



How Resources Affect SSI Eligibility

January 2015

Introduction to the Concept of Resources

Supplemental Security Income or SSI is a means-tested program intended for aged, blind or disabled people who have little income and few resources. Because of this, income and resources affect whether individuals are eligible for SSI and income affects how much in SSI payment eligible individuals are due. The basic definitions of income and resources applicable to the SSI program are:

Income is defined as any item an individual receives in cash or in-kind that can be used to meet his or her need for food or shelter. Income an eligible individual receives is counted for SSI purposes in the actual calendar month it is received.

Resources are defined as cash and any other personal property, including any real property, that an individual (or spouse, if any):

- owns;
- has the right, authority, or power to convert to cash (if not already cash); and
- is not legally restricted from using for his/her support and maintenance.

SSI eligibility with respect to resources is a determination made as of the first moment of each calendar month and applies to the entire month. Subsequent changes in resources within the month have no effect until the following month's resources determination. In the SSI program, resources eligibility (or ineligibility) exists for an entire month at a time. If countable resources do not exceed the statutory limit, they have no effect on the amount of an individual's SSI payment. If countable resources do exceed the limit, an individual (or couple) is not eligible for an SSI payment.

Some items may count as both income and resources. For example, someone who wins the lottery would have income the month the cash payoff is received. If the individual retains the

money on the first day of the next month, the lottery winnings would then be considered a countable resource for that month and for any additional months that the funds are retained.

Resource Limits in the SSI Program

To be eligible for SSI, an individual's countable resources must not exceed \$2,000 as of the first moment of a given month. If an eligible couple (two SSI recipients married to each other or presenting themselves to the community as married and living together) receives SSI, the eligible couple's combined countable resources must not exceed \$3,000. If countable resources are above the limit as of the first of the month, the individual/couple will not be due an SSI payment or associated Medicaid coverage for that month. If an individual/couple has excess resources for more than twelve consecutive months, they would have to file a new SSI claim in order to receive SSI and provide evidence that his/her resources are below the statutory limit.

In some cases, the resources that a family member has might make an individual ineligible for SSI. If a person who is eligible for SSI is married to someone who is not eligible, it is assumed the ineligible spouse will share resources with the eligible spouse. If a child under age 18 lives with his/her parent(s), part of the parents' resources may be counted when determining the child's eligibility. This is called "deeming" of resources. For more information on deeming, refer to the CWIC Initial training Manual, Module 3A, Unit 5, or refer to additional VCU NTC resource documents on the subject of deemed income.

Resource Determinations

Social Security conducts periodic SSI redeterminations for all SSI recipients. A redetermination is a review of a recipient's/couple's non-medical eligibility factors such as income, resources, and living arrangements to be sure they are still eligible for and receiving the correct SSI payment. SSI redeterminations are conducted at periodic intervals which may vary depending on the likelihood of payment error that may affect an individual's/couple's eligibility for SSI or the SSI payment amount. During the annual redetermination, Social Security examines resources available to the SSI recipient at the beginning of each month. If the countable resources are too high, then no SSI payment is due. Remember that eligibility with respect to resources is a determination made at the beginning of each month for the entire month. Thus, changes in resources during a month don't count until the beginning of the next month.

Common Resource Exclusions

Not everything a person owns meets the SSI definition of a resource and not all things that meet the resource definition actually count against the statutory limit. The Social Security Act and other Federal statutes require the exclusion of certain types and amounts of resources. Any assets that do meet the definition of resources but are not specifically excluded would be “countable” for SSI eligibility purposes. This document will cover some of the most common resource exclusions, but there are many more exclusions not covered here. For the most current listing of excluded resources, refer to POMS SI 01110.210 - Excluded Resources. When in doubt about whether or not a specific item counts as a resource for SSI purposes, it is always best to contact the local Social Security Field Office to receive additional information.

Household Goods and Personal Effects

Household goods include items of personal property, found in or near the home, that are used on a regular basis; or items needed by the householder for maintenance, use and occupancy of the premises as a home. Such items include, but are not limited to, furniture, appliances, electronic equipment such as personal computers and television sets, carpets, cooking and eating utensils, and dishes. Personal effects include items of personal property ordinarily worn or carried by the individual or articles otherwise having an intimate relation to the individual. Such items include, but are not limited to, personal jewelry, including wedding and engagement rings, personal care items, prosthetic devices, and educational or recreational items, such as books or musical instruments. SSI will not count as resources items of cultural or religious significance to an individual and items required because of an individual’s impairment. However, SSI will continue to count items that were acquired, or are held for their value, or as an investment. Such items can include, but are not limited to, gems, jewelry that is not worn or held for family significance, or collectibles.

