

## SUPPLEMENTAL SECURITY INCOME (SSI)

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## SUPPLEMENTAL SECURITY INCOME (SSI)

What is SSI? SSI is short for Supplemental Security Income. It pays monthly checks to people who are **65 or older, or blind, or have a disability** and who don't own much or have a lot of income.

SSI is not just for adults. Monthly checks can go to disabled and blind children, too.

People who get SSI usually get **food stamps and Medicaid**, too. Medicaid helps pay doctor and hospital bills.

### I. SOCIAL SECURITY'S DEFINITION OF 'DISABILITY'

The dictionary defines it as "*a physical or mental condition that prevents a person from leading a normal life.*" But Social Security's definition of disability is more specific and is generally related to your ability to work.

To qualify for disability from Social Security: you must have a physical or mental impairment that is expected to keep you from doing any "substantial" work for at least a year. Generally, monthly earnings of \$500 or more are considered substantial; or you must have a condition that is expected to result in your death.

The term *substantial gainful work* is a critical component in the determination of disability under SSI. Individuals who are able to perform substantial gainful work are not considered disabled under Social Security law.

Typically, earnings are used as the best indicator of an individual's ability to engage in substantial gainful work.

In 1994, average earnings of \$500 a month are generally considered substantial work. The substantial gainful work determination is pertinent for SSI only for those who are initially applying for benefits.

Only earnings that represent the real value of the work performed are used to determine substantial gainful work. The value of a subsidy, e.g., the support a person receives on the job to obtain the same pay as other workers, is deducted when determining substantial gainful activity. For youth with disabilities, subsidies might include more supervision than others receive for the same job at the same pay, and fewer or simpler tasks than others complete for the same job for the same pay.

Unlike many private pension or even other government disability programs, Social Security is not intended for a temporary condition. In other words, there is no such thing as “partial” disability payment from Social Security.

You should be familiar with the process Social Security uses to determine if you are disabled. It is a step-by-step process involving five questions. They are:

1. Are You Working?

If you are and your earnings average more than \$500 a month, you generally cannot be considered disabled.

2. **Is Your Condition “Severe”?**

Your impairments must interfere with basic-related activities for your claim to be considered further.

3. **Is Your Condition Found In The List Of Disabling Impairments?**

Social Security maintains a list of impairments for each of the major body systems that are so severe they automatically mean you are disabled. If your condition is not on the list, Social Security has to determine if it is of equal severity to an impairment on the list. If it is, your claim is approved. If it is not, Social Security goes to the next step.

4. **If Your Condition Is Severe, But Not At The Same Or Equal Severity As An Impairment On The List,** then Social Security must determine if it interferes with your ability to do the work you did in the last 15 years. If it does not, your claim will be denied. If it does, your claim will be considered further.

5. Can You Do Any Other Type Of Work?

If you cannot do the work you did in the last 15 years, Social Security then look to see if you can do any other type of work. Social Security considers your age, education, past work experience, and transferrable

skills, and Social Security review the job demands of occupations as determined by the Department of Labor. If you cannot do any other kind of work, your claim will be approved. If you can, your claim will be denied.

The Social Security disability program has special rules for blind persons. If you qualify, you may receive benefits either on the basis of blindness or on the basis of disability.

You are considered blind under Social Security rules if your vision cannot be corrected to better than 20/200 in your better eye, or if your vision field is 20 degrees or less, even with a corrective lens.

If you are blind, you can earn up to the current monthly amount of the annual earnings limit that applies to non-disabled beneficiaries. This is generally higher than the “substantial gainful activity” level of \$500 that applies to non-blind disabled workers.

If you are blind, you should file for disability, even if you are working regularly and your earnings is too high to receive disability benefits. That is because you might be eligible for a disability “freeze”. This means that your future benefits which are figures on your average earnings over your working life, will not be reduced because of relatively lower earnings in those years when you are blind.

You should also note that, as a blind beneficiary, you may request to receive your Social Security notices by telephone or certified mail rather than regular mail. Just let your Social Security office know.

#### **WHAT KIND OF DISABILITY PROBLEMS INDICATE THAT AN ADULT IS DISABLED UNDER SOCIAL SECURITY RULES?**

An ability to engage in substantial gainful activity (SGA) means an ability to perform significant physical or mental duties which are productive and useful and which have economic value, i.e., the quality and quantity of the duties are at a level for which someone would pay a regular salary.

Examples of problems which may indicate an inability to engage in SGA and an inability to hold down a job include:

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- ☞ inability to understand short and simple instruction - cannot hear or read instructions or watch a demonstration and translate the instructions or demonstrations into action;
- ☞ poor short-term memory - quickly forgets instructions;
- ☞ short attention-span - needs assistance to keep working on a task;
- ☞ poor hand-eye coordination preventing or slowing the ability to do simple tasks;
- ☞ problems with hands in manipulating tools and objects;
- ☞ behavioral problems, acting out, perseveration;
- ☞ difficulty in working around other people because easily distracted by them, or because of interfering or distracting other with behaviors or inappropriate interactions;
- ☞ need a stress-free environment;
- ☞ unable to maintain regular attendance and punctuality within customary limits;
- ☞ need for more or closer supervision than would be required by other entry level workers;
- ☞ difficulty in asking simple questions or requesting assistance or in recognizing when to ask questions or request assistance;
- ☞ difficulty in accepting direction or responding appropriately to supervisor criticism;
- ☞ difficulty in responding appropriately to changes or adjustments in work routine;
- ☞ difficulty in making simple work-related decisions;

- ☞ limitations in capacity to appreciate normal work hazards and take appropriate precautions;
- ☞ limited-stamina - would be able to work a few hours a day, but not eight hours a day, five days a week;
- ☞ frequent periods of illness or incapacity indicating inability to hold down a regular job;
- ☞ need for frequent medical treatment - as once a week - interfering with ability to hold down a job.

Any report should explain how the limitation results from the disability problem.

#### **WHAT MEDICAL EVIDENCE IS NEEDED?**

The impairment or impairments that result in disability must be “medically determinable”. The impairment must also be expected to incapacitate you for a year or more, or result in death. It is not enough for you to say that you are disabled and to estimate that you will be disabled for more than a year. Your doctor must indicate:

- ☞ the facts in which his or her conclusions are based;
- ☞ observations, clinical and laboratory findings or tests;
- ☞ medical history if not already set out elsewhere;
- ☞ functional limitation;
- ☞ the amount of pain or discomfort to be expected and whether the pain you feel is in line with what can be expected based on your impairments;
- ☞ whether deterioration is expected, expected duration of the impairment, or whether it is permanent;

- ☞ drugs taken and their effects on your functioning;
- ☞ how long you can stand and sit, how far you can walk at one time, and how much you can lift.

So that your doctor knows what Social Security is looking for, he or she must refer to Social Security listings of impairments section which applies to your disability.

If your doctor believes your disability meets the criteria set out in a particular listing, it is important that he or she say so and explain why. If your doctor believes that, although your disability does not meet the criteria in a particular listing, your disability is equivalent in severity to a listed impairment, it is important that he or she say so and explain.

You can establish that you “equal” the listings in several ways. You may have a combination which meet some of the criteria in one listing and some of the criteria in another. You may have an impairment or combination of impairments which result in a functional impact or limitation comparable to the functional impact or limitation of a particular listing of impairments. You may have been given tests other than those referenced in a particular listing, but which provide results comparable to the results indicated in a particular listing.

Instead of writing a report, your doctor may phone a special number and dictate a report. A typed copy of the dictated report will be sent to your doctor for review and correction. The telephone dictation number for Sacramento area is 916-446-5260. Outside the 916 area code, the toll free telephone dictation number is 1-800-251-1059.

You should make certain Social Security gets existing medical records and reports from all of the agencies, clinics and hospitals that have treated you.

### **CONSULTATIVE EXAMINATION**

Sometimes when Social Security believes it needs more information, or more recent information, Social Security will send you for a “consultative examination” by a doctor it chooses. Congress has said however, that before

Social Security sends you to one of its doctors, Social Security first has to try to get information from the doctors who have been treating you. If you have your own doctors, call the number on the notice and ask the following questions:

- ☞ Did Social Security get the records from your doctors and hospitals?
- ☞ If the answer is no, say that you will follow up with your own doctors and ask that the examination be postponed.
- ☞ If the answer is yes, ask why the additional examination or testing cannot be done by your own doctor. (Congress has said that if there is a need for additional testing or examination, Social Security should pay your own doctor to do it.)

If you need help in getting to the examination, call the number on the notice and ask for help with transportation.

Make certain that your own doctor gets a copy of Social Security doctor's report so that your own doctor can review it and comment on it. If the Social Security doctor would not send a copy to your doctor, call the number on the notice and tell Social Security to send it to your doctor.

## **THE DEFINITION OF DISABILITY FOR CHILDREN**

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 changed the definition of disability for children under the Supplemental Security Income (SSI) program.

