

Holocaust or Nazi Victim Reparations -- Effect on Medicaid, SSI and other Federally Funded and New York State Benefits

Under a 1994 federal law, ([h.r. 1873 or public law 103-286](#)), known as the *Victims of Nazi Persecution Act of 1994*, Holocaust compensation payments made to individuals based on their status as victims of Nazi persecution are excluded from being counted as income and resources in determining both eligibility for and the amount of benefits to be provided under **any Federally funded program based on financial need**. This means payments made to victims of Nazi persecution do not increase the countable income, and therefore do not increase the Medicaid "[spend-down](#)" of Holocaust survivors and other Nazi victims. Savings accumulated from reparations are not counted as resources. The same exemption applies to Supplemental Security Income, Food Stamps and Federally subsidized Housing programs.

New York State law separately exempts restitution from state-funded benefits based on need, such as SCRIE/DRIE and EPIC. See this [Fact Sheet](#).

More information is in this article and in this [Fact Sheet](#).

IN THIS ARTICLE

1. [Reparations in General](#) - Links to [FACT SHEET](#) and [Spreadsheet](#) to convert Deutschmarks or Euros to U.S. Dollars with samples.
2. [SSI Exemptions of Restitution Apply to Medicaid](#)
3. [Update January 2024 - Romanian Survivor Relief Program \(RSRP\) in 2023.](#)
4. [Update March 2023 - Third Supplemental Hardship Payment to be Issued in April 2023 to Certain Nazi Victims - this is not Counted for SSI or Medicaid](#)
5. [Update - December 2014 -- Inherited Reparations are Exempt](#)
6. [Focus on German Social Security](#)
7. [GHETTO PENSION \(ZRBG\) and Oct. 2014 Update](#)
8. [Federally Subsidized housing & Other Federal Benefits](#)
9. [Taxes and Reparations](#)
10. [Bank Fee Waivers for certain reparations](#)

1. Reparations in General - Excluded from Medicaid, SSI and other Federal Benefits

- [FACT SHEET](#) --(updated 11/2017) authored by the Evelyn Frank Resources Program, originally at Selfhelp Community Services and that moved to NY Legal Assistance Group in 2013. The fact sheet explains the exemption in detail, and how to obtain a payment history of various types of reparations. You will need this history

to establish an exemption for *savings*, as opposed to *income*.

* The Fact Sheet gives information about an important administrative hearing decision rendered in 2007 that clarifies proof needed to exempt accumulated savings when a Nazi victim applies for Medicaid. A redacted copy of this 2007 decision is posted here also described in this press release.

* A transfer of restitution does not trigger a "transfer penalty," so does not detrimentally impact eligibility for Medicaid to pay for nursing home care. See NYS Medicaid Reference Guide - Resources Chapter p. 441.

* The brochure also explains that EPIC, SCRIE, and other New York State-funded benefits, with no federal funding, do not count German reparations as income.

* Nov. 2017 update includes new information about a new restitution program started by the Polish government.

2. MEDICAID -and SSI - Many of the newer federal policies described below were issued by the Social Security Administration as policies that exempt various types of restitution from the Supplemental Security Income (SSI) program. Even if the same policies were not separately issued by CMS, the federal Medicaid agency, or the NYS Dept. of Health, these policies still apply to Medicaid. This is because Medicaid rules cannot be more strict than SSI rules for people age 65 and over. Therefore these SSA policies about SSI must be followed by Medicaid programs as well. 42 U.S.C. Â§Â§.1396a(a)(10)(C)(i)(III); 42 C.F.R. Â§Â§ 435.831(b), 435.845, 436.601.