Medical Devices and Adaptive Equipment

Medical devices, like wheelchairs and scooters, for individuals with disabilities, are completely excluded as a resource for SSI, regardless of their value. The value of adaptive equipment is also completely excluded, regardless of how much the adaptive equipment cost or is currently worth. (Note: Only equipment required because of a person’s disability is excluded under this rule.)

Life Insurance Policies

There are several types of life insurance. Term life insurance generally has no value, except upon death. Individuals pay premiums to maintain an insurance policy and the insured person is covered by the insurance for the term of the policy. If the premium is not paid, the individual is no longer insured. Term policies generally have no cash surrender value (CSV) while the person is alive, and therefore they would not count as resources for SSI eligibility purposes. However, some term policies do have a CSV that may be a countable.

Whole life or universal variable life are two types of life insurance that build a cash surrender value (CSV). The more that is paid in, the more these policies are worth. Individuals who own these policies may use them not only to pay a death benefit, but also for an investment while these individuals are alive. These policies have a cash value if they are surrendered to the insurance company and policy owners may borrow against the value of the policy. Policies with a cash value may count as a resource, which may have an effect on SSI eligibility.

Even when a life insurance policy has a cash value, it may be excluded as resources in some situations. The policies are only completely excluded if the face value of all policies on an individual does not exceed \$1,500. The face value is the amount the policy pays if the person dies. If the total of all the policy face values exceeds \$1,500, then the cash surrender value of the policies is a countable resource. The CSV is the amount of money the insurance company will pay out if the policy is turned back to them.

Homes

The primary residence of an SSI recipient is completely excluded from consideration as a resource no matter what it is worth. However, if someone gives an SSI recipient a home the value of the home counts as income in the month the deed is transferred. This income is only counted as “in-kind support and maintenance” (ISM), so the worst-case scenario is that the individual will only experience a one-third reduction in SSI payment, rather than ineligibility for this month. After the first month in which the house is deeded over, the home is completely excluded as a resource as long as the home serves as the individual’s principal place of residence. An example of this might be parents buying a condo for a disabled child. In the month the parents sign the condo over to the SSI recipient, the value of the home is income valued as in-kind support and maintenance (ISM) valued under the Presumed Maximum Value rule. After that initial month, the home is a completely excluded resource as long as the home serves as the individual’s principal place of residence.

The parcel of land on which a home is located is also excluded, regardless of its size or value. However, if someone uses part of that land to generate income, the income may be countable in the month it is received. If this land is ever sold, retained proceeds from the sale would be counted as a resource in the month after the month they are received.

Automobiles

For the purposes of the automobile exclusion, Social Security considers any form of conveyance to be an automobile including a boat, a car, a motorcycle, a snowmobile, or a horse and buggy. Effective April 1, 2005, one automobile will be excluded if it is used for the transportation needs of the person on SSI or a family member, regardless of whether it is needed for employment, medical visits, or has to be modified. If there is more than one automobile, Social Security will exclude the automobile of higher value. The equity value of the remaining vehicles would count against the resource limit. It is important to understand that SSI eligible couples are also restricted to having ONE vehicle excluded from resource determinations. The equity value of additional automobiles owned by eligible couples will count as resources.

Burial Funds, Burial Spaces, and Life Insurance Assigned to Funeral Provider

A burial fund is a specifically designated fund of up to \$1,500 in value set aside to pay for funeral expenses. Each eligible individual and their spouse may have their own burial fund. Social Security must know this fund exists before it is excluded, so SSI recipients must let the Social Security know as soon as they plan to set money aside. Burial funds must be kept separate from all non-burial related resources. If they are commingled, the burial fund exclusion will not apply. For example, burial funds cannot be kept in the same bank account into which the individual's SSI check is deposited. Interest or other appreciation of burial funds is not counted as income or resources even if the total of the burial fund thus excluded exceeds \$1,500. However, once money is designated as a burial fund, the eligible individual cannot use the fund for non-burial purposes. Improper use of the fund will result in a financial penalty that is withheld from SSI benefits.

The burial space exclusion applies to burial spaces for use by the eligible individual, spouse, and members of his/her immediate family. Burial plots, crypts, caskets, urns, etc., may be purchased in advance and are completely excluded regardless of value. The only exception to this is if there is more than one of a particular item for one individual. For example, if a person owns a collection of urns or caskets, only one item is excludable. This provision is in addition to the burial fund exclusion. Prepaid costs for opening and closing of a grave are also excluded.