The definition of disability for children:

- ◆ requires a child to have a physical or mental condition or conditions that be medically proven and which result in **marked and severe** functional limitations;
- ◆ requires that the medically proven physical or mental condition or conditions must last or be expected to last at least 12 months or be expected to result in death;



- ◆ says that a child may not be considered disabled if he or she is working at a job that SSA considers to be substantial work. However, the law did not change the rules which allow certain children already on the rolls to continue to receive SSI even though they are working.

The law also changes the way SSA consider certain behavior problems caused by a child's condition or conditions.

#### **CONTINUING DISABILITY REVIEW ARE REQUIRED BY LAW**

The law requires SSA to do a continuing disability review (CDR) to determine whether or not the child is still disabled. The CDR must be done:

- ◆ at least every three years for recipient under age 18 whose conditions are likely to improve; and
- ◆ not later than 12 months after birth for babies whose disability is based on their low birth weight.

SSA also do CDRs for recipients under age 18 whose conditions are not likely to improve.

#### **REPRESENTATIVE PAYEE MUST PROVIDE EVIDENCE OF TREATMENT**

At the time SSA does the CDR, **the representative payee must present evidence that the child is and has been receiving treatment considered medically necessary and available for his or her disabling condition.** This is true in every case unless SSA determines that requiring such evidence would be inappropriate or unnecessary.

If the child's representative refuses without good cause to provide such evidence when requested, SSA will suspend payment of benefits to the representative payee and select another representative payee if it is in the best interest of the child. Or, SSA may pay the child directly if he or she is old enough.

#### **THE LAW REQUIRES A DISABILITY REDETERMINATION AT AGE 18**

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Any individual who was eligible as a child in the month before he or she attained age 18 must have his or her eligibility redetermined.

The redetermination will be done during the one year period beginning on the individual's 18<sup>th</sup> birthday.

SSA will use the rules for adults filing new claims to do the redetermination.

**IMPORTANT NOTE ABOUT CHILDREN IN CERTAIN MEDICAL CARE FACILITIES**

In addition to the definition of disability, the laws affects children under 18 who live, throughout a calendar month, in certain institutions where private health insurance pays for their care. The monthly SSI payment for these children will be limited to \$30. Previously, the \$30 SSI payment limit applied only when Medicaid paid more than half of the cost of their care.

## II. ELIGIBILITY

To get SSI you must be 65 or older **or** blind **or** disabled.

Blind means you are either totally blind or have very poor eyesight. ***Children as well as adults can get benefits because of blindness.***

Disabled means you have a physical or mental problem that keeps you from working and is expected to last a year or to result in death. ***Children as well as adults can get benefits because of disability.*** When deciding if a child is disabled, Social Security looks at how his or her disability affects everyday life. For more information about benefits for children, ask SSA for booklet, *Benefits For Children With Disabilities* (Publication No. 05-10026).

Sometimes, a person whose sight is not poor enough to qualify for benefits as a blind person may be able to get checks as a disabled person if his or her condition prevent him or her from working.

Before you can get SSI you also must meet other rules:

- ◆ You must live in the U.S. or Northern Mariana Islands;
- ◆ You must be a U.S. citizen or be in the U.S. legally;
- ◆ If you are eligible for Social Security or other benefits, you must apply for them;
- ◆ If you are disabled, you must accept vocational rehabilitation services if they are offered.

### III. RULES FOR GETTING SSI

#### YOUR INCOME AND THE THINGS YOU OWN

Whether you can get SSI also depends on what you own and how much income you have. Income is the money you have coming in such wages. Social Security checks and pensions. Income also include non-cash items you receive such as foods, clothing, or shelter.

If you are married, Social Security also looks at your spouse and the things he or she owns. If you are under 18, Social Security may look at the income of your parents and the things they own. And, if you are a sponsored alien, SSA may also look at the income of your sponsor and what he or she owns.

#### INCOME

The amount of income you can have each month and still get SSI depends partly on where you live. You can call SSA at -800-772-1213 to find out the income limits in your state.

Income as used in the act, refers to both earned income and unearned income. Section 1614 [42U.S.C.1382c] (a) states:

*(1) earned income means only:*

*(A) wages as determined under section 203(f)(50(C));*

*(B) net earnings from the self-employment, as defined in section 211 (without the application of the second and third sentences following subsection (a)(11), and the last paragraph of subsection (a) including earnings for services described in paragraphs of (4), (5), and (6) of subsection (c);*

*(C) any refund of Federal income taxes made by reasons of section 32 of the Internal Revenue Code of 1954 (relating to earned income credit) and any payment made by an employer under section 3507 of such Code (relating to advance payment of earned income credit);*

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*(D) remuneration received for services performed in a sheltered workshop or work activities center; and*

*(E) any royalty earned by an individual in connections with any publication of the work of the individual, and that portion of any honorarium which is received for services rendered.*

All other income is defined as unearned income. Typical examples for youth with disabilities include:

- ⊗ Personal support and maintenance;
- ⊗ Any payments received as an annuity, pension, retirement, or disability benefit;
- ⊗ Prizes and awards;
- ⊗ Support and alimony payments;
- ⊗ Rents, dividends, interest, royalties, etc.

Social Security **doesn't count** all of your income when SSA decides if you can get SSI. For example: SSA doesn't count:

- ★ The first \$20 of most income received in a month;
- ★ The first \$65 a month you earn from working and half the amount over \$65;
- ★ Food stamps;
- ★ Most food, clothing, or shelter you get from private nonprofit organizations, or
- ★ Most home energy assistance.

If you are a student, some of your wages or scholarship you receive may **not** count.

If you are disabled but work, Social Security does not count any wages you use to pay for items or services you need to work because of your disability. For example, if you need a wheelchair, the wages you use to pay for the wheelchair don't count as income.

Also Social Security does not count any wages a blind person uses to pay expenses that are caused by working. For example, if a blind person uses wages to pay for transportation to and from work, the transportation cost isn't counted as income.

If you are disabled or blind, some of the income you use (or save) for training or to buy things you need to work or earn more money **may not** count.

#### THE THINGS YOU OWN

The things you own that SSA considers include items such as real estate, personal belongings, bank accounts, cash, and stocks and bonds.

A person may be able to get SSI with items worth **up to \$ 2,000**. A couple may be able to get SSI with items worth **up to \$3000**. If you own property or another resource that you are trying to sell, you may be able to get SSI while trying to sell it.

Social Security doesn't count everything you own. For example:

- ☆ The home you live in and the land it is on **do not** count.
- ☆ Your personal and household goods and life insurance policies **may not** count, depending on their value.
- ☆ Your car usually **does not** count.
- ☆ Burial plots for you and members of your immediate family **do not** count.

- ☆ Up to \$1,500 in burial funds for you and up to \$1,500 in burial funds for your spouse **may not** count.
- ☆ If you are blind or have a disability, some items **may not** count if you plan to use them to work or earn extra income.

#### A SPECIAL NOTE FOR PEOPLE WHO ARE BLIND OR HAVE A DISABILITY

If you work, there are special rules to help you. You may be able to keep getting some money from SSI while you work. But as you earn more money, your SSI checks may go down or stop. Even if your SSI checks stop, you may be able to keep your Medi-Cal coverage.

You also may be able to set aside some of your money for a work goal or to go to school. The people at Social Security can tell you how to do this. The money you set aside doesn't count toward the SSI limits on income and the things you own. That means it won't reduce the amount of your SSI checks.

***Blind or disabled people who apply for SSI may get special services from their state. These services include counseling, job training, and help in finding work.***

#### IF YOU LIVE IN A PUBLIC OR PRIVATE INSTITUTION

People who live in city or county rest homes, halfway houses, or other public institutions usually **cannot** get SSI checks. But there are some exceptions.

If you live in **a public operated community residence** which serves no more than 16 people, you may get SSI.

If you live in **a public institution** mainly to attend **approved educational or job training** that will help you get a job, you may get SSI.

If you are living in **a public emergency shelter for the homeless**, you may be able to get SSI checks.

If you are in **a public or private institution and Medicaid is paying more than half the cost of your care**, you may get a small SSI check.

## IV. DEEMING OF INCOME AND RESOURCES

**The income and resources of people responsible for the welfare of an eligible individual** are considered in determining the eligibility and payment amount for an SSI recipient. This concept is called “deeming” and is based on the idea that those who have a responsibility for each other share their income and resources. It is not material whether money is actually provided to an eligible individual for deeming to apply.

### A. TYPES OF SITUATIONS WHERE INCOME AND RESOURCES ARE DEEMED

There are four types of situations where income and resources are deemed:

#### **1. From an ineligible spouse to an eligible individual**

When an eligible individual lives in the same household with an ineligible spouse, the income and resources of the ineligible spouse are deemed to be available to the eligible individual. If there are ineligible children under age 21 in the household, an allocation for their living allowance is provided for them.

A living allowance is also provided for the ineligible spouse. Deeming does not apply when the eligible individual is not in the same household as the ineligible spouse unless the absence is temporary or the ineligible spouse is absent from the household due solely to a duty assignment as a member of the armed forces on active duty.

Certain types of income are excluded when determining the income to be deemed from the ineligible spouse. They are listed in “C” below. Also there are additional exclusions provided based on whether the ineligible spouse receives earned or unearned income.

