

Social Security Benefits Overview

UMN Law - Poverty Law 1

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The Law

- Enabling Statute - Social Security Act - 42 U.S.C. §§ 301-1305
- Regulations - 20 C.F.R. §§ 400 – 428
- SSA's Rulings
 - Social Security Rulings – SSR
 - Acquiescence Rulings - AR
- SSA Employee Manuals
 - POMS – Local Offices
 - HALLEX – Hearing Offices

RSDI vs SSI

RSDI = Retirement, Survivor, Disability Insurance

SSI = Supplemental Security Income

Benefit Amount

RSDI	SSI
Varies depending on work history, income, and the amount paid into the system	2023 <ul style="list-style-type: none">• \$914 (single)• \$1,371 (Couple)

Income Limit

RSDI	SSI
None	Yes – Benefit amount will be reduced by other income received including - receipt of outside income, earned or unearned, cash or in-kind; some disregards apply

Resource Limit

RSDI	SSI
None	Yes \$2,000 for single \$3,000 for couple

Immigration

RSDI	SSI
Authorized to Work in the United States	Most non-citizens coming to the U.S. after 8/22/96 are <u>ineligible</u> for SSI or, if they are asylees or refugees, eligible for only 7 years from the date of the grant of refuge or asylum.

Categorical Eligibility

RSDI	SSI
<ul style="list-style-type: none">• Age• Disabled• Blind• Disabled Adult Child• Surviving Spouse and Children	<ul style="list-style-type: none">• Age 65 +• Disabled• Blind• Disabled Children

Retroactive Benefits – Disability

RSDI	SSI
Up to 1 years from the date of initial application	None

Auxiliary Beneficiary

RSDI	SSI
Yes	None

SSI and Income

- Income
- Earned Income
- Unearned Income
- Income Disregards
- Countable Income

SSI and Income

Practice Tip: The SSI income and resource rules are **stricter** than most other needs based programs. Always double check the rules for all programs when determine the impact of income changes for your client.

SSI and Income

- “Anything you receive in cash or in kind that you can use to meet your needs for food and shelter.” 20 CFR 416.1102
- An individual cannot have more **countable income** than the SSI payment level applicable to the individual’s living arrangement
- Countable income = countable unearned income + countable earned income

SSI and Income

Earned Income: gross wages, net earnings from self-employment, and payments for services performed as part of certain programs designed to help individuals become self-supporting.

- 20 CFR 416.1110

SSI and Income

Unearned Income: “Unearned income is all income that is not earned income.” 20 CFR 416.1120

SSI and Income

Unearned Income Examples:

- annuities and pensions,
- alimony and support payments,
- dividends, interest and royalties,
- rent for real or personal property,
- death benefit (life insurance)
 - Exception: amount spent on the deceased last illness and burial expenses
- prizes and awards,
- gifts and inheritance
 - Exception: amount spent on the deceased last illness and burial expenses

20 CFR 416.1121

SSI and Income

Unearned income exclusions (not countable income):

- Assistance based on need
- Grant, scholarships, fellowships or gifts used or set aside for pay tuition, fees, or necessary educational expenses. SSA does count if set aside for food or shelter
- Food raised for consumption of the household
- Disaster Relief payments
- First \$60 of infrequent or irregular unearned income
- Foster care payments
- Housing subsidies
- $\frac{1}{3}$ of child support payments made to or for a child receiving SSI

20 CFR 416.1124

SSI and Income

Earned Income Disregard: first \$65 and one-half the remaining earned income in a month

- 20 CFR 416.1112 (c)(5); 20 CFR 416.1112 (c)(7)

SSI and Income

- General income disregard of \$20
 - Applied first to unearned income
 - Any amount not applied to unearned income will be applied to earned income
 - - 20 CFR 416.1112(c) and 416.1124(c)
- After the general income disregard is applied, unearned income will reduce SSI benefits \$1 for \$1

Mr. Jones—an example of how to calculate countable income

Mr. Jones applies for SSI as an individual. He receives \$620/month in a Social Security retirement check and \$165/month in cash for helping a neighbor. Is he income eligible for SSI, and if so, how much is his benefit?

\$620 – Mr. Jones's total *unearned income*

-(\$20) – General income disregard

\$600 – Mr. Jones's total countable unearned income for the month

\$165 – Mr. Jones's total *earned income*

-(\$65) – Earned income disregard

\$100 ÷ 2

\$50 – Mr. Jones's total countable earned income for the month

\$600 – *Unearned income*

+\$50 – *Earned income*

\$650 – Mr. Jones's total countable income (earned & unearned) for the month

\$750 (*maximum monthly SSI benefit rate for an individual, in 2018*)

-\$650

\$100

Mr. Jones is income eligible for \$100/month in SSI benefits.

SSI and Income

In-Kind Income: “In-kind income is not cash, but is actually food or shelter, or something you can use to get one of these.”

- 20 CFR 416.1102

SSI and Income

In-Kind Support and Maintenance (ISM)

- Food, shelter, or both that somebody else provides for an SSI recipient SSA count in-kind support and maintenance as income when calculating a person's monthly SSI benefits.
- $\frac{1}{3}$ reduction

SSI and Income

Hypothetical:

Jason receives SSI and SSDI benefits. He is 23 years old. He receives \$506 in SSI each month and \$408 in SSDI. Jason has decided to move in with this mom to save money because he can't afford place on his own on his fixed income.

His mom lives in a home that she owes. She is solely responsible for the mortgage.

Jason wants to know how this move may impact his benefits.

SSI and Resources

A resource is **money or something that you own and can turn into cash**. Examples of resources are property, stocks, bonds, and bank accounts.

SSI and Resources

Excluded Resources (20 CFR 416.1210):

- A home that serves as the beneficiaries primary place of residence
- Personal effects (furniture, appliances, personal computers, televisions, cooking and eating utensils, wedding rings and personal jewelry)
- 1 automobile used for transportation
- Housing assistance
- Life Insurance (value above the cash surrender value)
- Retroactive SSI and SSDI payments for 9 months following the month of receipt
- Burial Space and Burial funds up to \$1,500
- Certain dedicated accounts for child SSI beneficiaries
- Special Needs Trusts

SSI and Resources

- **Transfer Penalty** may be imposed when an SSI recipient or applicant transfers a resource for less than fair market value.

SSI and Resources

Maggie is 67 years old, retired, and single. She receives SSI and SSDI benefits. She receives \$241/month in SSI and \$673 /month in RSDI benefits. Maggie loves to play the lottery. Last week she won \$5,200! Maggie has no other income. She has the following resources:

1. A house that she lives in.
2. A checking account with \$300.
3. A burial fund worth \$1,500.
4. A life insurance policy with a cash surrender value of \$1700.

Maggie wants to give \$1,500 of her winnings to her granddaughter to help pay for collage. She wants to save the rest for a raining day. Please advise.

SSI: Income and Resource Deeming

“Deeming” - when the income or resource of another person is considered to be the income or resource of the SSI beneficiary

1. Spouse to Spouse
2. Parent to Child (under the age of 18)
3. Sponsor to Alien
 - Income: 20 CFR 416.1160, 20 CFR 416.1161 (exceptions)
 - Resources: 20 CFR 416.1202

Other SSI Considerations

- Physical presence in the US
- Institutionalization