of Contact) used to approve the FO determination may also be used to document approval of the force due transaction. This will satisfy the policy requirement in SM 01701.001. Once the review is completed and documented, the TE or management official may process the force due action through Direct SSR Update using his or her PIN.

b. Processing awards

- Take the following steps to process the award when the claimant meets all SSI eligibility factors:
- Use the Force Due (M02) process to control the case and pay the individual. In order to obtain accurate payment information, you must manually perform an eComputation and then save a copy of the eComputation in eView.
- The SSR initially created from the MSSICS input will not generate payment computation information as it will remain in H80 status. For more information, refer to the instructions on Force Due in SM 01701.001 and MSOM BUSSR 002.006.
- In order to track cases on the Force Pay Listing website, you must add a remark to the SSR exactly as follows using one of the five available remark lines: "M02 REQD-WINDSOR CASE MM/DD/YYYY." (Use the date you post the remark as the date for the MM/DD/YYYY placeholder.) The RMKS FOUND column on the FO Case Listing will contain a "Yes" if the remark is posted properly. See MSOM MSSICS 023.003, SSR remarks (CRMK).

NOTE: Since these cases will be in Force Due (M02) status, they will be listed on the Force Pay Listing website. The listings are updated quarterly. You must monitor these cases

closely as the system will not automatically terminate the claimant's eligibility if a relevant period of ineligibility occurs.

c. Processing technical claim denials

Use the Force Due process in SM 01701.001 to process the technical claim denial when the SSI claimant is ineligible.

In order to track cases on the Force Pay Listing website, you must add a remark to the SSR exactly as follows using one of the five available remark lines: "M02 NOPAY-WINDSOR DENIAL MM/DD/YYYY." (Use the date you post the remark as the date for the MM/DD/YYYY placeholder.) The RMKS FOUND column on the FO Case Listing will contain a "Yes" if the remark is posted properly. See MSOM MSSICS 023.003, SSR remarks (CRMK).

d. Notices

Force pay actions will not generate automated notices to the claimant. Therefore, you must send one of the manual notices listed below using the document process system (DPS); send the notice to the Online Retrieval System (ORS) to be stored.

- Award Notice (SSA-L8025) NL 00802.015
- Denial Notice (SSA-L8030) NL 00802.025

2. Processing post-eligibility actions

Take the following steps to process the post-eligibility action due to a change in marital status for SSI purposes. This includes a marital-status change when a claimant moves to a state that treats same-sex marriage differently than the state where the claimant and his or her same-sex spouse previously made their permanent home. Refer to SI 00501.150, Determining Whether a Marital Relationship Exists, for more information.

- Collect all necessary technical (i.e., non-medical) information and evidence.
- Update the appropriate screens including the AMAR screen, all applicable living arrangement screens, and the spouse's income and resource paths.
- On the development worksheet (DW01), enter the code that applies to the status alleged by the claimant using the chart in GN 00210.800.F.1. in this section.
- Use the Force Due process to control the case. For more information, refer to the instructions on Force Due in SM 01701.001 and MSOM BUSSR 002.006.
- In order to obtain accurate payment information, establish a manual eComputation and then save a copy of the eComputation in NDRed. For more information, refer to the

- **NOTE:** Since these cases will be in Force Due status, they will be listed on the Force Pay Listing website. The listings are updated quarterly. You must monitor these cases closely as the system will not automatically terminate the claimant's eligibility if a period of ineligibility occurs.
- In order to track cases on the Force Pay Listing website, you must add a remark to the SSR exactly as follows using one of the five available remark lines: "M02 REQD-WINDSOR CASE MM/DD/YYYY." (Use the date you post the remark as the date for the MM/DD/YYYY placeholder.) The RMKS FOUND column on the FO Case Listing will contain a "Yes" if the remark is posted properly. See MSOM MSSICS 023.003, SSR remarks (CRMK).

G. Examples

1. Evidence contrary to the claimant's allegation of marital status

Jed applies for SSI benefits as an unmarried individual. He lists Bart as an unrelated household member living in Jed's permanent home in Connecticut. The claims representative (CR) notes that an old SSI record showed Jed and Bart were married and living New York. When the CR questions Jed's current allegation, Jed explains that he and Bart are in the process of getting divorced and plan to live separately. The CR determines that Jed is still married, because Connecticut appears in Column III as a state that has recognized same-sex marriages performed in other states since 2008.

2. Claimant in a same-sex marriage for Title II purposes, unmarried for SSI purposes

When Kathy applies for SSI benefits as an aged individual, her MBR indicates that she began receiving Title II benefits as Polly's same-sex spouse a year ago. Kathy and Polly now make their permanent home in a state that does not appear on the chart in GN 00210.003; therefore, they are not married for SSI purposes. The CR does not adopt the Title II determination that Kathy and Polly are same-sex spouses. The CR does not develop for holding out.