Under spouse-to-spouse deeming, an individual can never receive a higher payment with deeming than would be received if deeming was not done. If deeming does apply, the ineligible spouse’s income is combined with the income of the eligible individual and compared to the FBR for a couple.



The same resource exclusions which apply to an eligible individual apply to an eligible individual with an ineligible spouse, but an additional exclusion explained in “D” below applies to an ineligible spouse. The resources of the eligible individual and the ineligible spouse are counted together and compared to the resource limit for a couple.

## **2. From a parent to a child under age 18**

A child under age 18 is subject to deeming from a natural or adoptive parent or a stepparent living in the same household. An exception to this applies when the child lives only with the stepparent due to the health or divorce of the natural parent; is not considered a parent for deeming purposes.

The same exclusions which apply to the income of an ineligible spouse listed in “C” below apply to the ineligible parent. There are also living allowances for the parent(s) and an allocation for each ineligible child under age 21 who is in the household. Any income of an ineligible child will reduce the amount of the allocation.

The type of calculation which is used to figure the amount of deemed income for the child depends on the type of income the parent has after allocations are made for ineligible children. Deeming does not apply when the eligible child is not in the same household as the parent unless the absence is temporary (e.g., the child is away at school or the parent is absent from the household due solely to a duty assignment as a member of the Armed Forces on active duty).

Any resources which are excluded for an eligible individual are excluded for an ineligible parent or parents, but an additional exclusion explained in “D” below applies to an ineligible parent or parents. Currently, the balance of countable resources in excess of \$2000 in the case of one parent or \$3000 in the case of two parents (or one parent and the parent’s spouse), is deemed to the child.

There is a provision which allows a waiver of the normal parent-to-child deeming rules. This waiver applies in very limited circumstances. Beginning July 1, 1990, parental income or resources are not deemed to any child under age

18 who:

1. is disabled; and
2. received SSI benefits limited to the \$30 reduced benefit rate because of residence in a medical treatment facility; and
3. is eligible for Medicaid under a State home care plan; and
4. would be ineligible for SSI benefits because of deemed parental income or resources.

### **3. From a sponsor to an alien**

The income and resources of a sponsor and the sponsor's living-with spouse are deemed to an alien for 3 years (or 5 years for the period 1/1/94 to 9/30/96) after an alien is admitted for permanent residence. Deeming applies whether or not the alien lives in the sponsor's household.

Sponsor-to-alien deeming does not apply in the following situation if:

1. The alien is a refugee or parolee under certain provisions of the Immigration and Nationality Act; or
2. The alien has been granted asylum by the Attorney General; or
3. The alien is residing in the U.S. under color of law and has not been admitted for permanent residence;
4. The alien filed for SSI prior to October 1, 1989; or
5. The alien is sponsored by an organization; or
6. The alien becomes blind or disabled after admission for permanent residence. (In this last case, deeming applies up until the month the disability or blindness begins.)

The exclusions which apply to the income of an ineligible spouse or parent and are listed in "C" below do not apply to a sponsor, except for certain types of income excluded by other Federal statutes. Allocations are provided for the sponsor, the sponsor's spouse in the same household, and the sponsor's dependents as defined by the Internal Revenue Service. These allocations are subtracted from the income of the sponsor and the living-with spouse to determine the amount of income to deem to the alien.

Resources which are excluded from the resources of an eligible individual are also excluded from the resources of the sponsor. Currently, the balance of countable resources above \$2000 (or \$3000 for a sponsor with a living-with spouse) are deemed to an alien.

The Personal Responsibility and Work Opportunity Act of 1996 andated more stringent sponsor-to-alien deeming requirements. Under a new; legally enforceable affidavit of support, all of the sponsor's income and resources are deemed to the alien; the exclusions in "C" below do not apply. Sponsor-to-alien deeming can continue indefinitely.

Deeming ceases only when the alien acquires U.S. citizenship or can be credited with 40 work credits or the sponsor dies. Deeming can be suspended in certain cases when the alien is subjected to battery or would become indigent.

#### **4. From an essential person to an eligible qualified individual**

An eligible qualified individual with an essential person in the household receives an amount of SSI which is increased by an increment for the essential person. All the essential person's income is deemed to the qualified individual. None of the exclusions from income which apply to an ineligible spouse or parent and are listed in "C" below apply to an essential person except those exclusions provided by Federal statutes other than the Social Security Act.

All of the resources of an essential person are deemed to the qualified individual.

If the amount of income or resources to be deemed would make the qualified individual ineligible, or if the qualified individual so chooses, the essential person and the increment are not considered in computing the SSI payment. Once either of these situations occurs, the essential person cannot be reinstated at a later date.

#### **B. CHANGE FOR AN ELIGIBLE INDIVIDUAL INTO OR OUT OF A DEEMING SITUATION**

A change for an eligible individual into or out of a deeming situation is effective the month following the month of change. This rule also applies for changes within the deeming household which affect the computation of deemed income, such as the birth or death of an ineligible child, the marriage or separation of an ineligible parent, etc.

#### **C. ITEMS EXCLUDED IN THE DEEMING OF INCOME**

Certain items are not included in the deeming of income. These are:

1. Income excluded by Federal laws other than the Social Security Act.
2. Any public income-maintenance payments received by an ineligible spouse or

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- parent, and any income which was counted or excluded in figuring the amount of those payments.
3. Any income of an ineligible spouse or parent used by a public income-maintenance program to determine the amount of that program's benefit to someone else.
  4. Any portion of a grant, scholarship or fellowship used to pay tuition or fees.
  5. Money provided for providing foster care to an ineligible child.
  6. The value of food stamps and the value of Department of Agriculture donated foods.
  7. Food raised by an ineligible spouse or parent and consumed by household members.
  8. Tax refunds in income, real property or food purchased for the family.
  9. Income used to fulfill an approved plan for achieving self-support (for blind and disabled individuals).
  10. Income used to comply with the terms of court-ordered support, or child support payments enforced under Title IV (Grants to States for Aid and Services to Needy Families with Children and for Child-Welfare Services, Part D-Child Support and Establishment of Paternity) of the Social Security Act.
  11. The value of in-kind support and maintenance.
  12. Payments received by certain recipients under the Alaska Longevity Bonus program.
  13. Disaster assistance .
  14. Certain home energy and support and maintenance assistance.
  15. Income received infrequently or irregularly.
  16. Work expenses if the ineligible spouse or parent is blind.
  17. Income of an ineligible spouse or parent which was paid under a Federal, State or local government program to provide chore, attendant or homemaker services.
  18. Certain housing assistance.

Pension funds owned by an ineligible spouse or by an ineligible parent or spouse of a parent are excluded from resources for deeming purposes. Pension funds are defined as funds held in Individual Retirement Accounts (IRAs) or in work related pension plans.

## V. APPLICATION FOR SSI

### HOW TO APPLY

Just visit your local Social Security office. Or call SSA at 1-800-772-1213 for an appointment with a Social Security representative who will help you apply. Social Security wants to make the application process as easy as possible for you. Your entire application can be taken care over the phone and through the mail or, if you prefer, you may visit any of SSA community offices.

Parents or guardians can apply for blind or disabled children under 18.

When you talk to the Social Security representative, two different programs may be discussed - Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) disability. Both of these programs provide a monthly income for people with severe disabilities, but the rules that affect eligibility for them are different.

Social Security Disability is a social insurance program that workers and employers pay for with their Social Security taxes. Eligibility for these disability benefits are based on your work history, and the amount of your benefit is based on your earnings. SSI benefits are paid to people who have low income and limited resources. That is why the representative ask questions about your income and the things you own. The important thing to remember is that the medical requirements for both programs are the same and disability is decided by the same process.

Based on the information that you share with the Social Security representative, you may be filing for either Social Security Disability or SSI disability, or both. If you have any questions about the difference between these two programs or what program you have filed for, the Social Security representative will be glad to answer them.

### HOW YOU CAN SPEED YOUR CLAIM

SSA will need to get copies of your medical records to make a decision about your claim. If you have or can readily get copies of your records, bring

them with you when you file your application. Any records you do not have available, SSA will request directly from your doctors, hospitals or clinics.

It is very important that SSA knows the name, address, phone number, dates of treatment you received from each doctor, clinic, or hospital so SSA can get copies of your medical records. You should bring this information with you when you apply.

To also help speed up the decision process, you may contact your treating doctors, hospitals, and clinics to let them know that you have filed a disability claim and ask them to send in the records as soon as possible as they are contacted.

#### WHAT TO BRING?

You should have the following things before you apply. Even if you don't have all of the things listed, sign up anyway. The people in the Social Security office can help get whatever is needed.

- ☆ Your Social Security card or a record of your Social Security number;
- ☆ Your birth certificate or other proof of your age;
- ☆ Information about the home where you live, such as your mortgage or your lease and landlord's name;
- ☆ Payroll slips, bank books, insurance policies, car registration, burial fund records, and other information about your income and the things you own;
- ☆ If you are signing up for disability, the names, addresses, and telephone numbers of doctors, hospitals, and clinics that have seen you;
- ☆ Proof of U.S. citizenship or eligible noncitizen status.