Life insurance or resources assigned to a funeral provider may also be excluded under certain circumstances. SSI recipients may have life insurance policies or other resources that are signed over to a funeral director to purchase a burial plot or pay for funeral services. The money or insurance policy may be assigned irrevocably, meaning that the person surrenders the right to pull the money back. The person may also create a revocable arrangement where the individual assigns the proceeds and later could revoke the arrangement. Whether the arrangement is revocable or irrevocable affects how the asset is treated. (NOTE: State law may determine whether a funeral contract can be revocable or irrevocable.)

A life insurance policy that is irrevocably assigned to fund a burial contract is not a resource for SSI purposes. However, if the assignment of the life insurance policy is revocable, the policy continues to count against the resource limit. Generally, a burial contract includes burial space items (casket, cemetery plot, etc.) and “non-space” items (funeral home, limousine, etc.). There is no dollar limit on exclusion of burial space items in the burial contract, but it must be paid in full. Items other than burial spaces covered by an irrevocable burial contract offset the \$1,500 burial fund exclusion. For example, if an individual has an irrevocable burial contract for \$2,000 in funeral services, the value of the contract offsets the \$1,500 burial fund exclusion dollar-for-dollar and they cannot set aside any money for burial under that exclusion. The face value of excluded life insurance also offsets the burial fund exclusion dollar-for-dollar, so if the beneficiary has excluded life insurance with a face value of \$1,000 Social Security will only exclude up to \$500 as a burial fund.

Instead of using insurance to fund a burial contract, the individual may designate a life insurance policy as an excluded burial fund which has a \$1,500 limit. If the person designates the policy as a burial fund, only the first \$1,500 of the cash surrender value is excluded. When designating the policy as a burial fund, the cash surrender value is used, not the face value. Remember that term life insurance policies that don't have a cash surrender value are not counted as a resource.

An individual may also purchase a prepaid burial contract in which burial expenses are paid for in advance. If the contract cannot be revoked it is not a resource, regardless of value. If the contract can be revoked, it is a resource. However, the portion of the revocable contract that is specifically for burial space items can be excluded regardless of value. The “non-space” items covered by the revocable contract may be excluded under the \$1,500 burial fund exclusion.

Retroactive Social Security and SSI Benefits

If an individual receives past-due Social Security benefits (not SSI payments), the payment is considered income in the month it is received. If the recipient still has part of the retroactive

payment by the beginning of the next month, the remaining amount of the back payment is excluded as resources for up to 9 months. After that, it counts as a resource. Retroactive SSI payments are similarly excluded as a resource for 9 months.

Retirement Funds

Retirement funds are annuities or work-related plans for providing income when employment ends. They include pensions, disability or retirement plans of an employer or union, and funds held in an individual retirement account (IRA) and Keogh plans.

Social Security makes resource determinations for retirement funds based on the ability to retrieve funds from the account. A retirement fund owned by an eligible individual is a resource if the individual has the option of withdrawing a lump sum, even though he/she is not yet eligible for periodic payments. However, a retirement fund is not a resource if the individual must terminate employment in order to obtain any payment. Periodic retirement benefits are payments made to an individual at a regular interval, (like monthly retirement payments), that result from entitlement under a retirement fund. If the individual is eligible to retire, or to otherwise receive periodic payments, the fund may not be a countable resource. In this case, the periodic payments would count as income for SSI purposes. The individual is required by law to apply for any available retirement benefits since the SSI program is a needs based program and serves as a program of last resort. If the individual has a choice between periodic benefits and a lump sum, the person would be ineligible for SSI, unless they choose to take periodic benefits. If a person is required to apply for these types of benefits, Social Security will send them a notice informing them of this requirement.

Different retirement accounts, regardless of their title, may have different effects on SSI eligibility. This will depend on whether or not the person is able to access the funds – even when a penalty for early withdrawal is applied. While a qualified WIPA professional can offer general guidance on whether or not a specific retirement account will be a resource for SSI purposes, only Social Security may render the final determination.

Educational Grants, Scholarships, Fellowships, and Gifts

Social Security has historically provided numerous resource exclusions for funds SSI recipients receive for educational purposes, but these provisions became even more generous in June of 2004. The Social Security Protection Act of 2004, Public Law 108-203, provided a 9-month resource exclusion for all grants, scholarships, fellowships, and gifts used to pay for tuition, fees, and other necessary educational expenses at any educational institution, including vocational and technical education.

