

Supplemental Security Income (SSI) Resources

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Housekeeping

- All on mute. Use Questions function for substantive questions and for technical concerns.
- Problems getting on the webinar? Send an e-mail to NCLER@acl.hhs.gov.
- Written materials and a recording will be available at NCLER.acl.gov. See also the chat box for this web address.

About NCLER

The National Center on Law and Elder Rights (NCLER) provides the legal services and aging and disability communities with the tools and resources they need to serve older adults with the greatest economic and social needs. A centralized, one-stop shop for legal assistance, NCLER provides Legal Training, Case Consultations, and Technical Assistance on Legal Systems Development. Justice in Aging administers the NCLER through a contract with the Administration for Community Living's Administration on Aging.

About Justice in Aging

Justice in Aging is a national organization that uses the power of law to fight senior poverty by securing access to affordable health care, economic security, and the courts for older adults with limited resources.

Since 1972 we've focused our efforts primarily on populations that have traditionally lacked legal protection such as women, people of color, LGBT individuals, and people with limited English proficiency.

Key Lessons

1. Supplemental Security Income (SSI) is a needs-based program with strict limits and complicated rules related to resources.
2. To be eligible for SSI, an individual or couple must have countable resources that are no more than the resource limit.
3. There are common problems with resources for those applying for and receiving SSI.
4. A period of ineligibility may be imposed for the transfer of a resource for less than fair market value or for declining a resource that an individual or couple is entitled to receive.

Section 1

A Key Eligibility Criteria for the
Supplemental Security Income (SSI)
Program: Limited Resources

Supplemental Security Income (SSI)

- Administered by the Social Security Administration (SSA)
- Needs-based, “means-tested” program
 - Limited income and resources
- Categorical eligibility: Older adults (age 65 and up) and people with disabilities (age 0 – 64)
- Funded by general fund taxes
- Title XVI of the Social Security Act
 - Code of Federal Regulations - 20 CFR §§416.1201 - .1266
 - and SSA’s Program Operations Manual System (POMS)

POMS

Program Operations Manual System (POMS) Table of Contents

- [RM - Records Maintenance](#)
- [GN - General](#)
- [RS - Retirement and Survivors Insurance](#)
- [DI - Disability Insurance](#)
- [SI - Supplemental Security Income](#)
- [HI - Health Insurance](#)
- [NL - Notices, Letters and Paragraphs](#)
- [VB - Special Veterans Benefits](#)
- [PR - Title II Regional Chief Counsel Precedents](#)
- [PS - Title XVI Regional Chief Counsel Precedents](#)
- [SL - State and Local Coverage Handbook](#)
- [DX - Data Exchange](#)

Resources Defined (1 of 2)

- What is a resource?
 - Cash or other liquid assets or any real or personal property that an individual owns and could convert to cash to be used for their support and maintenance (food or shelter).

20 C.F.R. §416.1201

Resources Defined (2 of 2)

- A resource is counted when:
 - Individual has the right, authority, or power to liquidate the property (or their share of the property).
 - If a property cannot be liquidated, the property will not be considered a resource.

20 C.F.R. §416.1201(a)

SSI Resource Limit

- The maximum value of resources allowed:

- At or under \$2,000 for an individual
- At or under \$3,000 for a couple

20 C.F.R. §416.1205

How and When Resources are Counted

- How Resources are Counted

- Based on the equity an individual has in the resource

[POMS SI 01140.042](#); [SI 01110.400](#)

- When Resources are Counted

- Once a month
- At the beginning of the first day of the month following receipt
- Resources held only in the middle of the month are not counted

20 C.F.R. §416.1207; [POMS SI 01110.600](#)

Deeming of Resources

- Deeming is when the income or resources of a person ineligible for SSI are considered to be available to the individual applying for or receiving SSI

20 C.F.R. §§416.1202-1204

- Deeming only applies to three relationships:
 - Spouse (living in same household)
 - Parent of child under 18 (living in same household)
 - Sponsor of certain sponsored immigrants

Excluded Resources (1 of 2)

- Excluded resources do not count toward the SSI resource limit
- Some key excluded resources:
 - Home individual is living in
 - Household goods and personal property
 - One vehicle
 - Burial plot
 - Burial funds and/or life Insurance (up to \$1,500)
 - Retroactive SSA benefits up to 9 months after receipt
 - Federal tax refunds and advance tax credits up to 12 months after receipt