If you work last year, you also will be asked for a copy of last year's W-2 form, or if you were self-employed, last year's tax return.

You should also bring your checkbook or other papers that show your bank account number so SSA can have your benefits deposited directly into your account. Direct deposit protects benefits from loss, theft, or mail delay. The money is always on time and ready to use without making a trip to the bank. Since August 1, 1996, all beneficiaries must have their monthly benefits deposited in their bank account.

#### **HOW THE DISABILITY DECISION IS MADE?**

Although your application for benefits will be handled in a Social Security office, the disability decision is not made there. Social Security sends the medical part of your claim to your state's Disability Determination Service. Trained disability evaluation specialists will get your medical records, review the information, and make a decision on your case. They may call you for additional information. If they need more information, they may schedule a medical examination at no expense to you.

#### **WHEN BENEFITS WILL START**

##### ***Social Security Disability (SSDI)***

If your Social Security Disability claim is approved, your benefits will begin with the sixth month after the date the evidence shows your disability began. This rule applies because Social Security is not intended to cover short-term disabilities.

##### ***SSI Disability***

There is no waiting period for SSI. If your claim for SSI disability is approved and you meet all other requirements, you will be due benefits from the date that you applied. If your condition is so severe that disability can be presumed, and you meet the SSI income and resource limits, you may begin to get SSI right away, before the formal disability decision is made.

Some Social Security and SSI rules are the same. For example, the rules SSA uses to decide if you are disabled are the same for Social Security and SSI. You must be unable to do any kind of work to be considered disabled under both programs.

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Other Social Security and SSI rules are different. For example, after SSA decides a person who has filed for Social Security disability benefits is disabled, SSA does not pay benefits for five months from the date SSA says the disability began. SSA pays SSI disability benefits for the first full month **after** the date the person filed his or her claim, or, if later, the date on which he or she becomes eligible for SSI. There also are different rules for people with disabilities who want to go back to work.



## **VI. YOUR SSI CHECKS**

How much you can get depends on where you live. The basic SSI check is the same nationwide. However, many states add money to the basic check.

In 1999, the maximum federal SSI payments is **\$500 a month** for an eligible person and **\$751 a month** for an eligible couple . However, states may **add** to the federal payments.

The basic SSI payment is reduced by one-third if an eligible person or couple is living in another person's household and receiving support and maintenance in kind from that person. This reduction takes the place of setting the exact dollar value of the support and maintenance. Support and maintenance in kind is any food, clothing or shelter that is given to an eligible person, or is received because someone else pays for it.

The law gives states the option of having the federal government administer the state supplement, and the states pay the administrative costs. In states that choose this option, a single application covers both the federal and state payment.

Under federal administration, the state may vary the payment amounts based on living arrangements or geographical area. The state also may disregard additional amounts of income . (See the chart on the next page for a list of the maximum payment rates in states that add to the federal payment.)

Some states choose to administer their own supplement. In those states, application for the supplement must be made with the state agency. States that administer their own supplement are Alabama, Alaska, Arizona, Colorado, Connecticut, Florida, Idaho, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Minnesota, Missouri, Nebraska, New Hampshire, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Virginia, Wisconsin and Wyoming.

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State	Maximum Payment Amount To Individual/Couple (1999)		
	Aged	Blind	Disabled
California	\$676/\$1,201	\$732/\$1,391	\$676/\$1,201
Delaware *	\$640/\$1,199	\$640/\$1,199	\$640/\$1,199
Hawaii	\$504.90/\$759.80	\$504.90/\$759.80	\$504.90/\$759.80
Iowa	\$500/\$751	\$522/\$795	\$500/\$751
Massachusetts	\$628.82/\$952.72	\$649.74/\$1,299.48	\$614.39/\$931.06
Michigan	\$500/\$751	\$500/\$751	\$500/\$751
Montana*	\$500/\$751	\$500/\$751	\$500/\$741
Nevada	\$536.40/\$825.46	\$609.30/\$1,125.60	\$500/\$751
New Jersey	\$531.25/\$776.36	\$531.25/\$776.36	\$531.25/\$776.36
New York	\$587/\$855	\$587/\$855	\$587/\$855
Pennsylvania	\$527.40/\$794.70	\$527.40/\$794.70	\$527.40/\$794.70
Rhode Island	\$564.35/\$887.50	\$564.35/\$871.50	\$564.35/\$871.50
Utah	\$500/\$755.60	\$500/\$755.60	\$500/\$755.60
Vermont	\$554.91/\$854.12	\$554.91/\$854.12	\$554.91/\$854.12
Washington**	\$527/\$772	\$527/\$772	\$527/\$772
Washington D.C.	\$500/\$751	\$500/\$751	\$500/\$751

If you meet all the requirements and are eligible for SSI, you will receive a letter telling you when your SSI checks will begin and in what amount. Your SSI check must be cashed within 12 months after the date of the check or it will be void.

Your first month's check may be for more or less than a full month. You will be paid for the days since you applied or became eligible for SSI. Starting with your second check, you will get your full month's payment.

The amount of your SSI check may not be the same every month. The

amount depends on your other income and living arrangements. SSA will tell you whenever SSA plans to change the amount of your check.

Your federal SSI check will go up each year to keep up with the cost of living. These increases usually will be in your January check, which you'll get at the end of December.

### **WHEN DOES YOUR CHECK COME?**

Your SSI checks are U.S. government checks. They usually come in the mail on the first of the month. If you have direct deposit, your money is usually in your account on the first.

If the first falls on a Saturday, Sunday, or legal holiday, you will get your check on the banking day before.

If your check does not come on the usual day, look for it to come in the next few days. If it does not come by the fourth of the month, give SSA a call. SSA will find out what happened and see that you get your check.

### **IF YOUR CHECK IS LOST OR STOLEN**

If your check is lost or stolen, call SSA right away. Your check can be replaced, but it takes time. Please be careful with your checks.

It is a good idea not to sign your check until you are at the bank or place where you will cash it. If you sign a check and then lose it, anybody who finds it can cash it.

### **RETURNING PAYMENTS NOT DUE**

Most of the time your SSI check will be in the right amount. But, if you ever get more money than usual, call or visit your Social Security office. If the check is more than you are supposed to get, you must return the extra money to Social Security. You must return it even if it is not your fault you got it.

If you ever get a check you know you are not supposed to get, you should take it to any Social Security office. Or, you can send the check back to the U.S. Treasury Department at the address shown on the envelope it came. Write a note telling why you are returning the check and mail it back with the check.

If you have direct deposit and get a payment you are not supposed to get, call or visit your Social Security office. They will tell you how you can return it.

## **OTHER HELP YOU CAN GET**

If you get SSI, you also may be able to get other help from your state or county. For example, you may be able to get Medicaid, food stamps, or some other social services. For information about all the services available in your community, call your local social services department of public welfare office.

### **Food Stamps**

People who get SSI usually can get food stamps, too.

If everyone in your home is signing up for SSI or getting SSI, the Social Security office will help you fill out the food stamps application.

If you don't live in a house where everyone is signing up for SSI or getting SSI, you'll have to sign up for food stamps at the local food stamp office. For more information about food stamps, contact any Social Security office to ask for the booklet *Food Stamps And Other Nutrition Programs* (Publication No. 05-10100).

### **Medi-Cal**

Usually, when you get SSI you can also get Medi-Cal. Medi-Cal helps pay your doctor and hospital bills. (To get more information about Medi-Cal, please read VPDCA'S bilingual manual on Medi-Cal).

### **Help for Low-Income Medicare Beneficiaries**

If you get Medicare and have low income and few resources, your state may pay your Medicare premiums and, in some cases, other Medicare

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expenses such as deductibles and coinsurance. Only your state can decide if you qualify. To find out if you do, contact your state or local welfare office or Medicaid agency. For more general information about the program, contact Social Security and ask for a copy of the leaflet, *Medicare Savings For Qualified Beneficiaries* (HCA Publication No. 0284).

## VII. OVERPAYMENTS

### WHAT IS OVERPAYMENTS?

If you are an SSI recipient and get more SSI benefits than you are entitled to during any month or number of months, you have been overpaid. This is called an SSI Overpayment.

The amount of an overpayment is the amount of benefits paid to you minus the amount you were actually entitled to receive during a given time.

The Social Security Administration (SSA) can take money out of your future check to pay back an overpayment. There are ways to stop SSA from doing this. Read on to find out how.