All student financial assistance received under Title IV of the Higher Education Act of 1965 (HEA) or Bureau of Indian Affairs (BIA) student assistance programs, is excluded from income and resources, regardless of use. The resource exclusion for this Federal educational assistance does not have a time limit - it is excluded from resources regardless of how long the assistance is held. For benefits payable on or after July 1, 2004, interest and dividends earned on unspent educational assistance under Title IV of HEA or under BIA are also excluded from income.

Examples of HEA Title IV Programs include:

- Pell grants
- State Student Incentives
- Academic Achievement Incentive Scholarships
- Byrd Scholars
- Federal Supplemental Educational Opportunities Grants (FSEOG)
- Federal Educational Loans (Federal PLUS Loans, Perkins Loans, Stafford Loans, Ford Loans, etc.)
- Upward Bound
- Gear Up (Gaining Early Awareness and Readiness for Undergraduate Programs)
- LEAP (Leveraging Educational Assistance Partnership)
- SLEAP (Special Leveraging Educational Assistance Partnership)
- Work-Study Programs.

Beginning with benefits payable on or after June 1, 2004, any portion of any grant, scholarship, fellowship, or gift used or intended to be used to pay the cost of tuition, fees, or other necessary educational expenses at any educational institution, including vocational and technical education, is excluded from resources for 9 months beginning the month after the month it was received. This exclusion does not apply to any portion set aside or actually used for food or shelter. Grants, scholarships, fellowships, and gifts that are retained after the 9-month exclusion period are countable resources beginning the month following the end of the 9th month.

If any portion of this excluded educational assistance is used for something other than tuition, fees, or other necessary educational expenses, or the individual no longer intends for the funds to be used to pay tuition, fees, or other necessary educational expenses, then the funds are income at the earliest of the following points: in the month they are spent, or the month the individual no longer intends to use the funds to pay tuition, fees, or other necessary educational expenses.

Federal Educational Loans used to support educational costs are not counted as either income or resources for SSI purposes. In fact, the SSI program disregards all bona fide loans from income, as there is intent to repay the funds.

Individual Development Accounts (IDAs)

An IDA is a special bank account that helps an individual save for post-secondary education, the purchase of a first home, or to start a business. IDA participants contribute earnings from employment to a designated IDA account and these contributions are matched with money from either the State's Temporary Assistance for Needy Families (TANF) program or from the Federal Assets for Independence Program (AFI). Some State or local IDA programs do not involve the use of federal TANF or AFI funds, but are funded by other public or private sources.

The SSI program specifically excludes funds held in IDAs that are part of the Federal TANF or AFI programs when both income and resource determinations are made. This exclusion includes the following provisions:

1. An individual's contributions that are deposited in a TANF or AFI IDA are excluded from resources and income.
2. Any matching funds that are deposited in a TANF or AFI IDA are excluded from resources and income.
3. Any interest earned on the individual's contributions and matching funds that are deposited in a TANF or AFI IDA is excluded from resources and income.

The SSI program does count all funds deposited in IDA accounts that are NOT part of the Federal TANF or AFI programs with the exception of SSI recipients who are participants in several special demonstration programs.

For more information about these or other resource exclusions, refer to POMS SI 01130.050: Guide to Resources Exclusions found online at:

<https://secure.ssa.gov/apps10/poms.nsf/lnx/0501130050>

Work Incentives which Create Excluded Resources

The SSI program contains several special provisions known as “work incentives” which allow individuals to set aside resources for use in achieving an occupational goal, or to have resources that are used as part of a business, or are necessary for self-support.

Plans for Achieving Self-Support (PASS)

One of the most powerful work incentives SSI recipients may access is a Plan for Achieving Self-Support (PASS). A PASS is a formal plan to achieve a vocational goal. In order to develop a Plan for Achieving Self-Support, the person must have a feasible vocational goal, money other than SSI to set aside in the PASS, and expenses necessary to meet the goal. Individuals writing PASS plans may contribute some or all of their countable income. Individuals may also contribute cash resources to the PASS. Funds set aside in a PASS are completely excluded as either income or resources for the duration of the PASS. One example of setting resources aside might be someone who receives an inheritance. The SSI recipient sets the inheritance aside in the PASS to pay for an adapted van to allow the individual to meet the vocational goal of becoming a paralegal. Because the inheritance is small, the person also puts some countable work income into the PASS. For the duration of the PASS, the person must follow the plan. The recipient must set the agreed upon resources and income aside in a designated account. The recipient must also keep receipts, and bank statements to demonstrate that the money is being used for the appropriate purposes.

