



Selfhelp Community Services, Inc.  
520 Eighth Avenue  
New York, NY 10018  
212.971.7600

Valerie J. Bogart, Esq.  
Director  
Evelyn Frank Legal Resources Program  
Direct Dial 212.971.7658  
Fax 212.947.8737  
[vbogart@selfhelp.net](mailto:vbogart@selfhelp.net)

**LEGAL RESOURCES PROGRAM UPDATE**  
October 24, 2003, updated January 2010

**SUBJECT: Ghetto Pension - Effect on SSI, Medicaid, Food Stamps, Section 8**

Some Nazi victims have begun to receive the German Social Security Pensions for Work in Ghettos (ZRBG)(known as the *Ghetto Pension*). Because of three court decisions in mid-2009 that greatly liberalized the criteria for these German Social Security payments, many more Nazi victims will be receiving lump sums of this pension benefit, for a retroactive period as far back as 1997.<sup>1</sup> These payments can be tens of thousands of dollars.

**This pension is exempt from federal benefits such as SSI, Medicaid, Food Stamps, and Section 8.** This includes the retroactive lump sum payments and the ongoing pension. This means an applicant or recipient of a federally funded benefit such as Medicaid or SSI does not have to spend the lump sum in order to qualify for this benefit. He or she may keep it in a separate "restitution" account and qualify for Medicaid of the other federal benefits.

- **STATE-FUNDED BENEFITS** -- Some states also exempt restitution payments from being counted for eligibility for benefits funded solely by the state. For example, New York State exempts restitution from SCRIE and EPIC. For more information see a fact sheet posted at [http://www.claimscon.org/forms/selfhelp\\_claimscon2.pdf](http://www.claimscon.org/forms/selfhelp_claimscon2.pdf).

**Explanation:** Under federal law, "payments made to individuals because of their status as victims of Nazi persecution shall be disregarded in determining eligibility for and the amount of benefits or services to be provided under any Federal or federally assisted program which provides benefits or services based, in whole or in part, on need." Victims of Nazi Persecution Act of 1994, Public Law 103-286

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<sup>1</sup> For more information on these court cases, and about cases that are now being re-opened and re-evaluated after being denied, see [http://www.claimscon.org/index.asp?url=german\\_ssoc\\_060809](http://www.claimscon.org/index.asp?url=german_ssoc_060809).

(108 Stat. 1450). Such payments are exempt for Medicaid, SSI, Food Stamps, Section 8, HEAP, and any other federally assisted benefit based on need.<sup>i</sup>

The Claims Conference publication on the Ghetto Pension -- online at [http://www.claimscon.org/forms/Ghetto\\_Pension\\_Handbook.pdf](http://www.claimscon.org/forms/Ghetto_Pension_Handbook.pdf) explains the eligibility criteria for the Ghetto Pension:

1. The claimant, or his or her deceased spouse, **must be a victim of Nazi persecution.**
2. The claimant, or his or her deceased spouse, must have lived in a Ghetto occupied by the Nazis, in which s/he performed voluntary labor that they were paid for.
3. The individual must not have been credited for the work in the Ghetto by the United States or another foreign Social Security system.

#### CONCLUSION:

- Some Medicaid or Social Security Administration offices may be confused because ZRBG is sometimes called a “pension” or “Social Security.” These words suggest that the payment is NOT restitution, but simply Social Security. German Social Security is often exempt, but not always. For more information see <http://wnylc.com/health/entry/65/> (scroll down to heading for **German Social Security**).
- **However, because a criterion for receiving ZRBG is status as a Nazi victim, for individuals receiving the Ghetto Pension based on his or her own status as a Nazi victim, and based on their work in a ghetto, the payment should be exempt for federal benefits.** It satisfies the requirement that it be a payment “made to individuals because of their status as victims of Nazi persecution,” so it should be exempt.
- **This is a national rule because of federal law.** No state’s Medicaid program is allowed to make its own rule.

**ADVOCACY TIP:** When you submit an application, include a cover letter stating that the Ghetto Pension is exempt as a payment “made to individuals because of their status as victims of Nazi persecution,” under the Victims of Nazi Persecution Act of 1994, and submit the first three pages of the Claims Conference manual on

Ghetto Pensions, which lists the eligibility criteria. An excerpt of this manual is attached. The full manual is available at [http://www.claimscon.org/forms/Ghetto\\_Pension\\_Handbook.pdf](http://www.claimscon.org/forms/Ghetto_Pension_Handbook.pdf). You can also submit this fact sheet.