H. References

- GN 00204.007 Application Filing Date
- GN 00210.001 Windsor Same-Sex Marriage Claims--Introduction
- GN 00210.005 Holding Claims, Appeals, and Post-Entitlement Actions Involving Same-Sex Marriages or Legal Same-Sex Relationships other than Marriage

- GN 00210.010 Interviewing Individuals with Claims Involving Same-Sex Relationships
- GN 00210.850 Same-Sex Parents, a Parent's Same-Sex Marriage, and Supplemental Security Income (SSI) Parent-Child Deeming – Initial Claim and Post-Eligibility Cases
- GN 00305.001 Determining Family Status
- GN 00305.005 Determining Marital Status
- SI 00501.000 Eligibility Under the Supplemental Security Income (SSI) Provisions
- SI 00501.150 Determining Whether a Marital Relationship Exists
- SI 00602.001 The Abbreviated Application Process
- SI 01310.105 Deeming Concept - Parent
- SM 01701.001 How Force Due and Force Payment Work
- MSOM BUSSR 002.006 Force Due Process

To Link to this section - Use this URL:

<http://policy.ssa.gov/poms.nsf/lnx/0200210800>

*GN 00210.800 - Same-Sex Marriage, SSI Same-Sex Couples, and SSI Deeming
from a Same-Sex Ineligible Spouse - 12/22/2014*

Batch run: 05/13/2015

Rev:05/13/2015

EXHIBIT B

Social Security

Official Social Security Website

Menu



Program Operations Manual System (POMS)

Citations:

Section 1621(e), 1631(b)(1) of the Social Security Act; 20 CFR 416.535; 20 CFR 416.537- 416.538; 20 CFR 416.543-416.570.

TN 5 (10-09)

SI 02201.005 Supplemental Security Income (SSI) - What Is an Overpayment?

A. Definition of overpayment

There are three elements in the definition of overpayment:

- Payment was made;
- Over a period of time (at least 1 month); and
- More than the correct amount was paid.

B. Definition of overpayment resolution

Overpayment resolution is a **continuous, ongoing process**. Resolution begins when a debt is detected. It ends when we account for the entire amount of the debt by one or more of the following:

- Recovery (through refund, adjustment of payments, or installment payments).
- Waiver.
- A determination that the debt either did not exist, or is uncollectible.

C. Policy for overpayment resolution

Prompt initiation of the overpayment resolution process will maximize the amount of debt recovered.

1. Payment made

Payments include any federally administered State supplementary payment. A payment is made when the Social Security Administration (SSA) certifies payment to the Treasury Department.

2. Payment not made

Payment has **not** been made if the proper party (e.g., the eligible individual, his or her representative payee, etc) does not receive it or if it is returned.

3. Overpayment period prior to April 1982

An overpayment period began with the first month of the first quarter for which there was a difference between the amount paid and the amount due.

The overpayment period ended either

- a. **With the most recent closed quarter**, i.e., the month immediately preceding the calendar quarter in which we made the determination of overpayment (or underpayment); or
- b. Within the quarter in which we made the determination, **when that quarter was effectively closed** by one of the following events.
 - o We suspended an individual's eligibility to receive payments for other than excess income; and
 - o We terminated eligibility to receive payments when there was no excess income in the current quarter.

4. Overpayment period beginning with April 1982

An overpayment period begins with the first month for which there is a difference between the amount paid and the amount due. It ends with the month we notify the overpaid individual.

5. Changing the overpayment period

An overpayment period, once established, remains the same. If we determine a second or subsequent reason for overpayment in a previously established overpayment period, we change the basis or amount of the overpayment but not the overpayment period.

6. Overpayment determination

The overpayment determination covers the entire overpayment period (that is all months of

excess payments or additional amounts due). We have not made an initial determination of overpayment until we notify the overpaid individual.

7. Determination of liability for repayment

The determination of liability for repayment of an overpayment is as much a part of the determination of overpayment as is the fact of and the amount of the overpayment determination. Appeal rights attach to our liability determination.

Once we have detected an overpayment and determined liability for its repayment, the liable individual(s) must be notified.

IMPORTANT: We delay notification when we suspect that fraud caused the overpayment.

D. Effect of a subsequent overpayment covering a prior overpayment period

A subsequent determination of an overpayment can disturb an existing overpayment period if the subsequent overpayment either

- Increases the amount of the overpayment, or
- Causes a period of ineligibility in the existing overpayment period.

EXAMPLE

On June 30th, a SSI recipient reports the receipt of a private pension check. The pension is for \$100 per month and was first received in May. Because it is too late to affect the July SSI payment, an \$80 overpayment occurs.

During a scheduled redetermination in November, the same individual reports that he was an inmate of the county jail (a public institution) the entire month of July. Therefore, the month of July is now a month of ineligibility instead of a month where a reduced payment is due. While the subsequent overpayment (due to a period of institutionalization) covers the same months as the prior overpayment it also increases the amount of the overpayment for July from \$80 to the entire amount of the July check.

E. Applying the rules of administrative finality

1. Do not apply the rules of Administrative Finality to cases involving fraud.
2. Make any revision to a prior overpayment determination only under the rules of administrative finality. These rules permit the recovery of overpayments which occurred more than 2 years in the past as long as the determination was made timely.
3. If the rules of administrative finality permit the determination of an overpayment more

than 24 months in the past, post this overpayment to the Supplemental Security Record (SSR).

4. If the SSR shows an overpayment, assume that any changes made to the system which resulted in the overpayment being computed were properly made within the rules of administrative finality. For more information about administrative finality, see SI 04070.001.
5. To generate an automated overpayment notice (AONS), follow the instructions in SM 01301.365.

