

SSI for Older Adults: Post Eligibility Tips

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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.

Supplemental Security Income and Older Adults

Agenda

- Basic Requirements for Eligibility
- Discussion of Income and Resources
- Immigrant Eligibility
- Institutionalization
- Appeals Process

Key Lessons

- Supplemental Security Income, or SSI, is a means-tested benefit.
- SSI is a program with a complicated set of eligibility requirements.
 - Common issues around income and resources can frequently lead to an individual's benefits being reduced or suspended by the Social Security Administration (SSA).
- Pay attention to eligibility for older immigrants and people with limited English proficiency.
- Be proactive. It is easier to prevent benefit suspension and termination than fix problems after benefits are cut off.

Supplemental Security Income (SSI)

SSI: Supplemental Security Income

- Federal program administered by the Social Security Administration (SSA)
- “Means-tested” program
- Aged (65+), blind, or people with disabilities

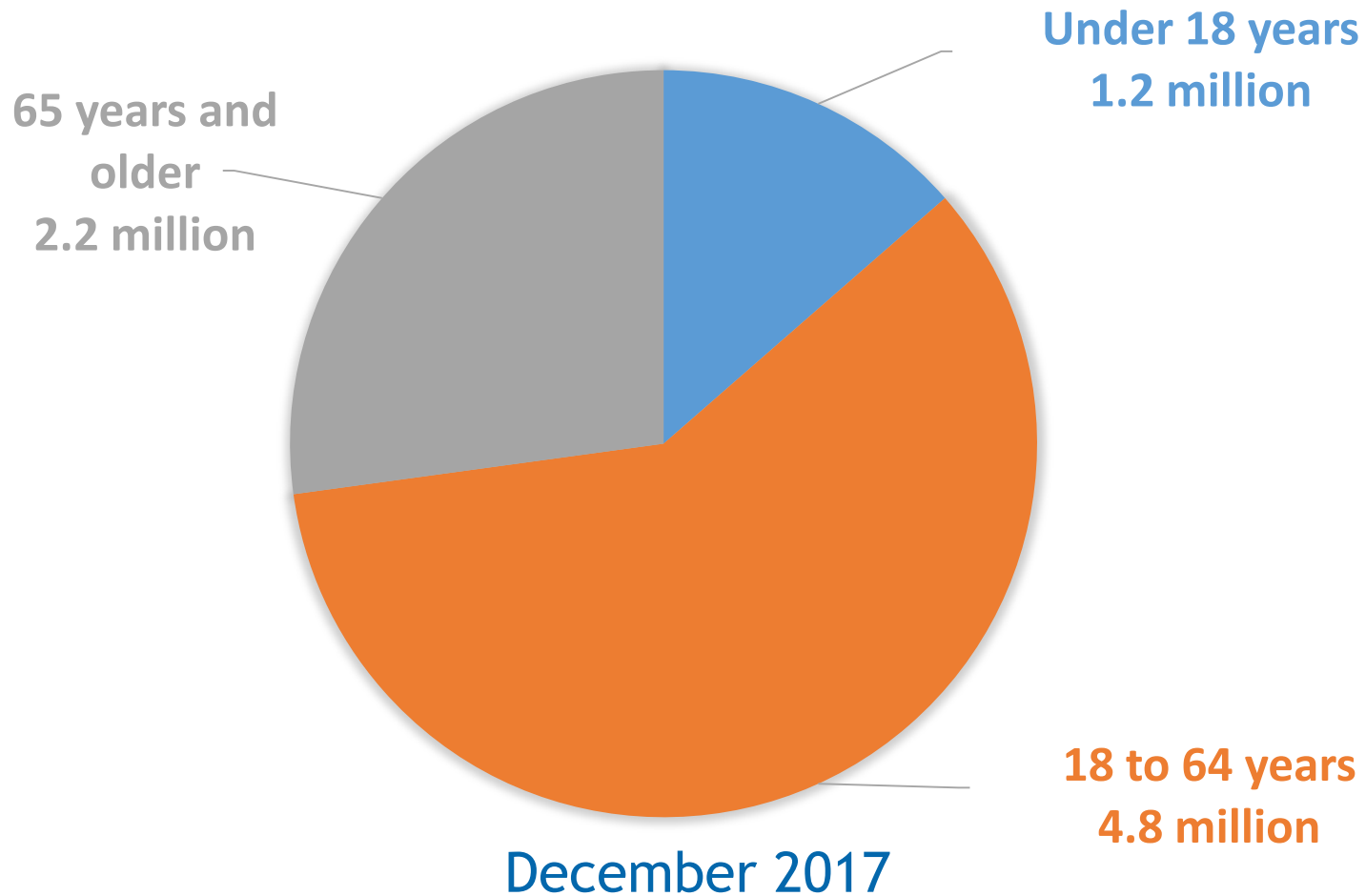
2018 Monthly Max Fed
SSI Payment

\$750 (individual) or
\$1,125 (couple)