#### **FOR MORE INFORMATION:**

- on the Ghetto Pension, see [http://www.claimscon.org/index.asp?url=zrbg\\_main](http://www.claimscon.org/index.asp?url=zrbg_main).
- For more information on the 2009 court cases, and about cases that are now being re-opened and re-evaluated after being denied, see [http://www.claimscon.org/index.asp?url=german\\_ssoc\\_060809](http://www.claimscon.org/index.asp?url=german_ssoc_060809).
- on the effect of Holocaust reparations on Medicaid, SSI and other federally funded benefits, please see: <http://wnylc.com/health/entry/65/> posted on <http://nyhealthaccess.org>.

### **ATTACHMENT: EXCERPT OF CLAIMS CONFERENCE HANDBOOK**

#### **GERMAN PENSION FOR WORK IN GHETTOS (ZRBG)**

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<sup>i</sup> The SSI regulation that exempts payments to survivors is 20 CFR PART 416 APPENDIX to SUBPART K Sec V(g)(for income) and 20 CFR 416.1236(a)(18) (for resources). The regulation also specifically requires that funds be segregated and NOT be commingled with other countable resources so that the excludable funds are identifiable. For Medicaid, see the NYS Medical Assistance Reference Guide p. 178 <http://www.health.state.ny.us/nysdoh/medicaid/mrg/index.htm> and 18 NYCRR 360-4.6(a)(2).

In 2002, New York State clarified that the government will not pursue any recovery of government reparations payments from the estates of Medicaid recipients after they die. NYS Dep't of Health, "Medicaid Liens and Recoveries," Administrative Directive No. 02 OMM/ADM-3 p. 10. [http://www.health.state.ny.us/health\\_care/medicaid/publications/docs/adm/02adm-3.pdf](http://www.health.state.ny.us/health_care/medicaid/publications/docs/adm/02adm-3.pdf)

ATTACHMENT

EXCERPT OF CLAIMS CONFERENCE HANDBOOK

GERMAN PENSION FOR WORK IN GHETTOS (ZRBG)

FULL MANUAL POSTED AT

[http://www.claimscon.org/index.asp?url=zrbg\\_main](http://www.claimscon.org/index.asp?url=zrbg_main)

SEE PAGE 3:

You should apply *only if*:

- ✓ *YOU were a victim of Nazi persecution*
- ✓ *etc. ....*



CONFERENCE ON JEWISH MATERIAL CLAIMS AGAINST GERMANY, Inc.  
1359 Broadway, room 2020, New York, NY 10018  
Tel: (212) 696-4944, Fax: (212) 679-2126, E-mail: [info@claimscon.org](mailto:info@claimscon.org)  
[www.claimscon.org](http://www.claimscon.org)

## GERMAN PENSIONS FOR WORK IN GHETTOS (ZRBG)

### A CLAIMS CONFERENCE HANDBOOK

*The Claims Conference is not involved in the administration, implementation or processing of Social Insurance pensions for the German government or its social security institutions.*

*The information presented herein is intended for information purposes only and as a general guide to certain issues involved in filing applications for German Social Insurance pensions. The information is not intended as legal advice. It is a summary of specific issues and does not represent a definitive or complete statement of the programs and policies of the governments or agencies mentioned. This guide may not address the special needs, interests and circumstances of individual applicants. It is recommended that individuals obtain professional advice in connection with individual applications. In addition, all deadlines must be checked with the responsible agency. Individuals seeking specific information on a claim are urged to contact the relevant program directly. The information is correct as of the date of this document and this information may change subsequent to such date.*

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JUNE 2003

# **GERMAN PENSIONS FOR WORK IN GHETTOS**

## **A CLAIMS CONFERENCE HANDBOOK**

### **BASIC PRE-CONDITIONS**

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### **HOW TO APPLY**

### **ASSISTANCE**

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### **FREQUENTLY ASKED QUESTIONS**

# GERMAN PENSIONS FOR WORK IN GHETTOS

## A CLAIMS CONFERENCE HANDBOOK

On June 20, 2002 the German Parliament enacted a “Law for the Payment of Pensions for Periods of Work in a Ghetto” (“*Gesetz zur Zahlbarmachung von Renten aus Beschäftigungen in einem Ghetto*,” or ZRBG). This is a supplemental law coming under the jurisdiction of the German Social Insurance institutions.

