



The Student Loan Borrower Assistance Project (SLBA) is a program of the [National Consumer Law Center](#) (NCLC).

POLICY BRIEF

Protecting Social Security Recipients

The Social Security program...represents our commitment as a society to the belief that workers should not live in dread that a disability, death, or old age could leave them or their families destitute.

President Jimmy Carter, December 20, 1977.

[This law] assures the elderly that America will always keep the promises made in troubled times a half century ago...[The Social Security Amendments of 1983 are] a monument to the spirit of compassion and commitment that unites us as a people.

President Ronald Reagan, April 20, 1983.

Social Security helps give aging and disabled Americans peace of mind. No matter how destitute we become, Social Security is meant to give us some measure of confidence that we will be able to get by.

Social Security and other federal benefits are not as secure as they used to be. The assumption that creditors, whether government or private, could not touch these benefits is steadily being eroded. A major change occurred in 1996 when Congress allowed federal agencies to offset portions of Social Security payments to collect debts owed to those agencies. (31 U.S.C. §3716). Certain other critical benefits were also part of this new authority, including certain Railroad Retirement and Black Lung benefits.

Offsetting of Social Security is an extraordinary collection tool. It is time to reexamine this program and weigh the costs of collecting small amounts of money from our most vulnerable populations outweigh the benefits. In the meantime, we recommend interim steps aimed at alleviating the suffering of the most vulnerable Social Security recipients. These steps include:

1. Apply a Ten Year Time Limit to Social Security Offsets.

Congress included a ten year time limit in the Debt Collection Improvement Act. The problem is that this limit applies to everyone except student loan debtors, according to a 2005 Supreme Court decision.¹ This leads to the extreme result of an 80 or 90 year old Social Security recipient facing offset of a portion of her Social Security payments for loans that may be thirty, forty, or even fifty years old.

Congress should amend the Higher Education Act to eliminate this inequity and extend the ten year limit to offset of student loans.

2. Apply Cost of Living Increases to the \$9,000 Exemption

The government cannot touch the first \$750/month (\$9,000/year) of a recipient's Social Security payments. The problem is that this amount is stagnant. The limit is set in stone as of 1996, the year the law was passed.

Congress should index the \$9,000 exemption to cost of living or inflation increases.

3. Explicitly allow Social Security recipients facing offset to apply for termination, suspension or reductions based on hardship.

Under current practice, the Department of Education and guaranty agencies only sometimes allow Social Security recipients to apply for a hardship reduction or suspension of offset. This policy is applied inconsistently and there are no standard measures of hardship. This is in contrast to the administrative wage garnishment program which specifically allows borrowers to raise hardship as a defense to garnishment and sets criteria for this defense. There is no reason to treat borrowers facing garnishment differently than borrowers facing federal benefits offset.

Congress should explicitly create a borrower right to suspension, termination or reduction of offset based on hardship.

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¹ Lockhart v. U.S., 126 S. Ct. 699 (2005).