F. Individuals from whom you may attempt recovery of an overpayment

1. We will attempt recovery of an overpayment **only** from the following individuals:
 - a. The overpaid recipient.
 - b. The representative payee.
 - c. The spouse of the overpaid individual, but only for that part of the overpayment period when the spouse was a member of the eligible couple.
 - d. Under certain circumstances, the sponsor of an alien recipient.
 - e. The estate (or distributees) of any of the following:
 - The recipient,
 - The representative payee
 - The recipient's spouse
 - The recipient's sponsor
2. Do not attempt recovery from a third party
Never attempt to recover an overpayment from an individual or institution (i.e., a **third party**) that **is not liable** for repayment.
However, you may:
 - Accept a **refund offered** by a third party from his or her own funds.
 - Accept a third party refund consisting of the overpaid individual's own funds, but only if the third party (for example, a legal representative) **has the authority to dispose** of the overpaid individual's funds.

G. Recovery efforts

1. Attempt recovery **first** against the individual who was overpaid.
2. If there is **representative payment**, attempt recovery from:
 - a. The **individual only** if the overpaid funds were used for his or her support and maintenance and the representative payee was not aware of the facts causing the overpayment.
 - b. The **representative payee only** if the overpaid funds were not used for the overpaid individual's support and maintenance.
 - c. **NOTE:** If a misuse determination has been made, the representative payee is personally liable for repayment of any misused funds.
 - d. For information on misuse of benefits, see GN 00604.000
 - e. A representative payee (or his or her estate) is solely liable for repayment of payments he or she received on behalf of a deceased recipient for month(s) after the month of the recipient's death. This policy was effective December 4, 2008.
 - f. **Both the individual and the payee** if the overpaid funds were used for the overpaid individual's support and maintenance and the representative payee was aware of the facts causing the overpayment.
 - g. Attempt recovery against an **eligible spouse** for the eligible individual's overpayment only if:
 - o The eligible spouse was a member of the eligible couple when the overpayment occurred;
 - o The eligible spouse and eligible individual were living together when the overpayment occurred; and
 - o Recovery from the eligible individual is not possible.
3. If a **deceased** overpaid individual **had a liable representative payee** attempt recovery from the representative payee before attempting recovery from the deceased's estate.
4. If a **deceased** overpaid individual **is survived by a spouse** and has left an estate, first attempt recovery from the estate.
5. For recovery priority in **sponsor-to-alien deeming** situations, see SI 02220.065.
6. **Third-party Refunds: Accept a refund** from the funds of a non-liable third-party. If the third party has the authority to dispose of the overpaid individual's funds, **accept** a third-party refund consisting of the overpaid individual's own funds.

H. Requests for relief from repayment of an overpayment

1. Rights of liable individuals

- All individuals who are liable for repayment of an overpayment have the right to:
- Appeal the determination of overpayment as well as their liability for repayment.
- At any time request that repayment of all or part of the overpayment be waived or the rate of repayment be changed.
- Offer a compromise settlement to repay a substantial amount of the overpayment if we waive recovery of the remaining balance.

For information on the compromise settlement process, see SI 02220.017 and SI 02260.001.

2. Reconsideration

The liable individual(s) can question the existence of and the amount of the overpayment. This is done by requesting reconsideration within 60 days of the date the initial overpayment notice. If the request is made more than 60 days from the date of the initial request, you must determine whether the individual has established good cause for his or her delay before you can accept and process the reconsideration. For policy and procedures on processing a request for reconsideration, see GN 03102.100.

3. Waiver

A request for waiver is a request for release from the liability for repayment.

The liable overpaid individual(s) can request waiver even after the appeal period has passed or the overpayment has been completely recovered.

At any point in the overpayment recovery process, the liable individual(s) can request that the recovery of his or her overpayment be waived.

To **grant** a request for waiver the liable individual must be without fault in causing the overpayment **and** recovery or adjustment would

- a. Defeat the purpose of title XVI; or
- b. Be against equity and good conscience; or
- c. Impede effective or efficient administration of the title XVI program.

For information on the waiver of a SSI overpayment, see SI 02260.000.

4. Negotiated rate of repayment

If you **cannot waive recovery** of the overpayment, the liable individual can negotiate a rate of repayment.

After adjustment (in current pay cases) or recovery (refund, cross-program adjustment or periodic installment payments) begins, the liable individual retains the right to request a different rate of repayment.

In **nonpay** overpayment cases, you always will negotiate the rate of repayment.

5. Compromise offer

In certain non-pay overpayment situations, you may accept an offer by the liable individual to repay a substantial part of his or her overpayment in return for our agreement to waive recovery of the remaining balance of the overpayment. For information on a compromise settlement, see SI 02220.030.

I. Fraud suspected

If you suspect that an overpayment was the result of fraud,

Stop or suspend all recovery efforts, including sending the initial overpayment notice and follow the instructions in SI 02201.007.