Property Essential to Self-Support (PESS)

The Social Security excludes certain resources or property that an individual or eligible couple needs for self-support. Property Essential to Self-Support (PESS) may include property used in a trade or business, non-business income-producing property and property used to produce goods or services essential to an individual's daily activities. There are different rules for considering property essential to self-support depending on whether it is income producing or not. Resources excluded under this provision generally fall into three categories as described below:

1. **Business Property, or Property of an Employee** - Effective May 1, 1990, all property used in the operation of a trade or business is excluded as property essential to self-support. For self-employed individuals, this includes inventory, the building where the business is housed, and cash used in operating the business, regardless of their value. The property must be in current use as defined by Social Security. Personal property used by an employee for work such as tools, safety equipment, or uniforms is also excluded. These items are excluded whether or not the employer requires that the employee have them, provided that the SSI recipient or applicant is currently using them.

NOTE: PESS ONLY applies when a business is a sole proprietorship or a simple partnership. It DOES NOT apply to business assets owned by a limited liability company (LLC) or corporation.

2. Non-Business Property Used to Produce Goods or Services Essential to Daily Activities - Up to \$6,000 of the equity value of non-business property used to produce goods or services essential to daily activities is also excluded from resources. An example might be a plot of land that the family uses to produce vegetables for their own use. Another example might be livestock intended for the family's dinner table.
3. Non-Business Income-Producing Property - Finally, up to \$6,000 of the equity value of non-business income producing property can be excluded from resources if a net annual income of at least 6% of the excluded equity is produced. If the equity is greater than \$6,000, Social Security will count only the amount over \$6,000 toward the allowable resource limit. An example of this type of property is rental property.

For detailed information about using PASS and PESS provision, refer to the CWIC Initial training Manual, Module 3A, Units 5, 6 and 7.

How SSI Treats Trusts

It is not uncommon for individuals with disabilities to have funds set aside in trusts of various types. A brief description of the SSI resource rules governing common types of trusts is provided below, but SSI recipients are encouraged to seek the assistance of a qualified attorney in the development of trusts in order to comply with specific SSI rules as well as any State rules governing the exclusion of funds held in trusts. WIPA personnel are not trained to assess the intricacies of trusts for SSI eligibility purposes and must not attempt to offer advisement in this area! Even when legal advice is obtained, only Social Security personnel are authorized to decide when a resource counts for SSI eligibility purposes. When in doubt, refer the recipient to Social Security for a formal determination. Keep in mind that these determinations are subject to Social Security's rules governing appeals, which means that recipients who disagree with a resource determination have full appeal rights.

Trusts Established by the Individual Seeking SSI Eligibility

In general, if a person sets up a trust for his or her own benefit, and uses his or her own funds to create the trust, it is a countable resource if it was established on or after January 1, 2000. If the trust was established before January 1, 2000, it may or may not be a resource, depending

on the terms of the trust. Trusts established before January 1, 2000 are resources to individuals if the individuals have the legal authority to revoke the trust and then use the funds to meet food and shelter needs or the ability to direct the use of the trust assets. A revocable trust is one that the person can choose to end at any time. An irrevocable trust is one that is established and can't be changed. A trust also counts as a resource if the person can direct the use of the trust principal for their support and maintenance. In the case of a "revocable" trust, the entire principal of the trust is a resource to the individual. Also, disbursements from a trust that are not made to, or for the benefit of, the SSI recipient may be considered a transfer of resources. More information about the transfer of resources into trusts is provided later in this document.

Some other types of trusts may not be counted as resources. While these trusts are not counted under SSI rules, the Social Security refers to them as Medicaid trust exceptions.

Special Needs Trusts

Trusts established under Section 1917(d)(4)(A) of the Social Security Act are not counted if:

1. the trust contains the assets of a disabled individual under age 65;
2. the trust was established for the benefit of the individual by a parent, grandparent, legal guardian or a court; and
3. the trust arrangement provides that upon the death of the individual, the State will receive all amounts remaining in the trust up to an amount equal to the total amount of medical assistance paid on behalf of the individual under the State Medicaid plan. If there is money in the trust after the state has been reimbursed, then that could go to the survivors.