- **Spreadsheet to convert Deutschmarks or Euros to U.S. Dollars** -- Use this spreadsheet by which you can convert German Deutschmarks or Euro's to U.S. Dollars.
- Here is a sample of a completed restitution summary spreadsheet- using this sample of a restitution history

3. Update January 2024 - Romanian Survivor Relief Program (RSRP) in 2023

- Deadline is approaching March 31, 2024 to apply for this one-time benefit for Jewish Nazi victims who lived under the Romanian regime any time between 1937 and 1944.
- See more about the benefit and download the application here on the Claims Conference website.
- The Claims Conference website says that receipt of the payment may affect your eligibility to receive government assistance. However, this benefit is clearly exempt under the 1994 Victims of Nazi Persecution Act because it is based on one's status as a victim of Nazi persecution. Therefore it does not count as income for SSI,

Medicaid, SNAP, Section 8, or any other federal benefit. Nor does it count for New York State-funded benefits such as EPIC or SCRIE. See this **FACT SHEET**. Also, it is not subject to federal income taxes. See this link.

4. Update April 2023 - Third Supplemental Hardship Payment to be issued to Certain Nazi Victims by the Claims Conference -- not Counted for SSI or Medicaid)

In April 2023 - a third round of **Supplemental Hardship Payments** from the Claims Conference is expected to be provided to certain Nazi victims. Like the last two installments, the third payment will be 1,200 Euros. See this message from the Claims Conference.

In February 2021, Social Security Administration issued an emergency message making clear that the Claims Conference's Supplemental Hardship Payments: are exempt from SSI. See PolicyNet/Instructions Updates/EM-21014: Supplemental Hardship Fund Payments to Jewish Nazi Victims One-Time-Only Instructions (ssa.gov)

- The payments are also **exempt for Medicaid** (see here) and all other federally subsidized benefits, and most State subsidized benefits as is all restitution (EPIC, SCRIE/DRIE).

Read more about the SSA Policy from Justice in Aging.

- Unfortunately, the SSA Emergency message EM21014 is no longer on the SSA website. SSA Emergency Messages have a "retention date," on which date they "expire" and SSA removes them from the website. EM 21014 was released in February 2021 with a retention date of February 2022. It has not been available on the SSA website since then. The document posted here was downloaded from the SSA website before the message expired.
- However, the policy stated in EM 21014 is still valid. The official SSA Program & Operations Manual (POMS) already has two provisions that exempt **all payments** made to Nazi victims based on their status as Nazi Victims: See POMS SI 00830.710 and SI 01130.610 *Payments to Victims of Nazi Persecution* (See Sec. C.4 in both sections stating that "other" payments to victims of Nazi persecution are exempt). The EM21014 was issued to clarify that the Supplemental Hardship Payments were exempt just like any other type of restitution to Nazi Victims.
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- Because the Supplemental Hardship Fund is targeted overwhelmingly to survivors from the Former Soviet Union (FSU), most of whom receive SSI, the SSA issued the Emergency Message to address concerns that some may face disruption of SSI or alleged overpayments.
- See Claims Conference info on the Supplemental Hardship Payments.

5. Update - December 2014 -- Inherited Reparations are Exempt

On Dec 16, 2014, the Social Security Administration issued Emergency Message EM-14060 regarding "inherited reparations." This emergency message is no longer posed, but SSA has amended the Social Security Program and Operations Manual (POMS) to add:

SI 01130.612 Treatment of Inherited Payments to Victims of Nazi Persecution

This policy clarifies that reparations payments that are passed to a successor after the original recipient's death continue to be excluded from income and resources for SSI purposes, if the payments would have been exempt when received by the Nazi victim. Since Medicaid rules cannot be more strict than SSI rules for people age 65+, this policy, in NYLAG's view, must be followed by Medicaid programs as well. 42 U.S.C. Â§Â§.1396a(a)(10)(C)(i)(III); 42 C.F.R. Â§Â§ 435.831(b), 435.845, 436.601. See news coverage in Jewish Week and the New York Observer about this policy clarification.