J. References

- MSOM BUSSR 004.006 - Update Sequence Data (UOSD)
- SI 02201.005 - Supplemental Security Income (SSI): What Is An Overpayment?
- SI 02201.007 - Supplemental Security Income (SSI): Overpayment Fraud
- SI 02220.000 - Recovery Procedures for Supplemental Security Income Overpayments
- SI 02220.005 - Documenting the Supplemental Security Income (SSI) Overpayment
- SI 02220.010 - SSI Overpayment -- Notifying the Individual
- SI 02220.017 - SSI Overpayment – Request for a Different Rate of Adjustment, Reconsideration or a Waiver
- SI 02220.020 - Cross Program Recovery (CPR) of SSI Overpayments from Monthly Title II Benefits
- SI 02220.030 - SSI Overpayment – Compromise Settlement
- SI 02260.000 - Waiver Provisions for Supplemental Security Income (SSI) Overpayments
- SI 02260.001 - Basic Requirements Concerning Supplemental Security Income (SSI)

- SI 04070.000 - Administrative Finality – SSI

To Link to this section - Use this URL:

<http://policy.ssa.gov/poms.nsf/lnx/0502201005>

SI 02201.005 - Supplemental Security Income (SSI) - What Is an Overpayment? -

02/04/2011

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EXHIBIT C

Social Security

Official Social Security Website

Menu



Program Operations Manual System (POMS)

TN 5 (10-09)

SI 02201.025 Supplemental Security Income (SSI) Overpayment: Notifying Overpaid Individuals

A. Policy for notifying overpaid individuals

All individuals liable for repayment of an overpayment receive a notice of our determination that they are overpaid.

An overpayment does not exist until the initial notice of overpayment is released.

Each initial notice of overpayment, whether computer generated by the Automated Overpayment Notice System (AONS) or produced manually in a field office (FO), must include the following:

- The cause of the overpayment, the amount of the overpayment and the months it occurred;
- A monthly list of the amounts that were paid and that should have been paid for all months of incorrect payment;
- A request for refund of the full amount of the overpayment;
- If the overpaid individual continues to receive title XVI payment, a proposed 10% rate of adjustment of payments if the individual does not make a full refund. The notice must state a date (month and year) at least 60 days in the future on which adjustment will begin;
- The right of the individual to request a waiver of overpayment collection and/or a reconsideration of the facts of the existence of the overpayment; and
- How to request a waiver and a reconsideration;
- Except for Ellender class members in New York State, when the overpaid individual is not

currently receiving SSI payments, but does receive Social Security benefits, the notice discusses the mandatory recovery from the individual's title II benefits.

B. Procedure for production of manual overpayment notices

1. If the system cannot produce an AONS notice, you must produce and send an initial notice of overpayment.
Your notice must address the entire period of excess payments and additional amounts due, if any.
To determine which overpayment notice to use, see SI 02220.010.
2. Prepare an overpayment notice in the Document Processing System (DPS). Print and send the notice to the Online Retrieval System (ORS). NOTE: If using the Web SSI Overpayment Notices Program to prepare the overpayment notice, print and send the notice to ORS (a 2-step process). If you are unable to send the notice to ORS, fax a copy into the Non-Disability Repository for evidentiary documents (NDRed).
3. Document your overpayment disposition determination using the instructions in SI 02220.005.

C. Content of a manual overpayment notice

Manual overpayment notices must include all of the following.

- The cause of the overpayment, the amount of the overpayment and the months it occurred;
- A monthly list of the amounts that were paid and that should have been paid for all months of incorrect payment;
- A request for refund of the full amount of the overpayment;
- If the overpaid individual continues to receive title XVI payment, a proposed 10% rate of adjustment of payments if the individual does not make a full refund. The notice must state a date (month and year) at least 60 days in the future on which adjustment will begin;
- The right of the individual to request a waiver of overpayment collection and/or a reconsideration of the facts of the existence of the overpayment; and
- How to request a waiver and a reconsideration;
- Except for Ellender class members in New York State, when the overpaid individual is not currently receiving SSI payments, but does receive Social Security benefits, the notice

discusses the mandatory recovery from the individual's title II benefits.

The determination of liability for repayment is part of the initial determination of overpayment. The notice of liability is implied in the Notice of Overpayment. If there is no representative payee or eligible spouse, a separate notice of liability is not required.

For information on determining liability for repayment when the overpaid individual is alive, see SI 02201.020.

For information on determining liability for repayment when the overpaid individual is deceased, see SI 02201.021.

D. References

- NL 00801.005 - Automated Overpayment Notice (AONS)
- SM 01310.300 - System Generated Notices Related to Overpayments
- SM 01311.451 - When to Send a Manual Overpayment Notice and How to Enter a Notice Date
- SI 02201.020 - Supplemental Security Income (SSI) Overpayment: Who is Liable for Repayment? Living Overpaid Individual
- SI 02201.023 - Supplemental Security Income (SSI) Overpayment Recovery From A Representative Payee
- SI 02201.021 - Supplemental Security Income (SSI) Overpayment Liability: Overpaid Individual is Deceased
- SI 02220.005 - Documenting the Supplemental Security Income (SSI) Overpayment
- SI 02220.010 - SSI Overpayment – Notifying the Individual

To Link to this section - Use this URL:

<http://policy.ssa.gov/poms.nsf/lnx/0502201025>

SI 02201.025 - Supplemental Security Income (SSI) Overpayment: Notifying

Overpaid Individuals - 06/18/2015

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EXHIBIT D

Social Security

Official Social Security Website

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Program Operations Manual System (POMS)

TN 15 (09-01)

SI 02220.001 Recovery Procedures for SSI Overpayments - General

Citations:

Social Security Act Sections 1631(b)
Federal Claims Collection Act 31 USC 3101
20 CFR 416.535,
20 CFR 416.538,
20 CFR 416.543-416.571, 20 CFR 416.1402

A. Policy

1. Notification

Notifying the recipient of the existence of an overpayment is both an initial determination of the overpayment and notification that the overpayment must be repaid. (See SI 02201.005B.4.) The overpayment notice documents the beginning of the appeal time limits.