Pooled Trusts Established under Section 1917(d)(4)(C) of the Act

The provisions of the SSI trust statute do not apply to a trust containing the assets of a disabled individual that meets the following conditions:

1. The pooled trust is established and maintained by a nonprofit association;
2. Separate accounts are maintained for each beneficiary, but assets are pooled for investing and management purposes;
3. Accounts are established solely for the benefit of the disabled individual;
4. The account in the trust is established by the individual, a parent, grandparent, legal guardian, or a court; and

5. The trust provides that to the extent any amounts remaining in the beneficiary's account upon the death of the beneficiary are not retained by the trust, the trust will pay to the State the amount remaining up to an amount equal to the total amount of medical assistance paid on behalf of the beneficiary under a State Medicaid plan.

Medicaid Trusts

Certain trusts called “Medicaid Trusts” or “Medicaid Qualifying Trusts” may not be a resource for SSI purposes under specific circumstances, but may cause ineligibility for Medicaid coverage. When Social Security personnel discover one of these Medicaid trusts, they will follow their internal procedures to determine if the trust is countable for SSI purposes. If the individual resides in a section 1634 State (Medicaid designation), the Claims Representative will not attempt to determine whether the trust is countable or excludable for Medicaid purposes or whether counting it as income and/or resources and/or treating it as a transfer might be waived by the Medicaid State agency. Existence of a Medicaid trust will generally result in Social Security making a referral of the case to the Medicaid State agency for a Medicaid eligibility decision.

The rules governing Medicaid trusts are extremely complex and will vary by State. SSI recipients who are planning to establish a Medicaid trust or have a Medicaid trust already established are encouraged to seek the advice of a qualified attorney who is knowledgeable about State Medicaid regulations governing trusts. WIPA personnel do not have sufficient expertise to assist in these cases.

Transfers of Resources

Transfers occur when countable resources such as property or cash are given away or sold. Social Security evaluates transfers of resources to determine whether they are “valid” or “invalid”. A valid transfer is one that results in the individual no longer owning the resource. An invalid transfer is one that is not effective and results in the individual still owning the resource they attempted to give away or sell. An example of an invalid transfer would be when a beneficiary “gives away” cash to someone else to hold in a bank account, but the beneficiary still has access to those funds. In this instance the transfer is not actual and would be considered invalid.

Invalid Transfers

As of December 14, 1999, giving away or transferring a resource for less than fair market value can result in a period of ineligibility for SSI for up to 36 months. The number of months of ineligibility depends on the value of the resource that was given away, but cannot exceed 36 months.

The effect on SSI and Medicaid eligibility of transferring resources to someone, either giving the resource away, or selling it below market value has changed in the last 20 years due to changes in the law. As of 12/14/99, if an individual gives away or sells a resource for less than it is worth, the person may be ineligible for SSI for up to 36 months. The property is counted as a resource for SSI purposes. The length of ineligibility depends on the value of the resource transferred.

For initial claims, Social Security will ask all SSI applicants if any resources were transferred within 36 months before the date of filing for SSI. In SSI redeterminations, Social Security will ask SSI recipients if any resources were transferred since the last review.

Social Security will compute the period of ineligibility using the following rules:

1. First, they will determine the total difference between the actual value of any resources sold or given away with what the person received for the resource.
2. Next, they will then divide that value by the full amount of current SSI Federal Benefit Rate, plus the full amount of the State supplementary payment (if any) based on the individual's living arrangement.
3. The result of this calculation represents the number of months the person will be ineligible to receive an SSI payment, up to a maximum of 36 months. The calculation is more complex for eligible couples or when spouse-to-spouse deeming is involved.

There are some special circumstances under which transfers are permitted and do not cause SSI ineligibility. They are described below:

Valid Transfers

A valid transfer is based on a legally binding agreement. When there is a valid transfer, the individual no longer owns the resource. Both selling a resource and giving away a resource may be valid transfers. If an individual sells a resource for what it is worth (fair market value or FMV), the 36-month period of ineligibility does not apply. Selling a resource for less than it is worth or giving it away may result in a transfer penalty. However, what the individual or eligible couple receives for the sale may be countable as a resource in the month following the transfer. For example, the individual owns a parcel of land worth \$5,000 that is not an excludable resource, so he or she is not eligible for SSI. If he or she sells the real estate in April

and receives \$5,000, this money, if retained, will count as a resource as of May. The individual would be ineligible for SSI because he or she is over the \$2,000 limit.

Conditional Benefit Agreements

An individual who meets all other SSI eligibility requirements, but is over the resource limit because he or she owns excess non-liquid resources, can receive conditional SSI benefits for up to 9 months. The individual must agree in writing to sell the excess resources and reimburse Social Security for the SSI benefits paid with the proceeds of the resources when sold. Non-liquid resources are any resources which are not in the form of cash, or which cannot be converted to cash within 20 workdays.