### HOW DO I FIGHT/APPEAL AN OVERPAYMENT?

Here are several steps you can take:

- ☞ First you can ask SSA to check their decision again because you think it is wrong by filing a *“Request For Reconsideration”*. You should file this form if you think that no overpayment has occurred or if SSA has overestimated the amount of an actual overpayment.
- ☞ Second, you can ask the SSA to waive or give up an overpayment claim against you by filing a *“Request For Waiver”*. This means you are asking SSA not to make you pay the overpayment back. You can get this form through your local SSA office. This form is long, so you may want someone to help you complete it.
- ☞ Third, you can both file a request for waiver and reconsideration, if you think both apply to your situation. For example, you may think that SSA did not overpay you but even if it did, it was not your fault and you do not have the money to pay it back. When you request **ONLY** a waiver of overpayment (and not a Request for Reconsideration) **you are admitting that the overpayment actually occurred and the amount is correct, but that it should not be collected.**

### IS THERE A DEADLINE FOR FILING AN APPEAL?

Generally, these forms must be filed within 60 days of the Notice of Overpayment. **Remember:** Automatic deductions from your benefit check to pay back the overpayment can begin as soon as 30 days after the notice, so it is best to file your appeal within 30 days of the notice. Once the initial appeal has been filed, deductions from your check should stop.

There are some exceptions to the 60 day deadline. If you have question about exceptions, call your local legal services office.

#### HOW DO I FILE A REQUEST FOR A WAIVER OF OVERPAYMENT?

A Request for Waiver of an SSI overpayment is made by completing a "*Request For Waiver and Recovery Questionnaire*" which you can get at your local Social Security office.

In order to make a successful argument for a waiver, you must show:

1. the overpayment was not your fault,
  2. repayment of this money would not leave you enough money to live on.
- and**
- or**
- repayment would not be fair to you (how and why the overpayment happened will be considered in deciding this),
- or**
- the amount of overpayment is so small that it would not be worth Social Security administrative cost to collect it from you.

#### WHAT IF MY REQUEST FOR A WAIVER IS DENIED?

If your *Request For Waiver* is denied, you can appeal this decision by filing a *Request For Reconsideration*. Do not confuse this appeal with a *Request For Reconsideration* of an overpayment which we discuss below. This request means that you want SSA to change its mind about the waiver denial.

Remember that you generally only have 60 days within which to appeal this waiver denial. You may request waivers as often as your situation changes.

If your waiver request is denied, you may want to contact SSA office for an appointment to discuss your case with an advocate.

#### HOW DO I FILE A REQUEST FOR RECONSIDERATION OF AN OVERPAYMENT?

A Request for Reconsideration of an overpayment is filed by completing a form entitled “*Request For Reconsideration*” which can be obtained from your local SSA office. This is a one page form which can be completed in about five minutes. You should file a *Request For Reconsideration* when the amount of overpayment is incorrect or no overpayment truly occurred.

#### WHEN I FILE AN INITIAL APPEAL WILL I HAVE A HEARING?

No. When you file an initial appeal (Waiver or Reconsideration Request of both), SSA makes its decision by reviewing papers and meeting informally with you. Because SSA is only looking at papers, it is important to clearly state the reasons the overpayment is incorrect or worthy of a waiver. You may wish to attach photocopies of documents, (bank statements, etc.) which support your arguments.

#### WHAT IF MY REQUEST FOR A RECONSIDERATION OF AN OVERPAYMENT IS DENIED?

If your reconsideration request is denied, you can file a *Request For A Hearing*. This form is available at your local SSA office. Again the deadline for filing this form is generally 60 days after the date of the denial notice. While a hearing is an informal meeting, SSA suggests you contact their office to discuss your case with an advocate at this point.



## **VIII. WHAT YOU SHOULD REPORT TO SSA**

The kinds of things you must report to SSA are listed below:

- \* If you move or change your address
- \* If someone moves into or out of your household
- \* If there is a change in your income
- \* If there is a change in the things you own
- \* If you get help with living expenses
- \* If you enter or live in an institution
- \* If you get married, separated or divorced
- \* If you leave the United States
- \* If you are a sponsored immigrant
- \* If you are under age 22 and start or stop attending school
- \* If a person is addicted to drugs or alcohol
- \* If a person getting SSI is not able to manage funds
- \* If a person getting SSI dies.

If you live in California, Hawaii, Massachusetts, Michigan, New York, or Vermont, see section on Special Rules for People In Some States, for other things you should tell SSA.

**IF YOU MOVE OR CHANGE YOUR ADDRESS**

Let SSA know if you change your address. You must tell SSA your new address even if you get your checks by direct deposit rather than by mail. SSA needs your address so they can send you information about your checks, and so SSA can contact you to make sure you should still get checks. If SSA cannot find you, your checks will stop.

Also tell your post office your new address. Then, if Social Security office doesn't get your new address in time to change in on your next check, the post office will send your check to your new address.

#### IF SOMEONE MOVE INTO OR OUT OF YOUR HOUSEHOLD

Let SSA know if there is a change in the number of people who live with you. You must tell SSA if:

- ☞ Someone move into or out of your home,
- ☞ Someone who lives with you dies,
- ☞ You or someone who lives with you has a baby.

Let SSA know if you start living in someone else's home or if you move out of someone else's home.

#### IF THERE IS A CHANGE IN YOUR INCOME

If you have income other than SSI checks, you must tell SSA about it. Also, tell SSA if the amount of your income changes or stops. Usually, changes in your income in a month will affect your SSI check two months later.

If you are married, you also should let SSA know about any change in your husband's or wife's income.

If you have a child under 18 who gets SSI and lives with you, tell SSA about any change in:

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- ☞ The child's income,
- ☞ Your income,
- ☞ The income of your husband or wife, and
- ☞ The income of a child in your home who is not getting SSI.

Also tell SSA if a child in your home who is not getting SSI marries. If a child who is working or is age 18 to 20 starts or stops attending school full time, tell SSA that, too.

If you also get Social Security checks, you don't have to tell SSA when you get a Social Security benefit increase. But, if your husband or wife gets Social Security checks, you should tell SSA about any change in his or her benefits.

Under SSI, income includes cash, checks, and other things you get that can be used for food, clothing, or shelter. It even includes items you would not have to report for federal, state, or local income taxes. Following are examples of income:

- ☞ Wages from your job, whether in cash or another form;
- ☞ Net earnings from your business if you are self-employed;
- ☞ The value of food, shelter, or clothing that someone gives you, or the amount of money they give you to help to pay for them;
- ☞ Department of Veterans Affairs (VA) benefits;
- ☞ Annuities, pensions from any government or private source, worker's compensation, unemployment insurance benefits, black lung benefits, and Social Security benefits;
- ☞ Prizes, settlements, and awards, including court-ordered awards;

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- ☞ Proceeds of life insurance policies;
- ☞ Gifts and contributions;
- ☞ Support and alimony payments;
- ☞ Inheritance in cash or property;
- ☞ Interest earned, including interest in savings, checking, and other accounts;
- ☞ Rental income;
- ☞ Strike pay and other benefits from unions.

THE FOLLOWING ARE NOT INCOME

- ☞ Medical care and services;
- ☞ Social services;
- ☞ Receipts from the sale, exchange, or replacement of things you own;
- ☞ Income tax refunds;
- ☞ Earned Income Tax Credit payments;
- ☞ Payments made by life or disability insurance on charge accounts or other credit accounts;
- ☞ Proceeds of a loan;
- ☞ Bills paid by someone else for things other than food, clothing, or shelter;
- ☞ Replacement of lost or stolen income;
- ☞ Weatherization assistance.

Some things SSA normally count as income will not reduce your SSI check. For example, under certain circumstances, home energy assistance provided by certain home energy is not counted as income. Food, clothing, shelter, or home energy assistance provided free or at a reduced rate by private nonprofit organizations also is not counted. But, you should still tell SSA about these things.

#### IF THERE IS A CHANGE IN THE THINGS YOU OWN

Tell SSA if there is any change in what you own. A single person can own things worth up to \$2,000 and still get SSI. A couple can own as much as \$3,000.

Many of the things you own are not counted, however. Your home and the land it is on don't count. Depending on how much they are worth, household goods, personal property, and a car may not count. Up to \$1,500 in burial funds for you and up to \$1,500 in burial funds for your husband or wife don't count. Burial plots for you and your immediate family also are not counted.

Some of things SSA does count are:

- ☞ Cash;
- ☞ Your checking and savings accounts;
- ☞ Christmas club account;
- ☞ Certificates of deposit, and
- ☞ Stocks and bonds.

If you are single and the things you own that SSA counts add up to more than \$2,000, tell SSA. If you are living with your husband or wife and the things you own that SSA counts add up to more than \$3,000, tell SSA.

Any back checks you get from SSI or Social Security would not be counted for six months after the month in which you get them. If you have any back payments left over the six-month period, they will count.

If you agreed to sell property so you could receive SSI, you should tell SSA when you sell it. If you don't sell the property, you may not be able to get any more SSI checks. And you may return any checks SSA already sent you.

If your name is on any accounts with another person or other people, you must tell SSA about the account even if you do not consider that the money belongs to you. You must tell SSA about such an account even if you don't use the money or account. If someone wants to add your name to an account, check with SSA first. If the money is not really yours or if it is for a special purpose like your medical expenses, SSA can tell you how to set up the account so it will not affect your SSI.

Also tell SSA if you or your husband or wife buys, sells, or become the owner of any real estate, a car, or personal property.

If you have a child who gets SSI, you should tell SSA about changes in the things the child owns and the things you and your husband or wife own.

If you are not sure if something counts give SSA a call. It is their job to help you figure it out.