2019 Monthly Max Fed
SSI Payment

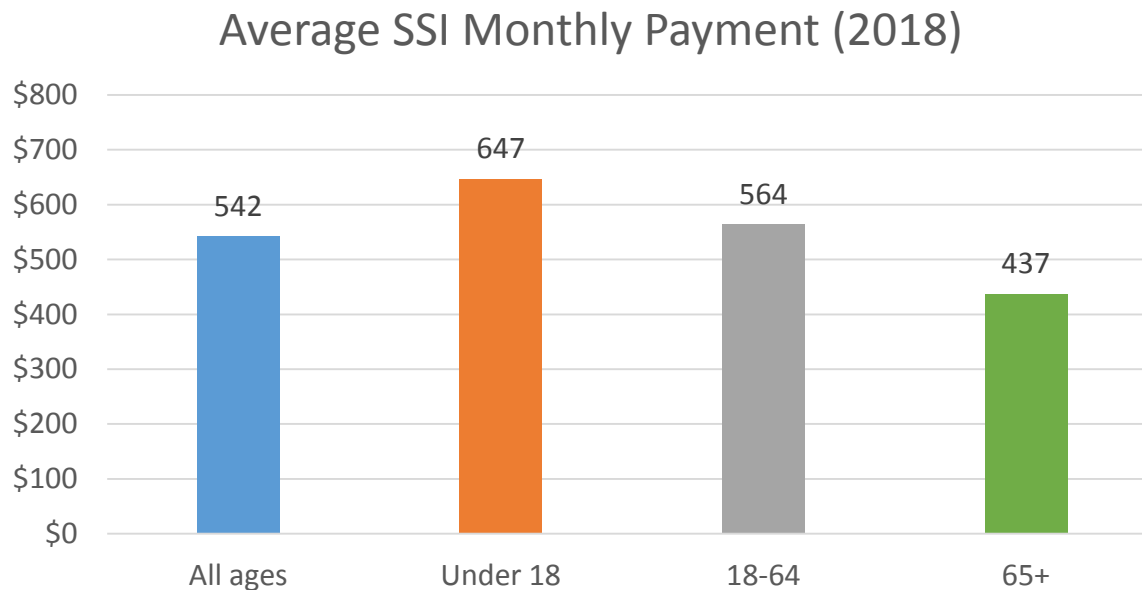
\$771 (individual) or
\$1,157 (couple)

8.2 Million People Currently Receive SSI Benefits



Average Monthly Federal Payment = \$542

- Benefit amount is affected by other income
- State supplements may increase this amount



SSI Eligibility

Eligibility Requirements Overview

- Specific Category
 - Blind or disabled, or
 - Age 65 or older
- Income/Resources
 - Limited income, and
 - Limited resources
- Immigrant Eligibility
 - U.S. citizen, or in one of certain categories of immigrants
- Other Considerations
 - Residence (e.g. institutionalization), Presence

What is Income?

- Anything received, in cash or in-kind, that can be used to meet needs for food and shelter.
- General types of income:
 - Earned income
 - Unearned income
 - In-Kind Support and Maintenance (ISM)

POMS SI 00810.005
POMS SI 00810.015

What is Not Counted as Income

- Income Exclusions (some examples)
 - Income Disregards
 - Need-based assistance provided by a state or local government
 - Loans
- Direct payments by someone else of expenses other than food or shelter

POMS SI 00810.007 – Income Exclusions

Resources

Resource Limit (the maximum allowed value of a person's resources):

- Under \$2,000 for an individual
- Under \$3,000 for a couple

Excluded Resources

Excluded resources:

- Home SSI recipient lives in and the land it is on
- 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

Interaction between Income and Resources

- Income remaining in the month following receipt is a resources.
- Example: Jack has no income other than his SSI benefit of \$750. His total resources are \$1600. He has one car but has recently concluded that he can no longer drive. Jack sells the car on June 15 for \$800. He uses \$300 to buy a new air conditioner for his home and puts the rest (\$500) in the bank.
 - Question: What are Jack's income and resources in June and July?
 - Answer: For June, Jack's additional income is \$800 and his resources are \$1600. For July, Jack's resources are \$2100.

Transfer Rules

- Action: Transfer of resources for less than market value
 - Transfer of cash also counts
- Transfer period: Transfer occurring any time in the prior 36 months
- Consequences: Ineligibility for up to 36 months, depending on the value of the transfer

Immigrant Eligibility for SSI

- Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (“1996 welfare law”)
 1. Must be in the “Qualified” category; and
 2. Must meet at least one condition allowing for qualified immigrants to receive SSI

“Qualified” Immigrants

- Eligibility for most federal public benefits require immigrants to be “qualified”:
 - Lawful Permanent Residents (green card holders)
 - Refugees and people granted asylum
 - Certain victims of abuse, their children and/or parents
 - Five-year bar for qualified immigrants entering U.S. after 1996 (some exceptions)