Conditional benefits are payable for up to 9 months while trying to sell real property. Real property includes land and/or buildings. While trying to sell personal property (such as stocks, jewelry, or automobiles), an individual can receive conditional SSI benefits for up to 3 months. Conditional benefit payments are overpayments that must be repaid.

Conditional benefits cannot begin until a “conditional benefits agreement” is developed, signed, and accepted by Social Security. To be eligible for a “conditional” exclusion of excess property, the following circumstances need to be met:

1. The person’s liquid resources do not exceed 3 times the applicable Federal Benefit Rate.
2. The SSI recipient(s) agree in writing to:
 - a. Sell the resource at current market value within a specified period: 9 months for real property, 3 months for personal property.
 - b. Use the proceeds of the sale to repay the overpayment of conditional benefits.

After 9 months of unsuccessfully trying to sell excess real property, Social Security will exclude the property as long as reasonable efforts to sell the property continue to be made. These payments are regular benefits and do not have to be repaid.

NOTE: Social Security will permit one 3-month extension for disposal of personal property for good cause. Good cause exists when circumstances beyond an individual’s control prevent them from taking the required actions to accomplish the reasonable efforts to sell. Examples might be the person not receiving an offer to buy the property, or being incapacitated by illness.

When Excess Resources Cause SSI Ineligibility

Ineligibility for both SSI and Medicaid results when an SSI recipient has countable resources in excess of the statutory limit. Ineligibility will begin as of the first day of the month in which resources exceed allowable limits. While individuals with excess resources are ineligible for both SSI and Medicaid at this time, they are not “terminated” from the SSI program. Beginning with the first month of ineligibility due to excess resources, individuals begin a suspension period of up to 12 months. The 12-month suspension period is a critically important safety net for SSI recipients, which unfortunately, is little known or understood.

A suspension is a loss of SSI benefits or 1619(b) extended Medicaid coverage. It is always effective the first day of a month in which an individual no longer meets all SSI eligibility requirements. This may be due to excess resources or income (earned or unearned), being incarcerated in a penal institution, no longer meeting the citizenship requirements or any other non-disability related reason for ineligibility. The 12-month suspension period generally allows an individual 12 consecutive months after the effective date of a suspension to regain eligibility and have benefits reinstated without having to file a new application. Before benefits may be reinstated, the individual must notify Social Security that resources are below the statutory limits and reestablish eligibility. There is NO limit to the number of times a recipient may move into and out of suspension status.

It is important to understand that in the SSI program, suspension is NOT the same as termination. Termination means the record has been completely closed. A person in suspension status is not getting benefits, but is still in the Social Security computer system. The Social Security computer system automatically terminates certain SSI records after 12 consecutive suspension months are posted. See POMS SI 02301.205 about this process and how to reestablish eligibility after a 12 month suspension period. Most recipients will receive a written warning from Social Security when they are close to being terminated - towards the end of the 12 month suspension period. Suspension applies to SSI recipients in all statuses:

- 1611 (cash payment when earnings are under SGA),
- 1619a (reduced cash payment when earnings are over SGA), and
- 1619b (no cash payment due to earned income, extended Medicaid coverage).

Keep in mind that loss of SSI eligibility due to medical recovery causes termination in all cases, not suspension. In addition, a person in suspension status who is determined to no longer be disabled will be terminated from the SSI program. Once a person is terminated due to medical recovery, they have the option of appealing the medical determination, requesting Expedited Reinstatement, or re-applying for benefits under a new period of entitlement.

Conclusion

Remember that making resource determinations is a very complex process in which very intricate rules are applied. Although CWICs should have a solid understanding of the most common resource exclusions detailed in this paper, it is always best to remind SSI recipients that the SSI Claims Representative is the best source of information about whether a resource is countable. Timely reporting of changes in resources is essential because of the risk of overpayment. Some resources must be set-aside in special ways, or must be designated by the Social Security as excluded resources ahead of time, or they will count against the individual's resource limit. This is especially true of burial funds, and Plans for Achieving Self-Support. In all cases, the best practice is to tell the recipient to report right away, and let Social Security decide what counts.

Frequently Asked Questions

When someone receives conditional benefits, what happens if they can't sell the property?

When excess resources in the form of real property cannot be sold for certain reasons (undue hardship or unsuccessful reasonable efforts to sell), the owner can receive regular SSI benefits as long as they keep trying to sell the property. When they do sell the property, they only have to pay back the conditional benefits received.