Many overpayment notices are systems-generated through the Automated Overpayment Notice System (**AONS**) and are recorded on the system.

Overpayment cases **that are excluded from AONS** (see SM 01310.305) require a manually prepared notice.

2. Actions subsequent to initial notification — individual in current pay

- a. The system automatically begins check adjustment at the 10 percent rate (SI 02220.016) 60 days after the date of the automated or manual overpayment notice (see SM 01310.400 and SM 01311.105) if:
 - o There is no response to the overpayment notice within 30 days; **or**

- During an interview concerning the overpayment notice the individual does not request reconsideration of the overpayment determination, or waiver of recovery of the overpayment;

AND

- The individual has not refunded the overpayment.
- b. The check adjustment proposed in the notice must stop in the month a request for reconsideration, or waiver is filed, or a request for a different rate of repayment is received. See SM 01311.130B.1. and MSOM BUSSR 004.008.
- c. Recovery may begin again only after the determination is made on the request for a waiver, reconsideration, or different rate of repayment. See SI 02220.017A.4. for the timing of the resumption of recovery.

3. Individual in non-payment status

Most non-payment status cases are under the Recovery and Collection of Overpayments Process (RECOOP).

For cases excluded from RECOOP, control act quickly to:

- **Send** the debtor the initial overpayment notice; and
- **Resolve** the overpayment (through full payment, installment plan, compromise or waiver).

4. Appeal and waiver

- a. All individuals who are responsible for repayment of an overpayment have the right to appeal:
- the determination of overpayment; and
 - their responsibility for repayment.
- b. **They may ask** — at any time:
- That repayment of all or part of the overpayment **be waived** (see SI 02201.005A.5.c.; SI 02260.001); and
 - That the rate at which they are repaying the overpayment **be changed** (see SI 02220.017).

B. References

- Suspension of recovery efforts: SI 02220.050 and MSOM BUSSR 004.008.
- Determining overpayment period: SI 02201.005B.3. and SI 02201.005.
- Overpayments involving alien supplemental security income (SSI) recipients and their sponsors: SI 02205.001; SI 02220.065.
- Manual overpayment notices: SI 02220.010.
- Notice procedures: NL 00803.100 and NL 00803.300.
- AONS Notices: SM 01310.300.
- Notice paragraphs: NL 00804.
- RECOOP: MSOM DMS 011.001.
- RECOOP Exclusions: SM 01311.700.

To Link to this section - Use this URL:

<http://policy.ssa.gov/poms.nsf/lnx/0502220001>

SI 02220.001 - Recovery Procedures for SSI Overpayments - General -

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EXHIBIT E

Social Security

Official Social Security Website

Menu



Program Operations Manual System (POMS)

TN 12 (04-09)

SI 02260.001 Basic Requirements Concerning Supplemental Security Income (SSI) Overpayment Waiver

A. Policy for waiving recovery of an overpayment

All overpayment waiver determination decisions **must** be made through the Modernized Supplemental Security Income Claims System (MSSICS) via Direct Supplemental Security Record (SSR) Update (MSOM BUSSR 004.001). Following are the basic waiver policies.

1. When to waive

We waive the recovery of an overpayment **only** if the liable individual is without fault in causing the overpayment, **and** recovery or adjustment would:

- **Defeat the purpose** of Title XVI of the Act; or
- **Be against equity and good conscience**; or
- **Impede effective or efficient administration** of Title XVI of the Act because of the amount involved.

2. Effect of waiver

The effect of an approved request for a waiver is to relieve the overpaid individual, his or her estate or his or her spouse (and the spouse's estate) of the obligation to repay the amount of the overpayment that is waived.

We reopen a determination to approve a request for waiver only if we later determine that the overpayment was the result of fraud.

3. When a waiver may be requested

A waiver may be requested at **any time**. A second or subsequent request may be made even if the prior waiver request was denied and the due process period has expired. Waiver may be requested after recovery has begun or even after recovery is complete.

Unless the total overpayment is \$1,000.00 or less, the request must be in writing, over the individual's signature (or that of his or her representative payee, legal counsel, or other appointed representative). Even if the written request does not contain all the information required on the Form SSA-632-BK (Request for Waiver of Overpayment or Overpayment Recovery or Change in Repayment Rate) it is a request for a waiver. The date of the waiver request is the date the written request is received in the field office (FO).

If the total amount of the overpayment, not the balance, is \$1,000.00 or less, the individual, representative payee, or other authorized representative may make a verbal request for a waiver (SI 02260.001B.1 and SI 02260.030B.2.f). Field office staff will document the date of the verbal waiver request on the DROC screen in MSSICS, or on a SSA-5002 faxed into NDRed.

4. Effect of waiver request

A request for waiver stops recovery or adjustment effective with the month the written waiver request is received. We do not resume recovery or adjustment until we make the waiver determination and the appeal period has expired.

5. Action following waiver requests

If we cannot make the waiver determination within 10 days of the date the request was filed, we:

- **Stop** recovery or adjustment; and
- **Refund**, the amount recovered for the month the waiver was filed and any subsequent month.

6. Actions following a denial of a request for waiver

Following a denial of a request for waiver we:

- Notify the individual(s) who requested the waiver.
- Delay starting or resuming adjustment until 30 days (plus 5 days for mailing) after the date of the notice of waiver denial.