Conditional Immigrant Eligibility for SSI

- Conditions allowing for SSI eligibility:
 - Receiving SSI prior to August 22, 1996
 - Lawful permanent resident with 40 qualifying quarters (credits) of work (worker, spouse, and parent count, may be combined)
 - Active duty or honorably discharged veteran (or spouse or child of veteran)
 - Were lawfully residing in U.S. on 8/22/96 and now disabled (**no** age-based benefit)
 - “Humanitarian” immigrants (including refugees, asylees, survivors of trafficking, etc.) **limited to 7 years of benefits**

Language Assistance Services

- SSA must provide an interpreter free of charge; also applies to deaf individuals
- Friends or family members may serve as interpreters; should be able to translate potentially complex concepts
- SSA multilingual gateway:
<https://www.ssa.gov/site/languages/en/>

SSI Eligibility Rules: Presence and Institutionalization

Eligibility Rule: Presence

- If absent from the country for a full calendar month, or for 30 consecutive days or more → No longer eligible in subsequent months until return for 30 consecutive days.

Eligibility Rule: Institutionalization

- Not eligible for SSI if living in correctional facility (prison or jail) for full calendar month
- Limited to \$30/month if staying in hospital/skilled nursing facility/other medical facility where Medicaid pays more than half of cost of care

Institutionalization: Question

A new private facility called Meadowland Senior Residence opens. It offers individual apartments with some cooking facilities, a central dining hall, and recreational facilities. It has a shuttle service which takes residents shopping, to medical visits, etc.

A registered nurse is on duty twice a week, gives some medical care, and makes referrals to a doctor when needed.

The residents are funded by a variety of sources including private funds and Medicaid.

Is this a skilled nursing facility?

Institutionalization: Answer

- No. This would be considered an assisted living facility. Residents of assisted living facilities are considered to be living outside of an institution
- Even though some medical treatment is available, it is not inpatient care.

Institutionalization and SSI Benefit: Question

- Question: Mary receives \$750 in SSI benefits. She falls and breaks her hip on November 10th. Her doctor says she should remain in the hospital for at least 2 weeks. Complications arise and Mary is still in the hospital on April 10th (5 months later). What is her SSI benefit?

Institutionalization and SSI Benefit: Answer

- Answer: It depends!
- If Mary provided the doctor's certification about the length of her stay and the benefits needed to maintain her living arrangements before 90 days, she can receive her full benefit.
- If Mary did not provide this documentation she would receive just \$30 per month for December and future months until she returns home.

Appeals Process

1. Reconsideration
2. Administrative Law Judge hearing
3. Review by the Appeals Council
4. Federal Court Review

Use Reconsideration!

Individuals can choose from:

1. Case review
2. In-person informal conference
3. In-person formal conference

SSI recipients are entitled to receive ***full benefit continuation*** pending a decision on reconsideration if they appeal within 10 days

No continuation of benefits after reconsideration except when appealing adverse Continuing Disability Review decision

iAppeals

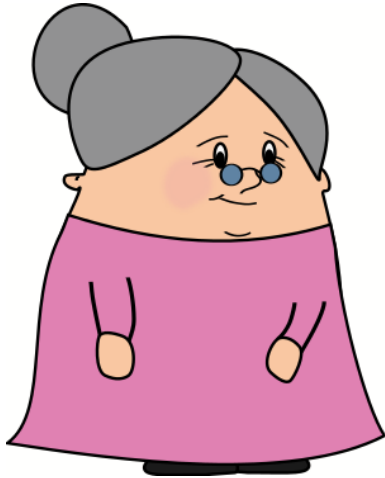
- Can now file certain appeals **online**, including:
 - Non-medical request for reconsideration or request for hearing by an ALJ
- Benefits of submitting appeal online
- Go to: secure.ssa.gov/iAppINMD/start

Appeal each relevant issue

Non-disability appeal vs. overpayment appeal.

Mrs. B Example:

Looking forward-NDA



Looking Back-Overpayment



Administrative Law Judge Hearing

- Stage after reconsideration
- Individual can present witnesses and request the ALJ to subpoena witnesses and documents
- Raise ALL relevant issues at this stage or they may be lost
- Individual should be represented by an attorney or other advocate at this stage (most are).

Appeals Council

- Review is discretionary
- In most cases, the Appeals Council simply denies review.
- This step is the last one within the SSA administrative appeal process

U.S. District Court Review

- This step takes the case outside of SSA and into federal court
- Case will proceed through federal court process

Conclusion

- Act as early as possible to prevent reductions or suspensions from occurring.
- Be familiar with relevant POMS; don't assume SSA staff know the rules.
- Document everything! Get SSA decisions in writing, even when they are favorable.
- Ask for help when you're unsure.

Additional Resources and Citations

- Social Security Act: 42 U.S.C. §§ 1381-1383f
- SSI Regulations:
20 C.F.R. §§ 416.101 – 2227
- [Program Operations Manual System \(POMS\)](#)
- [Understanding Supplemental Security Income Guide](#)
- Contact Us:
 - Tracey Gronniger: tgronniger@justiceinaging.org
 - Kate Lang: klang@justiceinaging.org

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Case Consultations

Case consultation assistance is available for attorneys and professionals seeking more information to help older adults. Contact NCLER at ConsultNCLER@acl.hhs.gov.