6. Focus on German Social Security - Does not Count for SSI, Medicaid and other federal benefits

Ghetto Pension (ZRBG) & "WEP" - with Oct. 2014 Updates

In 1970, the German Law on Compensation for National Socialist Injustice through the Social Insurance System (German acronym, "WGSVG") granted wage credits under the German social insurance program to victims of Nazi persecution who were deprived of the opportunity to work in Germany because they were forced to flee, live in ghettos or concentration camps, or were otherwise prohibited from working during the Nazi regime. Like Austrian Social Insurance, the wage credits granted to Nazi victims should be exempt under the 1994 law. While these payments are sometimes called a "pension," rather than reparations, in many cases they are exempt because they are a form of reparations. This article explains circumstances under which German Social Security is exempt. This Affidavit of Elihu Kover, Vice President for Nazi Victim Services at Selfhelp Community Services, further explains these rules.

Ghetto Pension or ZRBG. The Ghetto Pension - formerly the German Pension for Work in Ghettos or ZBRG -- was first issued in 1997 and then expanded in subsequent years, adding more ghettos and liberalizing eligibility after a 2009 decision of the highest German court. Consequently, more people will be receiving payments in 2014 and later. In October 2014, the SSA released new POMS sections that clarify that the Ghetto Pension is exempt from being counted for Income and Resources for SSI -- SI 00830.710, SI 01130.610, SI 00830.711, and SI 01130.711. These POMS followed the June 19, 2014 SSA Emergency Message SSA EM-14041.

- Social Security beneficiaries who receive a Ghetto Pension may confront a different error by the SSA -- reducing their Social Security Retirement benefit because of the "Windfall Elimination Provision" (WEP). This is a different issue than the one described above involving reduction of SSI because of the Ghetto Pension. NYLAG brought this issue to the attention of the SSA. In October 2014, the SSA revised GN 00307.290 Evidence of Foreign Pensions and the Windfall Elimination... which specifically excludes the Ghetto Pension from being counted for WEP. By letter of October 9, 2014, the SSA made a commitment to correct its procedures to prevent these wrongful reductions. See this article - -- **NYLAG Advocacy Protects Social Security Benefits of Holocaust Survivors**.
- **Germany's Ghetto Fund** -- In 2007 the German government created a special fund ("Ghetto Fund") to acknowledge, through a one-time humanitarian payment of 2,000 €, Jewish victims of Nazi persecution who worked in a Nazi Ghetto but were denied the ZRBG or German social security pension for voluntary and remunerated work. This lump-sum payment should be considered among the exempted Holocaust-related reparation payments. See this link on the Claims Conference's website

7. OCTOBER 2014 Ghetto Pension (ZRBG) UPDATE -- The Social Security Administration updated its online Program & Operations Manual (POMS) in TWO WAYS to ensure that the GHETTO PENSION or ZRBG does not reduce SSI or Social Security:

1. **"WEP" Reduction of Social Security** -- New POMS clarify Ghetto Pension is exempt from the "WEP" reduction for Social Security retirement benefits. See amended POMS GN 00307.290
- See **NYLAG Advocacy Protects Social Security Benefits of Holocaust Survivors** - describes problem. The SSA might mistakenly reduce SOCIAL SECURITY RETIREMENT benefits (not SSI) because of the German pension. Foreign pensions do sometimes cause a reduction in Social Security because otherwise there's a "windfall." This is called the Windfall Elimination Provision or WEP. But there should be no "windfall" offset if the pension is for work done before 1957. Of course the Ghetto Pension is for "work" in ghetto's done before 1957 - so should not be a basis for reducing Social Security.
 - ◆ See a sample of a Social Security notice reducing the retirement pension because of the "WEP."
 - ◆ See letter to the SSA Commissioner dated September 18, 2014 from NYLAG requesting that procedures be clarified to say the Ghetto Pension and other restitution and German social insurance cannot be the basis for the WEP reduction.
 - ◆ See Letter from Acting Commissioner of the SSA dated Oct. 9, 2014 responding to NYLAG's Sept. 18, 2014 letter confirming that procedures will be issued to prevent erroneous reductions of Social Security Retirement benefits based on the German Ghetto Pension. Attached to the PDF are the procedures revised on Oct. 24, 2014 -- GN 00307.290 --see highlighted

section that clarifies Ghetto Pension cannot be the basis for a WEP reduction. You can submit this PDF to the SSA office with a request for reconsideration if Social Security reduced.