20 C.F.R. §§416.1210-1239; 1245; 1247

[POMS SI 01110.210](#)

Excluded Resources (2 of 2)

- Economic Impact Payments
- Also known as Stimulus Payments or Recovery Rebates
- “Pandemic related disaster assistance” excluded from being counted as income or resource permanently (no time limit)

[EM-20014 REV 9: Effect of COVID-19-Related Financial Assistance on SSI Income and Resources](#)

[EM-21050 REV 5: Special Processing Instructions for Applying SSI Income and Resource Exclusions to Pandemic-related Disaster Assistance](#)

Section 2

Common Problems with Resources for SSI Applicants and Recipients

Common Resource Problems

- Some common resource problems
 1. Property where the SSI recipient is not currently living
 2. Court Awards and Lump Sum Settlements
 3. Inheritances
 4. Burial Funds and/or Life Insurance Policies
- In some cases, the resource may be excluded

Property Where the SSI Recipient is Not Currently Living

- Due to a variety of life circumstances, an SSI recipient may have an ownership interest in property where they are not currently living.
- Resource exclusion rules exempt certain real property

Excess Real Property Resource Exclusion: Loss of Housing for Co-Owner (1 of 3)

- Exclusion applies when the sale of excess real property would result in loss of housing for co-owner:
 - Where property is jointly owned by the individual and at least one other person,
 - One (or more) of the owners uses the property as their principal place of residence,
 - The other owner(s) would have to move if the property were sold, and
 - They have no other readily available housing

[POMS SI 01130.130](#)

Excess Real Property Resource Exclusion: Loss of Housing for Co-Owner (2 of 3)

- Case Example:
 - George and Martha are married and live together in a house they co-own. George and Martha divorce, and George, an SSI recipient, leaves the household with no intent to return. Martha continues to live in the house and has no other place to live if they sold the house.
- *Will George's ownership interest in house be counted as a resource for SSI purposes?*

Excess Real Property Resource Exclusion: Loss of Housing for Co-Owner (3 of 3)

- *Will George's ownership interest in house be counted as a resource for SSI purposes?*
 - Although George has ownership interest in a house that he no longer lives in, it would impose an undue hardship on Martha if they sold the house. Therefore, the value of George's interest in the house would not be counted as a resource as long as Martha continues to live there.

Excess Real Property Resource Exclusion: Reasonable but Unsuccessful Effort to Sell

- The individual makes reasonable but unsuccessful efforts to sell excess real property
 - First 9 months – conditional benefits
 - On-going basis (after 9 months)
- The individual is responsible for informing SSA promptly of any offers to buy, and for showing that any offer refused was not reasonable

[POMS SI 01150.201 - Conditional Benefits Payments](#)

[POMS SI 01130.140 - Real Property Following Reasonable but Unsuccessful Efforts to Sell](#)

Court Awards and Lump Sum Settlements (1 of 3)

1. Court Awards

- An award from a court, board of arbitration, or similar body is considered unearned income

20 C.F.R. §416.1121

2. Lump Sum Settlements

- Although little formal guidance in C.F.R. or POMS, general SSI rules pertaining to income and resources typically apply

[POMS SI 00810.030](#), [SI 01120.005](#)

Note: unearned income does not include expenses necessary to obtain the award or settlement (e.g. legal fees connected with an award or settlement are not counted). 20 C.F.R. §416.1123(b)(3)

Court Awards and Lump Sum Settlements (2 of 3)

- Case Example:
 - Ms. Lee, an SSI recipient, received a lump sum settlement for \$10,000 from a car accident claim into her bank account in March
 - Ms. Lee's bank records show resources over \$2,000 on April 1, May 1, and June 1
 - By mid-June, Ms. Lee has spent down funds, bringing her under the \$2,000 resource limit
- *How will Ms. Lee's SSI benefits be affected by receipt of the lump sum settlement from her car accident?*

Court Awards and Lump Sum Settlements (3 of 3)

- *How will Ms. Lee's SSI benefits be affected by receipt of the lump sum settlement from her car accident?*
 - The lump sum settlement will be treated as income in March, and as a resource in April, May, and June, making Ms. Lee ineligible for SSI benefits for those months.
 - Assuming all other eligibility criteria met, Ms. Lee can become eligible again starting in July.

