

Social Security Benefits Overview

UMN Law - Poverty Law

Fall 2024

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What are Social Security Benefits?

- Benefits programs administered by the Social Security Administration (SSA)
- There are several different benefits programs run by SSA with different eligibility criteria, all falling under the umbrella of Social Security benefits
- All programs provide cash assistance to eligible individuals
- Benefits are usually direct deposited into a bank account owned by the recipient
 - Some recipients can request a Direct Express debit card*
 - In rare cases SSA sends paper checks*
- Some recipients may have a representative payee receive and manage their benefits if they are unable to do so on their own
 - Often a family member, but there are also professional representative payees*
 - The rep payee must use the benefits in the best interests of the recipient, first for basic needs (food, shelter, clothing, medical care, personal care)*
 - Rep payees must also help with reporting changes that could affect benefits to SSA*

The Law

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

Disability Benefits: RSDI vs SSI

- **RSDI** = Retirement, Survivor, Disability Insurance = Title II Benefits
- **SSI** = Supplemental Security Income = Title XVI Benefits

Both programs provide benefits to individuals with disabilities

RSDI vs SSI

Hey?!?! Hold up!

What about Social Security Disability (SSDI)?

SSDI

- Disability
- Must have enough work credits (based on total yearly wages) within last ten years
- No financial eligibility rules
- Can receive more than \$943, if less than \$943 will also get SSI (concurrent benefits)
- Benefit amount is calculated based on prior earnings
- Work incentive rules – if making over Substantial Gainful Activity (\$1550/month in 2024) for more than 9 months will be determined no longer disabled (exceptions apply)

SSI

- Disability
- No work credits required
- Program for low-income individuals
- Max benefit is \$943 in 2024

Income Limit

SSDI	SSI
None	Benefit amount will be reduced by amount of countable income

Resource Limit

SSDI	SSI
None	\$2,000 for single \$3,000 for couple

Immigration

SSDI	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.

Residential Requirements

SSDI	SSI
None	Cannot be living in an institution or hospital Must be residing in the United States

Retroactive Benefits

SSDI	SSI
Up to 1 year from the date of initial application	None

How to Get Benefits

Application Process

- Apply online @ ssa.gov or set up an appointment to apply in person at SSA office
 - >If applying for SSI, will submit basic information online (secures application date) and complete application with SSA representative
 - >SSA may follow up for additional documentation or forms if needed
- Once application submitted, SSA will review to make sure applicant meets non-medical requirements
 - >Reviews work history, income and assets, etc.
- Next, SSA sends the application to Disability Determination Services (DDS) for disability determination
 - >Obtains and reviews medical records
 - >May schedule medical evaluation with doctor hired by SSA
- After DDS makes a determination, eligibility determination notice is sent to applicant
- If approved, SSA reviews income and assets to determine SSI benefits amount, issues benefits

Categorical Eligibility: SSI and SSDI

Determining Disability

- Both programs (SSI and SSDI) are only available for individuals who meet SSA's definition of "disability"
- Disability = the "inability to do any substantial gainful activity [SGA] by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months." 20 C.F.R. §§ 404.1505, 416.905.

Determining Disability

To qualify for SSI or SSDI disability benefits, an adult must be:

- unable to work competitively
- for at least 12 months
- due to a severe physical or mental impairment or combination of impairments

5 Step Process

Step One – Not Engaged in Substantial Gainful Activity

Step Two – Severe Impairment

Step Three – Meet or Equal the Listings

Step Four – Unable to Perform Past Relevant Work

Step Five – Unable to Perform Other Work

5 Step Process

- If SSA finds that an individual is not disabled at a step, SSA issues a decision and does not go on to the next step.
- If SSA cannot find that an individual is disabled or not disabled at a step, SSA goes on to the next step.

Step 1

Is the claimant engaging in substantial gainful employment (SGA)?

Yes = Not Disabled

No = Move to Step 2

SGA for 2024 = \$1,550/month

If earning \$1,550/month or more, engaging in SGA

Step 2

Does the claimant suffer from a severe physical or mental impairment?

Yes = Move to Step 3

No = Not Disabled

An individual must have a medically determinable physical or mental impairment (or a combination of impairments) that is severe and meets the duration requirement.