New Social Security Administration POMS clarifies Ghetto Pension is exempt from being counted for Income and Resources for SSI. The new and amended POMS are: [SI 00830.710](#), [SI 01130.611](#), and [SI 00830.711](#). Since Medicaid budgeting methodology cannot be more strict than SSI for people age 65+, it is NYLAG's view that this new SSA POMS must be followed by Medicaid programs as well. 42 U.S.C. Â§Â§.1396a(a)(10)(C)(i)(III); 42 C.F.R. Â§Â§ 435.831(b), 435.845, 436.601

- [Download this FORM LETTER](#) to inform the Social Security Administration (For SSI recipients) or local Medicaid office (for people who receive Medicaid but not SSI) about receipt of the Ghetto Pension. Note enclosures listed at the bottom you should attach.

The [Conference on Material Claims Against Germany](#) hosts a [webpage with information about this important exception](#), with materials authored by Selfhelp Community Services, Inc., an organization that had its origins in assisting people fleeing from Nazi Germany in 1937.

8. Federally Subsidized Housing and other Federal Benefits and Reparations --

An opinion [letter from the Baltimore office of the U.S. Dept. of Housing & Urban Development](#), dated Jun 1, 2009, interprets the same exemption for Nazi reparations as it applies to an application by an elderly Holocaust survivor for Section 202 federally subsidized housing. She had purchased a house in 2004 with saved reparations. Under the usual rules, while the house would not disqualify her from being accepted as a tenant in Section 202 housing, interest on the house as an asset would normally be imputed to her. The opinion letter states that "reparation payments, their interest and assets, such as homes and bank accounts, should be excluded in calculating the income eligibility of Section 202 applicants." This letter might be useful for other federally funded benefits.

9. Taxes and Reparations

See [IRS News Release](#) announcing exemption from income taxation enacted in 2001 Economic Growth and Tax Relief Reconciliation Act, Sec. 803. (News release includes actual text of law). This provision of the 2001 law originally had a "sunset clause," but was extended indefinitely under the the "Holocaust Restitution Tax Fairness Act of 2002" -- see [this link](#). See also [IRS Publication 525](#) (see page 35 in 2023 version) has the following provision:

"Holocaust victims restitution. Restitution payments you receive as a Holocaust victim (or the heir of a Holocaust victim) and interest earned on the payments aren't taxable... Excludable restitution payments are payments or distributions made by any country or any other entity because of persecution of an individual on the basis of race, religion, physical or mental disability, or sexual orientation by Nazi Germany, any other Axis regime, or any other Nazi-controlled or Nazi-allied country, whether the payments are made under a law or as a result of a legal action. They include compensation or reparation for property losses resulting from Nazi persecution, including proceeds under insurance policies issued before and during World War II by European insurance companies."

The 2001 law as amended in 2002 exempts from income tax, in part, any payment or distribution to an individual (or his heirs or estate) which is payable by any foreign country, the United States of America, or any other foreign or domestic entity, by reason of the individual's status as an "eligible individual", defined as a "person who was persecuted on the basis of race, religion, physical or mental disability, or sexual orientation by Nazi Germany, any other Axis regime, or any other Nazi-controlled or Nazi-allied country."

10. Bank Fee Waivers and Reparations --

certain banks have agreed to waive wire transfer fees for electronic receipt of reparations.

11. Online Training --

Watch our [online training on Holocaust reparations and Medicaid](#) --

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