B. Waiver procedures

1. Written request for a waiver

In order to process a request for a waiver, the request must be in writing and over the individual's signature (or that of his or her representative payee, legal counsel or other appointed representative). Even if incomplete, this document is a waiver request.

A written request for waiver is not required if the total overpayment, not the outstanding balance, is less than \$1,000.01. See SI 02260.030.

The date of the waiver request is the date the written request is received in the FO.

2. Actions following a request for waiver

- a. If you cannot make the waiver determination within 10 days of the waiver request date you must:
 - o Stop all recovery or adjustment actions.
 - o Refund the amount recovered in the month the request for waiver was filed and any subsequent months. Use the A-OTP process to refund the recovered amount(s). For instructions on the A-OTP process see SM 01901.005 and MSOM BUSSR 004.007 through MSOM BUSSR 004.009 and MSOM BUSSR 003.022.
- b. Do not refund any funds collected for months(s) before the month the request was received.
- c. Do not refund payment withheld if there is either another collect decision (i.e., different period of overpayment) or an unresolved overpayment.
- d. Develop only for the person(s) who is or are liable for making repayment.

For a discussion of liability when there is a representative payee see SI 02201.020 through SI 02201.023 and SI 02201.025.

NOTE: Effective 12/04/2008, a representative payee (or his or her estate) is solely liable for repayment of payments he or she received on behalf of a deceased recipient for month(s) after the month of the recipient's death. See SI 02201.005

3. Actions following an approval of a request for waiver

- a. Post the approved waiver decision to the SSR using MSSICS Direct SSR Update and the UOWV screen. For instructions see MSOM BUSSR 004.009; and
- b. Refund funds recovered for the period covered by the approved request for waiver. Use the A-OTP process to refund the recovered amount. For instructions on the A-OTP process see SM 01901.005 and MSOM BUSSR 004.003 through MSOM BUSSR 004.009 and MSOM BUSSR 003.022.

- c. If the approved waiver covers months in which payments were adjusted to recover the waived overpayment, refund the amount that was withheld.
- d. Do not refund any funds if there is either another collect decision (i.e., different period of overpayment) or an unresolved overpayment.
- e. If the overpaid individual is a legal guardian or representative payee, send him or her a manual notice of an approved request for waiver. (See Notice of Waiver Decision-General, NL 00803.200). **For a complete list of circumstances that require manual notice, see NL 00801.010B.2.**

4. Action following the denial of a waiver request

For instructions on the waiver denial process see SI 02260.006. If you deny a request for waiver of an overpayment you must:

- a. Post the waiver decision to the SSR using MSSICS Direct SSR Update and the UOWV screen. For instructions see MSOM BUSSR 004.009 UOWV screen. For instructions on posting a waiver denial, see MSOM BUSSR 004.009.
- b. Notify the individual(s) who requested the waiver. Use the Form SSA-8173-U3 (Notice of Waiver Denial) in current pay cases or Form SSA-8174-U4 (Notice of Waiver Denial) for non-payment cases.
- c. Never start or resume adjustment before 30 days (plus 5 days for mailing) after the date of the notice of waiver denial.

C. References

GN 02250.325 - Waiver after administrative change of position

GN 02250.330 - Blanket Waivers for Dollar Down Rounding Overpayments

GN 02250.340 - Waiver Determinations for Automatic or Blanket Waivers

SI 02220.017 - SSI Overpayment - Request for a Different Rate of Adjustment, Reconsideration or a Waiver

SI 02220.065 - Recovery from Alien's Sponsor of Payments Made to the Alien

MSOM BUSSR 004.007 (UOWV Screen) - Documenting a Waiver Request Date

To Link to this section - Use this URL:

<http://policy.ssa.gov/poms.nsf/lnx/0502260001>

SI 02260.001 - Basic Requirements Concerning Supplemental Security Income

(SSI) Overpayment Waiver - 09/04/2014

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EXHIBIT F

Social Security

Official Social Security Website

Program Operations Manual System (POMS)

Effective Dates: 07/06/2015 - Present

TN 22 (07-15)

GN 00210.003 Same-Sex Marriage – Dates States Permitted or Recognized Same-Sex Marriage

A. State chart for same-sex marriage permission and recognition

Consult this chart to determine:

- the date(s) when the states permitted same-sex marriages; and
- the dates states recognize same-sex marriages.

NOTE: For state-specific guidance, always refer to GN 00210.003B in this section before using this chart.

NOTE: For SSI claims, appeals, and post-eligibility actions, also refer to GN 00210.800 and EM-15016 for more information.

COLUMN I	COLUMN II	COLUMN III
State	Date Same-Sex Marriages Were Permitted in the State	Date Same-Sex Marriages from Other States Were Recognized
Alabama	February 9, 2015	February 9, 2015
Alaska	October 17, 2014	October 17, 2014
Arizona	October 17, 2014	October 17, 2014
Arkansas	If a claimant alleges a same-sex marriage celebrated in Arkansas before	June 26, 2015