- To be severe an impairment or impairments must interfere with basic work-related activities. 20 C.F.R. § 404.1521(a)
- To meet the duration requirement the impairment(s) must be expected to last twelve months or to result in death

Step 2

What are basic work-related activities?

Physical:

→ Lifting, carrying, standing, walking, sitting, pushing, pulling

Mental:

→ Ability to understand, carry out, and remember simple instructions

→ Make simple, work-related judgments and decisions

→ Respond appropriately to supervision, coworkers and work situations

→ Deal with changes in a routine work setting

Step 3

Does the claimant's impairment meet or equal a listing?

Yes = Disabled – approved for benefits

No = Move to Step 4

<u>1.00</u> <u>Musculoskeletal Disorders</u>	<u>2.00</u> <u>Special Senses and Speech</u>	<u>3.00</u> <u>Respiratory Disorders</u>	<u>4.00</u> <u>Cardiovascular System</u>
<u>5.00</u> <u>Digestive System</u>	<u>6.00</u> <u>Genitourinary Disorders</u>	<u>7.00</u> <u>Hematological Disorders</u>	<u>8.00</u> <u>Skin Disorders</u>
<u>9.00</u> <u>Endocrine Disorders</u>	<u>10.00</u> <u>Congenital Disorders that Affect Multiple Body Systems</u>	<u>11.00</u> <u>Neurological Disorders</u>	<u>12.00</u> <u>Mental Disorders</u>
<u>13.00</u> <u>Cancer</u> <u>(Malignant Neoplastic Diseases)</u>	<u>14.00</u> <u>Immune System Disorders</u>		

Residual Functional Capacity Determination (Step 3.5)

RFC is a function-by-function assessment of

- an individual's maximum ability to do sustained work-related physical and mental activities
- on a regular and continuing basis (8 hours a day, for 5 days a week)
- despite the limitations and restrictions resulting from his or her medically determinable impairments

SSA must consider all of the individual's impairments in making RFC determination (even those that are not severe)

Bottom Line: RFC = an accounting of an individual's capacity for full-time work.

20 CFR 404.1520(e), 404.1545, 416.920(e), and 416.945; SSR 96-8p

RFC - Exertional and Non-Exertional Limitations

Exertional Limitations:

- Sedentary work: can stand and walk no more than 2 hours out of an 8-hour day, can't lift more than 10 pounds occasionally or 5 pounds frequently.
- Light work: can stand and walk up to 6 hours out of an 8-hour day, can't lift more than 20 pounds occasionally or 10 pounds frequently.
- Medium work: can stand and walk up to 6 hours out of an 8-hour day, can lift up to 50 pounds occasionally or 25 pounds frequently.
- Heavy work: can stand and walk enough to do medium work, and can lift up to 100 pounds occasionally and 50 pounds frequently.
- Very heavy work: can stand and walk enough to do heavy work, can lift more than 100 pounds occasionally and more than 50 pounds frequently.

Non-exertional limitations: restrictions that don't involve strength, but still affect the types of job tasks someone can do.

Example: “The claimant has the residual functional capacity to perform a full range of work at all exertional levels but with the following nonexertional limitations: she can tolerate occasional coworker and general public interaction, and can tolerate ordinary levels of supervision found in a customary work setting.”

Step 4

Can the claimant perform past relevant work (PRW) considering their RFC?

Yes = Not Disabled

No = Move to Step 5

Past relevant work is

- work performed within the past 15 years,
- that was substantial gainful activity, and
- that lasted long enough for the claimant to learn to do it.

20 CFR 404.1560(b), 404.1565, 416.960(b), and 416.965

Step 5

Can the claimant do any other work considering their RFC, age, education, and work experience? Are there any jobs in significant numbers in the national economy that the claimant can do, given the residual functional capacity, age, education, and work experience?

Yes to both = Not Disabled

No to either = Disabled

20 CFR 404.1520(g) and 416.920(g)

20 CFR 404.1512, 404.1560(c), 416.912 and 416.960(c)

Children

“If you are under age 18, we will consider you disabled if you have a medically determinable physical or mental impairment or combination of impairments that causes marked and severe functional limitations, and that can be expected to cause death or that has lasted or can be expected to last for a continuous period of not less than 12 months.”