#### IF YOU GET HELP WITH LIVING EXPENSES

If someone gives you money, food, clothing, or free housing, let SSA know. Also tell SSA if other people help to pay for your food, utilities, rent, or mortgage, or if the amount they pay changes.

If you used to get these things but don't get them now, tell SSA that too.

## IF YOU ENTER OR LEAVE AN INSTITUTION

You must tell SSA if you enter or leave a residential institution, hospital, skilled nursing facility, nursing home, intermediate care facility, halfway house, jail, prison, public emergency shelter, or any other kind of institution. Let SSA know the name of the institution and the date you enter or left. If you are not able to tell SSA, ask someone in the institution's office to help you.

## YOU USUALLY CANNOT GET SSI WHILE IN AN INSTITUTION

If you enter a medical institution, it is especially important to tell SSA right away. There are special rules if you enter a medical institution for a stay of less than 90 days. Often, you can keep getting your SSI checks if SSA learns it right away. Your doctor must sign a statement about how long you will stay. You must sign a statement that you still need to pay expenses for your home while you are in the institution. SSA must get both statements by the 90<sup>th</sup> day you are in the institution, or the day you leave if that is earlier. Remember to get SSA the statements as soon as possible.

Also, if your spouse is institutionalized and his or her Social Security benefits are redirected to you to use for household expenses, this is countable income to you and you must report this to SSA.

## IF YOU GET MARRIED, SEPARATE, OR DIVORCED

Tell SSA if you get married or if your marriage ends. Also tell SSA if you separate from your husband or wife. If you are separated now, tell SSA if you begin to live together again.

## IF YOU LEAVE THE UNITED STATES

Leaving the United States means living in the 50 States, the District of Columbia, or the Northern Mariana Islands. Usually, if you leave the United States for 30 days or more, you can no longer get SSI.

If you plan to leave the United States, tell SSA before you leave. SSA needs to know the date you plan to leave the U.S. and the date you plan to

come back. Then SSA can tell you if your checks will be affected.

Once you have been outside the U.S. for 30 or more days in a row, your checks cannot start again until you have been back in the U.S. for at least 30 straight days.

There are special rules for dependent children of military personnel who leave the U.S. They may continue to get SSI while overseas if they were receiving SSI in the month before their parent reported for overseas duty.

#### IF YOU ARE A SPONSORED IMMIGRANT

If you are an immigrant who is sponsored by a U.S. resident, a special rule applies to you. In deciding whether you can get SSI and how much your check will be, SSA looks at the income of, and things owned by, all the following people:

- ☞ Yourself (including anything you still have in your homeland);
- ☞ Your husband or wife;
- ☞ Your parents, if you are under 18;
- ☞ Your sponsor; and
- ☞ Your sponsor's husband or wife.

For five years after you enter the U.S., you must report any changes in the income of, and things owned by, the above people. After the five-year period, you have to report only changes of your own, your spouse, and your parents if you are under 18.

This special rule does not apply to you if you are a refugee or if you have been granted asylum. It also does not apply if you become blind or disabled after being admitted for permanent residence to the U.S. If you are a sponsored immigrant and become blind or disabled, call Social Security office.



#### IF YOU ARE UNDER AGE 22 AND START OR STOP ATTENDING SCHOOL

If you are under 22, tell SSA if you start or stop attending school regularly. It may affect your SSI. Also, tell SSA the date your attendance changed.

#### IF A PERSON IS ADDICTED TO DRUG OR ALCOHOL

If you are receiving SSI based on disability and you are also addicted to drugs or alcohol, SSA will refer you to the State Substance Abuse Agency for treatment for your addiction.

#### A PERSON GETTING SSI IS NOT ABLE TO MANAGE FUNDS

Sometimes a person is unable to manage his or her own funds. If this happens, someone should let Social Security know. SSA can arrange to send the checks to a representative payee. A representative payee is a relative or someone else who agrees to manage and use the money for the well-being of the person getting SSI.

#### IF A PERSON GETTING SSI DIES

If someone getting SSI dies, somebody should tell SSA. If there is a surviving husband or wife who is getting SSI, the amount may be changed.

Any checks sent after the month of death or any checks not cashed or deposited before the death must be returned.

If a person's checks were being deposited directly into an account in a bank, the bank should also be told of the person's death. The bank will return the checks. Checks sent to the account of a deceased recipient should not be withdrawn.

If an SSI recipient has a representative payee and the payee dies, someone must tell SSA.

## SPECIAL RULES FOR PEOPLE IN SOME STATES

If you live in one of the following states, there are some other things you must report to SSA:

- ☞ **California** - Let SSA know if you are eating meals away from home regularly and now you are eating at home. Also let SSA know if you were eating at home and now you eat out.
- ☞ **Hawaii, Michigan, or Vermont**, tell SSA if you live in a facility that provides different levels of care and the level of care you get changes.
- ☞ **Massachusetts** - Tell SSA if you (or you and your husband or wife) were paying over two-thirds of the living expenses for the household and now you pay less. Also tell SSA if your were paying less than two-third of these expenses and now you pay more.
- ☞ **New York** - Let SSA know if you were regularly eating meals away from home and you are now eating at home. Or tell SSA if you were eating your meals at home and now you eat out. Also, if you live with other people, tell SSA if you used to prepare your meals by yourself and now you prepare meals together. Or tell SSA if you were preparing your meals with other people and now you prepare your meals alone.

## IX. HOW AND WHEN TO REPORT CHANGES

### HOW TO REPORT

You can make your report by calling SSA at 1-800-772-1214. When you call, have your Social Security number handy. You also can report by mail or in person. If you mail your report, be sure it shows:

- ☞ The name of the person the report is about;
- ☞ The Social Security number of the person who gets SSI checks;
- ☞ The changes being reported;
- ☞ The date the change happened; and
- ☞ Your signature, address, and phone number.

### WHEN TO REPORT

You must report a change within 10 days after the month it happens. You should report a change even if you are late.

If you don't report a change, you may miss out on money you need if the change will mean you can get a bigger check. Or, you may get too much money and have to pay it back.

If you don't report a change or if you make a false statement and get money you are not supposed to, Social Security will make you pay back the money. It also can result in a fine, imprisonment, or both.

## X. REVIEWING YOUR DISABILITY

If you receive Social Security or Supplemental Security Income (SSI) benefits, your case will be reviewed from time to time to make sure you continue to be disabled. Disabled means you have a physical or mental condition that prevent you from working for at least a year or is expected to end in death.

The review process is designed to give you every opportunity to show that you are still disabled, and to assure that your benefits are not stopped incorrectly. All evidence about your condition will be completely evaluated. If you have more than one disabling condition, SSA will consider the combined effect of all your impairments on your ability to work.

Following are some of the most asked questions about Social Security disability reviews. If you have others, contact your Social Security office.

### HOW OFTEN WILL I BE REVIEWED?

It depends on the nature and severity of your condition and whether it is expected to improve.

- ☞ If improvement is **expected**, your first review generally will be **6 to 18 months** after the date you became disabled.
- ☞ If improvement is **possible** but cannot be predicted, your case will be reviewed about once **every three years**.
- ☞ If improvement is **not expected**, your case will be reviewed once every **five to seven years**.

### HOW WILL I BE NOTIFIED OF A REVIEW?

Generally, SSA will send you a letter containing questions for you to answer about your condition. Based on your answers to these questions and other information in your case, SSA may decide to do a full medical review. If a full medical review is needed, SSA will send you a letter asking you to come to the Social Security office. If a full medical review is not needed, SSA will send you a letter telling you that SSA does not need to review your case at this time.

## WHAT HAPPENS DURING A REVIEW?

At the review, SSA will ask how your impairment affects you and whether it has improved. Bring your doctors' names, addresses and phone numbers. Also, bring patient numbers of any hospitals and clinics that have treated you since SSA last contacted you. If you have worked since you applied for disability benefits or since your last review. SSA also needs information about the dates you worked, the pay you received and the kind of work you did.

## WHO WILL MAKE THE DISABILITY DECISION?

SSA will send your case to an agency in your state that makes disability decisions for Social Security. An experienced disability examiner and a doctor will carefully review all information and the evidence you have given, and will request detailed medical reports from sources you have indicated.

## HOW WILL THEY MAKE THE DECISION?

In most cases, the decision will be based on the information from your doctors, hospitals or clinics. But, if the medical evidence is not complete or current, you may be asked to have a special examination at government expense. If an examination or test is needed, an appointment will be scheduled with your own doctor, another private doctor or other medical source. You will be notified in writing of the date, time and place.

## WHAT IF I DISAGREE WITH THE DECISION?

You can appeal the decision. There are four levels of appeal and, generally, you have 60 days to appeal from one level to the next. The four levels are:

☞ **Reconsideration** - Your case is independently reviewed by people who had not part in the original decision. You may appear before a hearing officer who will decide your appeal.

☞ **Hearing** - If you disagree with the reconsideration decision, you may

request a hearing before an administrative law judge.

☞ **Appeals Council** - If you disagree with the administrative law judge's decision, you may ask for a review of the decision by the Appeals Council.