### BASIC PRE-CONDITIONS

The following pre-conditions must be met before work periods in a Ghetto can be counted as relevant contribution periods for a German government “Ghetto Pension.”

- The claimant (or deceased spouse) must have the status of a persecuted person under the regulations of §1 of the German Indemnification Law (BEG), i.e.:  
*A Nazi persecutee is a person who, because of political opposition, or because of race, religion or ideology, was persecuted by Nazi oppressive measures and consequently suffered loss of life, damage to limb or health, liberty, property, possessions, or vocational or economic pursuits.*
- The claimant (or deceased spouse) was forced to live in a Ghetto, which was occupied by or incorporated into the German Reich. Relevant Ghettos were primarily in occupied or incorporated Polish territory and in occupied Soviet and/or Baltic territories.
- Despite the limitations on liberty in the general living conditions, the persecuted person must have taken up the work under his/her own free will.
- If the claimant already received credits from a foreign Social Security system for the work s/he completed in a Ghetto s/he cannot collect this pension.

### You should apply ***only if...***

- ✓ You were a victim of Nazi persecution.
- ✓ You lived in a Ghetto officially occupied by or incorporated into the German Reich.
- ✓ You performed voluntary labor either out of your own free-will or in order to avoid “an otherwise worse fate.”
- ✓ You were compensated in some form for your work above basic subsistence levels.
- ✓ You were not credited for work completed in a Ghetto by a foreign Social Security system.

**The Deadline to Receive Retroactive Payments to 1997 is June 30, 2003. In order to meet this deadline, you must write to the German Social Insurance agency BEFORE June 30, 2003 (See page 11, How to Apply).**

## 1. QUALIFYING PERIODS

To be entitled to a German government Ghetto Pension (also known as an Old Age Pension), a qualifying period must always be completed. The qualifying period for applicants to be considered insured and who are 65 years of age or older, is five (5) years (60 calendar months).

### CONTRIBUTION PERIODS/ SUBSTITUTE PERIODS

The five-year qualifying period can consist of contribution periods (i.e. voluntary and paid Ghetto employment) with the addition of substitute periods, as applicable. Substitute periods can be periods of Nazi persecution or periods in DP camps.

Periods of insured working times in Germany or in a foreign country (provided the foreign country has a bilateral Social Security agreement with the Federal Republic of Germany) may be counted as additional contribution periods.

Postwar working times in nations with bilateral Social Security agreements with Germany are counted as insured periods and are therefore useful to people who otherwise are unable to meet the five (5) year minimum to obtain a pension. In other words, non-German working periods can be counted in the calculation of this pension if they are done in a country that has a bilateral Social Security agreement with Germany.

Germany now has Social Security agreements with: Bulgaria, Australia, Chile, Israel, Japan, the former Yugoslavia, Canada/Quebec, Croatia, Morocco, Poland, Switzerland, Slovenia, Turkey, Tunisia, Hungary, the Czech Republic and the USA. Germany is currently holding negotiations on Social Security agreements with China, South Korea, Russia and Slovakia.

### COMBINING CONTRIBUTION AND SUBSTITUTION PERIODS

Even if the claimant was in a Ghetto performing voluntary work for compensation for a short time, s/he can still meet the criteria for this pension if s/he has a total of five (5) years of combined contribution and substitution periods. If s/he worked in Ghetto X for one year and then was sent to a Concentration or Labor Camp for four years s/he meets this requirement. If after working in a relevant ghetto the applicant never went to a Camp but worked after the war either in any country with a Social Security agreement with Germany for more than 4 years, s/he still satisfies this prerequisite.

#### THE QUALIFYING PERIOD

**Part or all of the five-year qualifying period MUST include voluntary work for payment in a recognized Ghetto. However, if this alone does not help the claimant to fulfill the sixty (60) months of the qualifying period, contribution time can be supplemented (substituted) by recognized *periods of Nazi persecution* or by *working times* before or after the war in Germany or in countries with a Social Security agreement with Germany. Displaced Persons Camps are recognized either as substitution or contribution periods**