20 CFR 416.906

Children

Must equal a [listing](#), or functionally equal the listings by showing “marked” limitation in two or “extreme” limitation in one domain of functioning:

- Acquiring and using information
- Attending and completing tasks
- Interacting and relating with others
- Moving about and manipulating objects
- Caring for yourself
- Health and physical well-being

SSRs 09-1p – 09-8p provide in depth explanation of domains and how to prove

Financial Eligibility: SSI

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

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

Types of Income Considered in Benefits Programs

- Earned Income
- Unearned Income
- In-Kind Income

Income Disregards and Exclusions in Benefits Programs

Income (earned, unearned, in-kind) that is **not** taken into consideration when determine eligibility or assistance payments for benefits program.

- Disregard = income is counted, but a portion is not
- Exclusion = income not counted at all

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

Earned 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)

Example:

Lisa earns \$600 at a part time job.

Countable earned income for SSI = $(600 - 65) / 2$

Lisa's countable earned income is \$267.50

Unearned Income

“Unearned income is all income that is not earned income.”

20 CFR 416.1120

Examples:

- annuities and pensions,
- alimony and support payments,
- dividends, interest and royalties,
- rent for real or personal property,
- life insurance payments, gifts and inheritance

Exception: amount spent on the deceased last illness and burial expenses

- prizes and awards

Unearned Income

Unearned income exclusions :

- 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

Unearned Income

There is a general income disregard of \$20

No other disregards - countable unearned income reduces the grant \$1 for \$1

Example:

Lisa receives \$200 a month from her parents to help pay for expenses.

Countable unearned income for SSI = $200 - 20$

Lisa's countable unearned income is \$180.

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.

In-Kind 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

*Note: Pre-2024 there were SSI exclusions for food assistance from government or charitable sources like SNAP benefits or food banks. BUT food from non-excluded sources (such as from family and friends) counted as in-kind income and reduced an SSI recipient benefits. As of 2024 food is no longer counted as in-kind income, no matter the source!

Example:

Lisa's mother directly pays her monthly phone bill, which is \$200 a month.

The \$200 a month phone payment is considered in-kind support and treated as unearned income.

Countable unearned income for SSI = 200 - 20

Lisa's countable unearned income is \$180.

Living Arrangements and In-Kind Support and Maintenance (ISM)

“In-kind support and maintenance means any food or shelter that is given to you or that you receive because someone else pays for it....room, rent, mortgage payments, real property taxes, heating fuel, gas, electricity, water, sewerage, and garbage collection services. You are not receiving in-kind support and maintenance...if you are paying the amount charged under a business arrangement. A business arrangement exists when the amount of monthly rent required to be paid equals the current market rental value.” CFR 416.1130(b)

→ If someone receives ISM, benefits will be reduced using one of two rules, depending on the specifics of the living arrangement: (1) 1/3 reduction (VTR); or (2) Presumed Maximum Value (PMV)

*Note – Even though food is no longer counted as in-kind income, SSA still uses it to determine which living arrangement applies, and which ISM rule to apply

1/3 Reduction (VTR)

- If SSI recipient lives in another person's household *and* receives *both* all food and shelter from others living in the household SSA reduces the applicable FBR by 1/3rd
- What does this mean?
 - ◆ If subject to VTR the maximum benefit someone can get in 2024 is \$629 (1/3 of \$943 = \$314)

POMS SI 00835.200

Example:

Lisa lives with her mother. She does not pay any rent and does not pay for any food.

Lisa is subject to VTR, and the maximum amount of SSI Lisa can receive is \$629.

Presumed Maximum Value (PMV)

- If SSI recipient receives shelter, but *not all food from the household in which they live*, the value of ISM is determined using the Presumed Maximum Value rule
- $PMV = 1/3 \text{ of } \$943 + \$20 = \$334$ (in 2024)
 - ◆ this is the **maximum amount** that ISM can be valued as unearned income
- SSA will apply the PMV unless it is rebutted by showing actual amount someone else pays for ISM is lower than PMV
 - ◆ SSA will then use actual value of ISM to determine unearned income

POMS SI 00835.300

Example:

Lisa lives with her mother. She does not pay any rent but buys and prepares her own food.

Her mother pays \$800 a month for a mortgage.