☞ **Federal Court** - If you disagree with the Appeals Council decision, or if the Appeals Council declines to review your case, you may bring a civil action in a federal court.

#### UNDER WHAT CIRCUMSTANCES WILL BENEFITS BE STOPPED?

Generally benefits will be stopped only if the evidence shows that your impairment has medically improved and that you can work. As long as your condition has not improved and you are not working, benefits normally will continue.

Your benefits will stop if you are doing substantial work. But, if you are working and are still medically disabled, benefits may continue.

#### WHAT IF I TRY TO WORK?

Social Security has several special rules that can help if you want to work in spite of your disability.

If you are receiving Social Security disability benefits, you may have unlimited earnings during a trial work period of up to nine months (not necessary in a row) and still receive full benefits. Other rules allow cash benefits and Medicare to continue while you attempt to work on a regular basis.

If you are receiving SSI disability benefits, you may continue to receive monthly payments while you work as long as you continue to meet the income and resources requirements. If your cash payments stop because your total income exceeds the SSI limits, you may still be eligible for Medicaid.

Other rules help with work expenses, training and rehabilitation. Ask your Social Security office for more information about special rules for

*Supplemental Security Income (SSI)*

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people with disabilities who attempt to work.

## **XI. HOW SOCIAL SECURITY CAN HELP WITH VOCATIONAL REHABILITATION**

### **HOW SOCIAL SECURITY CAN HELP WITH VOCATIONAL REHABILITATION**

The Social Security Administration (SSA) can help people with disabilities get the vocational rehabilitation services they need to return to work or to go to work for the first time. SSA can put them in touch with agencies that provide services such as job counseling, training and job placement. SSA does not provide these services, but can help pay for them when certain conditions are met.

SSA can continue to assist a person with disability even after he or she goes to work. There are special provisions of the law, called work incentives, which help the individual to continue working. These work incentives allow SSA to continue cash payments and health insurance coverage even though the individual has returned to work.

The following paragraph provides information about how SSA can help people with disabilities successfully return to work or to go to work for the first time.

### **REFERRING PEOPLE WITH DISABILITIES TO STATE VOCATIONAL REHABILITATION AGENCIES**

When a person files for an application for disability benefits, specially trained employees at the state Disability Determination Services (DDS) office review the application to see whether the person's medical condition qualifies him or her for disability benefits. At the same time, they also evaluate the person's rehabilitation potential. If it appears that the person may benefit from vocational rehabilitation services, they refer the applicant to the state vocational rehabilitation agency.

SSA sends information about the applicant's medical condition and work history to the rehabilitation provider. Rehabilitation counselors evaluate this information. They may contact the person to obtain further information and may request that the individual come in for an interview.

At the same time the counselor will try to find out more about the person's interests and employment goals. Clients are given an opportunity



to discuss how the counselor can work with them to achieve their job goals.

If the counselor believes the vocational rehabilitation agency can provide the rehabilitation services that are needed, the counselor and the client will jointly develop a written plan describing the job goal and the services the vocational rehabilitation agency will provide to reach the goal. This written plan is tailored to the needs of the client.

#### USE OF ALTERNATE VOCATIONAL REHABILITATION SERVICE PROVIDER

SSA first refers persons to the state vocational rehabilitation agency for consideration. If the state agency is unable to serve the individual, SSA may refer that individual to an alternate participant in the SSA's vocational rehabilitation program. An alternate participant is any nonstate public or private agency that is qualified to serve Social Security disability beneficiaries. Such providers must be licensed, certified or accredited to provide vocational rehabilitation services within their state and meet other requirements that assure SSA they can provide clients with the necessary help. SSA pays these alternate providers for the costs of their services under the same conditions that apply for state vocational rehabilitation agencies.

#### PAYING PROVIDERS FOR VOCATIONAL REHABILITATION SERVICES

The Social Security Act allows the SSA to pay for vocational rehabilitation services they furnish to people receiving Social Security disability benefits or Supplemental Security Income (SSI) payments based on disability or blindness if certain conditions are met. The vocational rehabilitation services must result in the person's return to work for at least nine continuous months at a substantial earnings level. The earnings levels change from year to year. Check with your local Social Security office for current information.

#### TYPES OF VOCATIONAL REHABILITATION SERVICES.

Vocational rehabilitation providers furnish a wide variety of services to help people with disabilities return to work. These services are designed to provide the client with the training or other services that are needed to return to work, to enter a new line of work or to enter the workforce for the first time. Examples of the types of services that may be offered by vocational

rehabilitation providers include:

- ◆ various types of tests and assessments to evaluate the client's physical or mental condition, skills and abilities;
- ◆ counseling and guidance, including counseling to family members;
- ◆ wheelchairs, specially modified vans, prosthetics and other devices to help restore the individual's availability to work;
- ◆ training;
- ◆ transportation
- ◆ job placement
- ◆ post-placement services; and
- ◆ other goods and services necessary to achieve the planned job goals of the person's rehabilitation program.

#### REFUSAL TO ACCEPT REHABILITATION SERVICES

Most people with disabilities want to work and will cooperate with the rehabilitation provider during the course of their rehabilitation program. However, the law provides for the suspension of Social Security benefits if a person fails to cooperate with the rehabilitation agency without good reason for doing so. If a rehabilitation provider offers services to a person with a disability, the person must accept the services to continue receiving Social Security benefits unless SSA determines that there is a good reason for not accepting services.

#### BENEFITS WHILE PARTICIPATING IN A VOCATIONAL REHABILITATION PROGRAM

A person who medically recovers while participating in an approved rehabilitation or training program may continue to receive benefits until the vocational rehabilitation program ends if SSA finds that the program is likely to help the individual become self-supporting. This continuation of benefits is available to persons who participate in either an approved state or private vocational rehabilitation program.

#### **SOCIAL SECURITY WORK INCENTIVES**

Once a person with a disability has returned to work, special rules called "work incentives" will help serve as a bridge from reliance on benefits

to financial independence achieved by returning to work. With these incentives, the individual can continue to receive cash payments and health insurance coverage (for a period of time) until he or she is able to work regularly.

There are different work incentives for persons who receive Social Security disability and SSI benefits. There are also special work incentives for persons who are blind and for students with disabilities. The purpose of all these work incentives is to provide support and assistance to people with disabilities while they attempt to work.

Some of the ways that these incentives help people with disabilities to work is by allowing them to:

- ◆ test the ability to work for a specified period of time without losing any benefits;
- ◆ deduct from earnings the cost of certain impairment-related work items or services needed to work in determining whether earnings are too high to continue receiving benefits;
- ◆ continue Medicare coverage if disability benefits stop because earnings are too high;
- ◆ continue to receive SSI payments until the earnings SSA counts exceed the SSI limits; and
- ◆ continue Medicaid coverage if the person depends on Medicaid to work even if earnings exceed the SSI limits until the person's earnings are sufficient to replace lost benefits.

#### **FOR MORE INFORMATION**

Persons with a disability who want to work do not have to be referred to a rehabilitation agency or wait for an agency to contact them. They may contact the rehabilitation agency in their state directly at any time. Your Social Security office will be glad to provide the location and phone number of the nearest office of the state vocational rehabilitation agency. Individuals then can let the agency know of their interest in receiving rehabilitation services to help them return to work. The address and phone number of the state vocational rehabilitation agency can be found in the phone book.

For more information about how work may affect disability benefits, call or visit any Social Security office. You may wish to ask for SSA's publication "***Working While Disabled - How We Can Help***" (SSA publication No. 05-10095) You can find the address and phone number of your local Social Security office in your phone book. You also can call SSA's toll-free number, **1-800-772-1213**, between 7 a.m. and 7 p.m. any business day.

## **XII. SOCIAL SECURITY BENEFITS FOR CHILDREN**

Some people find Social Security taxes an unwelcomed deduction from the family's earnings. They are thinking about how they could use the money to pay bills or plan for the children's college education. At the time, Social Security is not a big ticket item on the family agenda. But the illness or injury- or even the death- of a parent in a family with young children, can suddenly make Social Security a very important part of the family's survival.

Those paycheck deductions for Social Security taxes could make it possible for the family to stay together. For example, some families can get as much as \$2,000 a month when the worker is disabled.

This chapter focuses on benefits paid to the children when one or both parents becomes disabled, retires, or dies.

### **CHILD'S BENEFITS**

When people think of Social Security benefits they usually think of older men and women who are retired or who are widows or widowers. If you find it difficult to picture a small child as a Social Security beneficiary, you may be surprised to learn that more than 3,5 million children receive more than 1.2 billion each month because of one or both their parents are disabled, retired or deceased. Those dollars are helping provide the necessities of life for the family members and helping make it possible for those children to complete high school. When a parent becomes disabled or dies, Social Security benefits help stabilize the young family's financial future.

### **WHO CAN GET CHILD'S BENEFITS?**

The child's can be the worker's biological or adopted child, or a stepchild. (The child could be a dependent grandchild.)

To get the benefits, a child must:

- ◆ have a parent(s) who is disabled or retired and entitled to Social Security benefits, or

- ◆ have a parent who dies after having worked long enough in a job where he or she paid Social Security taxes.