COLUMN I	COLUMN II	COLUMN III
State	Date Same-Sex Marriages Were Permitted in the State	Date Same-Sex Marriages from Other States Were Recognized
	June 26, 2015, hold the claim per GN 00210.005. June 26, 2015 - present	
California (See GN 00210.003B.1.)	June 16, 2008 – November 4, 2008 June 26, 2013 - present	June 16, 2008 – November 4, 2008 June 26, 2013 - present
Colorado (See GN 00210.003B.2.)	June 25, 2014 - July 18, 2014 October 6, 2014 - present	June 25, 2014 - July 18, 2014 October 6, 2014 - present
Connecticut	November 12, 2008	November 12, 2008
Delaware	July 1, 2013	July 1, 2013
District of Columbia	March 9, 2010	July 7, 2009
Florida	January 5, 2015	January 5, 2015
Georgia	June 26, 2015	June 26, 2015
Hawaii	December 2, 2013	December 2, 2013
Idaho	October 15, 2014	October 15, 2014
Illinois	December 16, 2013	February 21, 2014
Indiana (See GN 00210.003B.3.)	June 25 – June 27, 2014 October 6, 2014 — present	June 25 — June 27, 2014 October 6, 2014 — present
Iowa	April 20, 2009	April 30, 2009
Kansas	November 12, 2014	November 12, 2014
Kentucky	June 26, 2015	June 26, 2015
Louisiana	June 26, 2015	June 26, 2015
Maine	December 29, 2012	December 29, 2012
Maryland	January 1, 2013	February 23, 2010

COLUMN I	COLUMN II	COLUMN III
State	Date Same-Sex Marriages Were Permitted in the State	Date Same-Sex Marriages from Other States Were Recognized
Massachusetts	May 17, 2004	May 17, 2004
Michigan (See GN 00210.003B.4.)	March 21 – 22, 2014 June 26, 2015 - present	March 21 – 22, 2014 June 26, 2015 - present
Minnesota	August 1, 2013	August 1, 2013
Mississippi	June 26, 2015	June 26, 2015
Missouri	If a claimant alleges a same-sex marriage celebrated in Missouri before June 26, 2015, hold the claim per GN 00210.005. June 26, 2015 - present	October 6, 2014
Montana	November 19, 2014	November 19, 2014
Nebraska	June 26, 2015	June 26, 2015
Nevada	October 9, 2014	October 9, 2014
New Hampshire	January 1, 2010	January 1, 2010
New Jersey (See GN 00210.003B.5.)	October 21, 2013	October 21, 2013 February 19, 2007 - October 20, 2013 Recognizes same-sex marriages from other states as civil unions.
New Mexico	August 21, 2013 If a claimant alleges a same-sex marriage celebrated in New Mexico based on a marriage license issued by Sandoval County in 2004, hold the claim per GN 00210.005.	January 4, 2011
New York	July 24, 2011	February 1, 2008

COLUMN I State	COLUMN II Date Same-Sex Marriages Were Permitted in the State	COLUMN III
		Date Same-Sex Marriages from Other States Were Recognized
North Carolina	October 10, 2014	October 10, 2014
North Dakota	June 26, 2015	June 26, 2015
Ohio	June 26, 2015	June 26, 2015
Oklahoma	October 6, 2014	October 6, 2014
Oregon	May 19, 2014	October 16, 2013
Pennsylvania	May 20, 2014 If a claimant alleges a same-sex marriage celebrated in Pennsylvania based on a marriage license issued prior to this date, hold the claim per GN 00210.005.	May 20, 2014
Rhode Island	August 1, 2013	February 20, 2007
South Carolina	November 19, 2014	November 19, 2014
South Dakota	June 26, 2015	June 26, 2015
Tennessee	June 26, 2015	June 26, 2015
Texas	June 26, 2015	June 26, 2015
Utah (See GN 00210.003B.6.)	December 20, 2013 – January 6, 2014 October 6, 2014 — present	December 20, 2013 – January 6, 2014 October 6, 2014 — present
Vermont	September 1, 2009	September 1, 2009
Virginia	October 6, 2014	October 6, 2014
Washington	December 6, 2012	December 6, 2012
West Virginia	October 9, 2014	October 9, 2014
Wisconsin (See GN 00210.003B.7.)	June 6 – June 13, 2014 October 6, 2014 — present	June 6 – June 13, 2014 October 6, 2014 — present
Wyoming	October 21, 2014	October 21, 2014

COLUMN I	COLUMN II	COLUMN III
State	Date Same-Sex Marriages Were Permitted in the State	Date Same-Sex Marriages from Other States Were Recognized

B. State-specific guidance

1. California

California recognizes same-sex marriages celebrated in California as valid from June 16, 2008 to present.

For example, if a claimant married a number holder (NH) in California on October 30, 2008, and the NH died while domiciled in California on October 30, 2011, we would recognize the marriage as having duration of three full years for purposes of determining the claimant's entitlement to survivor benefits or the lump sum death payment.

2. Colorado

Colorado permitted same-sex marriages and recognized same-sex marriages from other states for a closed period from June 25, 2014 through and including July 18, 2014. Beginning on October 6, 2014, Colorado again permitted and recognized same-sex marriages.

Using instructions in GN 00210.005, hold all Title II claims and appeals for which entitlement depends on a same-sex marriage and a NH who died while domiciled in Colorado from July 19, 2014 through and including October 5, 2014.

If you are holding a claim according to this instruction, send an email message to ^Windsor Policy Questions with, simply, "Windsor Claim Hold – Colorado" in the subject line, and the SSN of the NH in the body of the message.

For more information about determining marital status for Colorado, refer to **EM-15015**.

3. Indiana

Indiana permitted same-sex marriages and recognized same-sex marriages from other states for a closed period from June 25, 2014, through and including June 27, 2014. Beginning on October 6, 2014, Indiana again permitted and recognized same-sex marriages.