Can a person have a burial fund if they have irrevocably assigned an insurance policy to a funeral provider?

The cash value of irrevocably assigned funds or policies may count against the \$1,500 burial fund exclusion unless it is to pay for burial space items. If it is to pay for non-space items such as services of the funeral director, flowers, or limousine, it counts against the \$1,500 burial fund exclusion.

Do all life insurance policies have potential cash value?

Policies with a cash surrender value can be a resource for SSI purposes. If the individual has a term life policy with no cash surrender value, it is not a resource for SSI purposes. However, if the policy has a CSV, it is a resource for SSI, unless the policy is excluded. (NOTE: Many term policies now have cash surrender values. It isn't possible to make a general statement that they are not resources.)

What happens if a person receives a dividend from a life insurance policy?

Dividends from life insurance do not count as income when received. However, they count as resources if the person still has them at the beginning of the next month. If a life insurance policy is irrevocably assigned to a funeral provider for burial costs, then the funeral provider, absent evidence to the contrary, owns the policy, and all income resulting from the policy.

If a person has a life insurance policy that has value, but has borrowed against the policy, what part of the value does the Social Security consider as a resource?

Borrowing against the equity of a life insurance policy reduces its cash surrender value. Social Security only uses as a resource what the person could get if they surrendered the policy to the life insurance company. Debt against the policy would be subtracted before the person was paid. Only what is left counts.

If someone receives SSI, and the person's spouse does not, does the spouse's retirement account affect the SSI recipient's eligibility for SSI?

Pension funds held by an ineligible spouse, or in the case of a child, the ineligible parent or parent's spouse are excluded from resources for deeming purposes. However, retirement or pension payments count as income for deeming purposes.

How much of a person's retirement fund is counted as a resource?

The value of a retirement fund is the amount an individual can currently withdraw. If a penalty for early withdrawal exists, then the fund's value is the amount available to the individual after penalty deduction.

What happens if a person doesn't know that she/he has a potential resource?

If individuals don't know they own something, it is not considered a resource until they become aware of its existence. In the month the individual finds out, the item or money is examined under the income rules. For months after the month of discovery, the previously unknown asset is treated as a resource.

What happens when a previously unavailable retirement fund becomes available to the eligible individual (for example, a person becomes vested in a previously excluded retirement fund)?

Vesting occurs when a person gains ownership of the money in a retirement fund. A previously unavailable retirement fund is not income to its recipient when the funds

become available. The fund is subject to be counted as a resource in the month following the month in which it becomes available.

If an SSI recipient has transferred resources for less than fair market value, will it affect his or her Medicaid?

Social Security is required to notify state Medicaid agencies about transfer of resources by individuals filing for or receiving SSI. For transfers of less than fair market value, Medicaid may not pay for certain health care costs including nursing home or home and community based services for a period of time based on the value of the asset transferred. (NOTE: The 36-month limit does not apply to Medicaid.)

Do retroactive tax refunds count against an individual's resource limit?

On January 2, 2013, the President signed into law the American Taxpayer Relief Act of 2012 (ATRA). The law excludes ALL Federal tax refunds and advanced tax credits from resource counting for a period of 12 months after the month of receipt. This includes income tax refunds as well as tax credits like the Earned Income Tax Credit and the Child Care Tax Credit.

What happens if a student receives money for college and retains it? Is it a resource right away?

The Social Security Protection Act permitted a special exclusion for students. The Act excluded from income gifts for paying tuition or other education-related fees. It also excluded from resources for nine months any grant, scholarship, fellowship, or gift to cover the cost of tuition or fees. Funds retained beyond that may count as a resource. The effective date for this provision was June 2004.

Conducting Independent Research

POMS SI 01110.000 -- Resources, General - Subchapter Table of Contents

<https://secure.ssa.gov/apps10/poms.nsf/lnx/0501110000>

POMS SI 01120.000 -- Identifying Resources - Subchapter Table of Contents

<https://secure.ssa.gov/apps10/poms.nsf/lnx/0501120000>

POMS SI 01130.000 -- Resources Exclusions - Subchapter Table of Contents

<https://secure.ssa.gov/apps10/poms.nsf/lnx/0501130000>

POMS SI 01140.000 -- Types of Countable Resources - Subchapter Table of Contents

<https://secure.ssa.gov/apps10/poms.nsf/lnx/0501140000>

POMS SI 01150.000 -- Other Resources Provisions - Subchapter Table of Contents

<https://secure.ssa.gov/apps10/poms.nsf/lnx/0501150000>