Lisa is subject to the PMV rule. The ISM she receives is presumed to be worth \$334 in unearned income.

Lisa cannot rebut the PMV. Her mother pays \$400 a month for Lisa's shelter ($\$800/2$ people). This is more than \$334.

Lisa has \$314 in countable unearned income ($\$334 - \20).

“Business Arrangement”

- If SSI individual pays rent equal to or greater than the PMV, SSA will assume that the rent is charged under a "business arrangement" and ISM does not apply.
- If the monthly rent is less than the PMV, ISM is the difference between the monthly required rent and either PMV or current market value, whichever is less.

POMS SI 00835.120

Example:

Lisa lives with her mother. She pays her mother \$334 per month for rent.

ISM does not apply.

Hypothetical

Jason receives SSI and RSDI benefits. He is 23 years old. He receives \$506 in SSI each month and \$457 in RSDI. Jason has decided to move in with his mom to save money because he can't afford a place on his fixed income.

His mom lives alone in a home that she owns. She is solely responsible for the mortgage and pays \$900/month.

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

Public Assistance Households

- If SSI recipient lives in a household in which at least one other household member receives a public assistance payment, no ISM applies.
- Public assistance payments include: SSI, MFIP, GA, SNAP

POMS SI 00835.130

Example:

Same facts as prior scenario. Jason ends up moving in with his mother and does not pay any rent. He buys and prepares his own food. His mother receives SNAP benefits for herself.

They are considered a public assistance household and no ISM will apply to Jason.

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.*
- Resource limit = \$2000 for individual; \$3000 for couple
 - *These limits have remained unchanged since 1989!*
- If over the resource limit in a given month, completely ineligible for SSI payment in that month.

POMS SI 01110.003

Excluded Resources

Excluded Resources (20 CFR 416.1210):

- ★ A home that serves as the beneficiary's 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

Spenddown

Spending down to mitigate potential period of ineligibility due to being over resource limit without triggering transfer penalty

- Funds must be spent on the needs of SSI recipient
- Must be used to purchase good/services for fair market value
- Keep records re: any purchase made to show fair market value received

Transfer Penalty

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

- Consequence: 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 FBR. Rounded down result is number of months the individual is ineligible.

20 C.F.R. §416.1246

POMS SI 01150.110 -.111

Hypothetical

Maggie is 67 years old, retired, and single. She receives SSI and SSDI benefits. She receives \$263/month in SSI and \$600 /month in SSDI benefits. Maggie loves to play the lottery. Last week she won \$5,200! Maggie has no other income. She has the following resources:

- ★ A house that she lives in.
- ★ A checking account with \$300
- ★ A burial fund worth \$1,500
- ★ 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 college. She wants to save the rest of for a rainy day. Please advise.

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

→ Spouse to Spouse

→ Parent to Child (under the age of 18)

→ Spouse to Alien

20 CFR 416.1160, 20 CFR 416.1161, 20 CFR 416.1202

Common Deeming Exclusions

Income:

- Money which was paid under a Federal, State, or local government program to provide claimant with chore, attendant or homemaker services (example: PCA payments)
- Parent-to-child: Allocation for other dependent ineligible children in the home

Resources:

- Pension funds
- Parent-to-child: exclude amount equal to resource limit (2K for single parent, 3K for couple)

20 CFR 416.1160, 20 CFR 416.1161, 20 CFR 416.1202

Suspension of SSI

- If SSI recipient is ineligible for an SSI payment due to excess resources or income (or other reason) their benefits are suspended beginning the first month of ineligibility
- SSA must reinstate benefits in the next month that recipient becomes eligible again
- If SSI is suspended for more than 12 months in a row benefits are terminated and a new application will be required

Appeals

1. Adverse Decision - Denial, Termination, Suspension, Reduction Notice
2. Request for Reconsideration (file review; can request conference for non-disability appeals)
3. Administrative Hearing w/ Administrative Law Judge (ALJ)
4. Appeals Council (discretionary review; no new evidence; no hearing)
5. Federal Court (no new evidence; no hearing; can submit new application while pending)

Deadline to appeal at each level is 60 days (+5 days for mailing)

Can submit appeal (except for Federal Court, which requires a complaint) online
@ssa.gov