Using instructions in GN 00210.005, hold all Title II claims and appeals for which entitlement depends on a same-sex marriage and a NH who died while domiciled in Indiana from June 28, 2014 through and including October 5, 2014.

If you are holding a claim according to this instruction, send an email message to ^Windsor Policy Questions with, simply, "Windsor Claim Hold – Indiana" in the subject line, and the SSN of the NH in the body of the message.

For more information about determining marital status for Indiana, refer to EM-15003.

4. Michigan

On March 21 and 22, 2014, and beginning again on June 26, 2015, Michigan permitted same-sex marriages and recognized same-sex marriages validly celebrated in other states.

a. Instructions for processing Title XVI claims, appeals, and post-entitlement actions involving same-sex marriage in Michigan

1. When a same-sex couple makes a permanent home in Michigan

A same-sex couple who celebrated a marriage in Michigan on March 21 or 22, 2014, or between June 26 and 30, 2015, and who make their permanent home in Michigan is married for SSI purposes effective July 2015.

A same-sex couple who celebrated a marriage on July 1, 2015 or later and who make their permanent home in Michigan is married for SSI purposes effective with the month after the month in which they celebrated their marriage.

A same-sex couple who validly married in a state other than Michigan and who make their permanent home in Michigan is married for SSI purposes effective July 2015 or the month after the month they celebrated their marriage, whichever is later.

Do not consider a same-sex couple who make their permanent home in Michigan married for any month earlier than July 2015. Treat them as individuals for payment computation and deeming purposes during those months.

2. When a same-sex couple makes a permanent home outside of Michigan

If an applicant or recipient who celebrated a same-sex marriage in Michigan on March 21 or 22, 2014 or after June 25, 2015 makes a permanent home in a state outside of Michigan, consider the Michigan marriage valid. To determine when the same-sex marriage is recognized in the state of permanent home, refer to GN 00210.800 and GN 00210.003A in this section.

b. Instructions for processing Title II claims and appeals involving same-sex marriage in Michigan

1. When the NH is domiciled in Michigan

For applications filed or pending on March 21 or 22, 2014, and for applications filed or pending on June 26, 2015, or later, involving a NH domiciled in Michigan during those dates, consider Michigan as a state that recognizes same-sex marriage.

For applications based on a same-sex marriage of a NH who died while domiciled in Michigan on March 21 or 22, 2014, or on June 26, 2015 or later, consider Michigan as a state that recognizes same-sex marriage.

Using instructions in GN 00210.005, hold all Title II claims and appeals for which entitlement depends on a same-sex marriage and a NH who died while domiciled in Michigan from March 23, 2014, through and including June 25, 2015.

If you are holding a claim according to this instruction, send an email message to ^Windsor Policy Questions with, simply, "Windsor Claim Hold – Michigan" in the subject line, and the SSN of the NH in the body of the message.

2. When the Title II application is based on a same-sex marriage celebrated in Michigan where the NH is domiciled or died while domiciled in another state

If a NH is domiciled or died domiciled in a state other than Michigan, and a claim is based on a same-sex marriage celebrated in Michigan on March 21 or 22, 2014, or on June 26, 2015 or later, consider the Michigan marriage validly celebrated. To determine when the same-sex marriage is recognized in the state of domicile, follow the instructions in GN 00210.002.

5. New Jersey

New Jersey permits same-sex marriages and recognizes same-sex marriages from other states beginning October 21, 2013.

New Jersey also recognizes same-sex marriages from other states as civil unions from February 19, 2007 through and including October 20, 2013. For more information about recognizing such civil unions for benefits purposes, refer to GN 00210.004.

For more information about determining marital status for New Jersey, refer to EM-13053

6. Utah

Utah permitted same-sex marriages and recognized same-sex marriages from other states for a closed period from December 20, 2013 through and including January 6, 2014. Beginning on October 6, 2014, Utah again permitted and recognized same-sex marriages.

Using instructions in GN 00210.005, hold all Title II claims and appeals for which entitlement depends on a same-sex marriage and a NH who died while domiciled in Utah from January 7, 2014, through and including October 5, 2014.

If you are holding a claim according to this instruction, send an email message to ^Windsor Policy Questions with, simply, "Windsor Claim Hold – Utah" in the subject line, and the SSN of the NH in the body of the message.

For more information about determining marital status for Utah, refer to EM-14061.

7. Wisconsin

Wisconsin permitted same-sex marriages and recognized same-sex marriages from other states for a closed period from June 6, 2014 through and including June 13, 2014. Beginning on October 6, 2014, Wisconsin again permitted and recognized same-sex marriages.

Using instructions in GN 00210.005, hold all Title II claims and appeals for which entitlement depends on a same-sex marriage and a NH who died while domiciled in Wisconsin from June 14, 2014 through and including October 5, 2014.

If you are holding a claim according to this instruction, send an email message to ^Windsor Policy Questions with, simply, "Windsor Claim Hold – Wisconsin" in the subject line, and the SSN of the NH in the body of the message.

For more information about determining marital status for Wisconsin, refer to EM-15004.

To Link to this section - Use this URL:

<http://policy.ssa.gov/poms.nsf/lnx/0200210003>

GN 00210.003 - Same-Sex Marriage - Dates States Permitted or Recognized

Same-Sex Marriage - 04/30/2015

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