Inheritances (1 of 2)

- Inheritance defined:
 - cash, a right, or noncash item received as the result of someone's death

20 C.F.R. §416.1121

- In general, SSI rules related to income and resources apply:
 - inheritance is income in month of receipt, and then a resource in all subsequent months, BUT...

Inheritances (2 of 2)

- ...declining to accept or disclaiming a right of inheritance is a transfer of a resources for less than fair market value and will result in a period of ineligibility under resource transfer penalty.

20 C.F.R. §416.1246

- An ownership interest in an unprobated estate may be a resource if an individual:
 - Is an heir or relative of the deceased; or
 - Receives any income from the property; or
 - Under state intestacy laws, acquired rights in the property due to the death of the deceased.

[POMS SI 01120.215](#)

Burial Funds and/or Life Insurance Policies (1 of 2)

- Generally, individual and/or spouse can set aside up to \$1,500 per person in a burial fund or in life insurance policies

[POMS SI 01130.300 - Life Insurance Policies](#)

[POMS SI 01130.410 - Burial Funds Exclusion](#)

[POMS SI 01130.400 - Burial Spaces](#)

[POMS SI 01130.420 - Prepaid Burial Contracts](#)

Burial Funds and/or Life Insurance Policies (2 of 2)

- If an individual has burial funds AND life insurance policy
 - Combined value of burial expenses and face value of life insurance policies up to \$1,500 per person excluded from resource limit
 - If exceeds \$1,500 cap, some of the burial funds may count as a resource

Section 3

SSI Resource Transfer Penalty

Resource Transfer Penalty (1 of 4)

- Resource transfer penalty only applies when individual transfers a **non-excluded** resource to another for less than fair market value
 - Transfer of cash also counts
- Transfer Period: transfer occurring any time in the prior 36 months
- Transfer Penalty: ineligibility for up to 36 months, depending on the value of the transfer
 - Period of ineligibility is calculated by dividing uncompensated value of resource by monthly benefit rate applicable to the individual. Rounded down result is number of months the individual is ineligible.

20 C.F.R. §416.1246

Resource Transfer Penalty (2 of 4)

- Individuals cannot transfer countable resources to gain eligibility for SSI
- Common problem:
 - SSI recipient is notified by SSA that their benefits will be suspended due to being over resource limit, but are not informed about resource transfer penalty
 - Recipient gives away excess resources thinking it will help them retain SSI benefits
 - Instead, they will be continue to be ineligible for extended period of time because of the penalty

Resource Transfer Penalty (3 of 4)

Case Example:

- In December 2022, Mr. Zep decided to sell one of his two cars to his granddaughter for \$5,000. The car had a fair market value of \$12,000.
- In January 2023, Mr. Zep applied for SSI as an individual and is otherwise eligible for the full SSI monthly benefit of \$914.
- Transfer penalty applies:
 - Uncompensated value of car: \$7,000 ($\$12,000 - \$5,000$)
 - Duration of penalty: 7 months ($\$7,000 \div \$914 = 7.66$)
- Mr. Zep's period of ineligibility: Jan 2023 – July 2023

Resource Transfer Penalty (4 of 4)

- Transfer of Resources by Spend-Down
 - Spending-down cash can be a valid transfer of resources that helps to mitigate potential period of ineligibility due to being over the resource limit
 - Important that any purchases made receive fair market value in return
 - Keep records that show any purchase made to show fair market value received

[POMS SI 01150.007](#)

Resource Transfer Penalty: Exceptions

- Exceptions to the Resource Transfer Penalty:
 - Transfer to a trust
 - Transfer of a home
 - Non-home transfer to certain family members
 - Transferred resource returned
 - Transfers for a purpose other than to obtain SSI
 - Undue hardship

[POMS SI 01150.120 - 01150.126](#)

What You Can Do

- Familiarize yourself with SSI resource exclusions and transfer penalty rules and exceptions
- Advise individuals about resource rules and tips for staying within resource limit
- Assist with timely reporting to SSA, submitting documentation, and keeping evidence of reports/submissions
- Ensure due process requirements are met

Additional NCLER Resources

- SSI Transfer Penalty: Walk Through a Case
 - Chapter Summary
- SSI Deeming
 - Chapter Summary
- A Primer on ABLE Accounts
 - Chapter Summary

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