The child also must:

- ◆ be under age 18, or
- ◆ be 18-19 years old and a full-time student no higher than grade 12), or
- ◆ be 18 or older and disabled. (The disability must have started before age 22; (see section below on children who remain disabled into their adult years.)

### **WHAT YOU WILL NEED WHEN YOU APPLY FOR CHILD'S BENEFITS**

When you apply for benefits for a child, you will need the child's birth certificate and the parent's Social Security number. Depending on the type of benefit involved, other documents may be required. For example, if you are applying for survivors benefits for a child, you will need to furnish proof of the parent's death. If you are applying for benefits for a disabled child, you will need to furnish medical evidence to prove the disability. The Social Security representative who takes the claim application will tell you what other documents will be needed.

### **BENEFITS CAN CONTINUE BEYOND 18**

Normally, benefits stop when the child reaches age 18. Five months before the beneficiary's 18<sup>th</sup> birthday, SSA sends the child a notice that benefits will end at age 18, unless he or she is a full-time student at a secondary (or elementary) school. If the beneficiary is under age 19 and still attending a secondary or elementary school, he or she must notify SSA by completing a statement of attendance. The benefits will then continue until he or she graduates, or until two months after becoming 19, whichever comes first. A child's benefits can continue onto the adulthood if he or she is disabled and the disability began before age 18.

If a child who is receiving Social Security benefits is in the mother's (or father's) care, the parent can receive benefits until the child reaches age 16. The child's benefits continue, but the parent's benefits stop unless he or she is age 60 or over and is receiving benefits as widow or widower or is age 62

or older and receiving retirement benefits.

**HOW MUCH CAN THE YOUNG FAMILY GET?**

Within the family, each child may receive up to one-half of the worker's full retirement or disability benefit, or 75% of the deceased parent's basic Social Security benefit. However, there is a limit to the amount of money that can be paid to a family member. The family maximum payment is determined as part of every Social Security benefit computation and can be as much as 150% of the worker's full benefit amount. If the total amount payable to all family members exceeds this limit, each person's benefit is reduced proportionately (except that of the worker) until the total amount equals the maximum allowable amount.

As an example of monthly benefits, let's say Tom Brown earns \$30,000 a year. He has a 35-year-old wife, Mary, and two children. Tom is severely injured in a car accident and determined to be eligible for Social Security disability benefits. Tom, Mary, and the two children receive \$1,567 each month.

As another example of how Social Security can help the young family, Sara was earning \$50,000 when she died, leaving her husband and one child. The husband and the child will receive \$1,908 each month based on Sara's earnings record.

## **XIII. IF YOU ARE BLIND, HOW SSA CAN HELP**

### **I. GENERAL INFORMATION**

If you are blind, there are a number of Social Security rules you should know about. Some of the rules apply only to people who are blind, while others apply to nonblind persons as well. But they are important to know because they can help you qualify for Social Security or Supplemental Security Income (SSI). Once you are getting benefits, they can help supplement your monthly payments and increase your chance of getting back to work on a regular basis or entering the workplace for the first time. In fact, many of the special rules are designed specifically to make it easier for people who are blind to work.

This chapter will help you understand the rules so you can use them to help meet your life goals. SSA also identifies those services that are available to help you get the most out of the Social Security and SSI programs.

#### **Two Disability Programs**

You should start by understanding the difference between Social Security and SSI and how they work together to provide a floor of income protection for people with disabilities. You can qualify for Social Security if you have enough prior work. You qualify for SSI payments if your income and resources even with Social Security benefits, fall below certain limits. The medical rules SSA uses to decide if you qualify for benefits because of blindness are the same under both programs. However, other rules are different under each program. For this reason, this chapter is generally divided into Social Security and SSI sections to clarify the different rules.

#### **What Does SSA Means By “Blind”**

You also should know the medical definition of blindness under Social Security. You are considered blind under Social Security rules if your vision cannot be corrected to better than 20/200 in your better eye, or if your visual field is 20 degrees or less, even with corrective lens. Many people who meet the legal



definition of blindness still have some sight and may be able to read large print and get around without a cane or guide dog. If you do not meet the legal definition of blindness, you still may qualify for benefits if your vision problems coupled with other problems prevent you from doing substantial work.

### **Are You Eligible For Social Security Disability Benefits?**

To qualify for Social Security disability benefits, you must have worked long enough in a job where you paid Social Security taxes. Or, you must be the disabled child or disabled widow(er) of somebody who did. When you work, you earn “credits” -up to four per year- that count toward future Social Security benefits. The number of credits you need depends on your age at the time you are determined to be disabled by blindness. As a general rule, you must have credits equal to the number of years after 1950, or age 21 if later, up to the year you are determined to be disabled based on blindness.

Blind persons under 28 need no more than six credits of work. If you become legally blind at age 41, you need 20 credits. Nobody need more than 40 credits.

Nonblind people must meet other requirements. They must have earned half of the credits they need in recent years. For example, people over 31 must have earned 20 credits during the past 10 years. If you are blind, you do not have to meet this recent work rule. Your credits can be earned anytime during your working years. Credits for your work after you become blind can be used to qualify for benefits if you do not have enough credits at the time you become blind.

Even if you are working regularly, you may want to file for a Social Security disability “freeze” if you meet the legal definition of blindness. Under this procedure, you won’t get benefits now, but your benefits will be higher if you do become eligible later.

### **Are You Eligible For SSI Disability Benefits?**

Regardless of whether you have enough work credits to qualify for Social Security, you may qualify for SSI disability benefits. To get SSI, you need not have worked under Social Security, but your income and resources

must be under certain limits. The income limits vary from one state to another. For more information about SSI, ask your Social Security office about the income limits in your area and for a copy of the booklet SSI (publication No. 05-11000). This booklet is also available in braille from Social Security offices and as part of talking book from the Library of Congress.

### **How To Get A Faster Decision On Your Claim**

You should apply at any Social Security office as soon as you become disabled. (You may file by telephone, mail, or by visiting the nearest office).

The claims process for disability benefits is generally longer than for other types of Social Security benefits -from 60 to 90 days. It takes longer to obtain medical information and to assess the nature of the disability in terms of ability to work. However, you can help shorten the process by bringing certain documents with you when you apply. These include:

- ◆ Medical records from your doctors, therapists, hospitals, clinics, and caseworkers.
- ◆ The Social Security number and proof of age for each person applying for payments. This include your spouse and children, if they are applying for benefits.
- ◆ Names, addresses and phone numbers of doctors, hospitals. clinics, and institutions that treated you and dates of treatment.
- ◆ A summary of where you worked in the past 15 years and the kind of work you did.
- ◆ A copy of your W-2 Form (Wages and Tax Statement), or if you are self-employed, your federal tax return for the past year.
- ◆ Dates of any prior marriages if your spouse is applying.

Your Social Security disability benefits will not begin to arrive until the sixth full month of the disability. This “waiting period” begins with the first full month after the date SSA decides your disability began.

If you are applying for SSI, you also need to bring with you information about your living arrangement such as the name of your mortgage company or a copy of your lease with your landlord’s name; and the information about

your income and the things you own, such as payroll slips, bank book, insurance policies, car registration, and burial fund records.

Your SSI disability check can be paid back to the date you filed your claim.

Do not delay filing for benefits just because you do not have all the information you need. The Social Security office will be glad to help you.

### **Evaluating Your Medical Condition**

You should be familiar with the process SSA uses to decide if you are legally blind or otherwise disabled. After the Social Security office reviews your claim to make sure you meet the non-medical rules, your application goes to a state disability determination service (DDS) where the medical evaluation takes place. In the DDS, a team consisting of a physician and a disability evaluation specialist will decide if you are legally blind. This generally means reviewing medical evidence from your doctors or the hospitals, clinics, or institutions where you have been treated. If this information is not available or incomplete, you may be asked to see a doctor for an examination which SSA will pay for.

Once SSA decides that you are legally blind, SSA will notify you that your claim has been approved. If you do not meet Social Security's definition of blindness, then SSA decides if your visual impairment, plus any other impairment you may have, prevents you from doing the work you did in the last 15 years. If it does not, your claim will be denied. If it does, SSA looks to see if you can do any other type of work. SSA consider your age, education, past work experience, and transferable skills. If you cannot do any other kind of work, your claim will be approved.

## **2. WHAT HAPPENS WHEN YOU WORK WHILE RECEIVING BENEFITS**

A number of rules make it easier for persons receiving disability benefits to work and supplement their benefits and eventually work full time. The provisions are called "work incentives". While these rules in general are not geared solely to persons who are blind, they do provide a means for persons who are blind to increase their income and work their way off disability rolls.

The Social Security and SSI work incentives are different but they are designed to accomplish the same objectives: to continue cash benefits until you are earning enough to get by on your own; to continue health care assistance (Medicare and/or Medicaid) even when earnings are too high to allow cash payments; to exclude from earnings the cost of extra work expenses caused by your disability; and to help with rehabilitation and finding new work. We will briefly explain each of these special rules and provide an example of how they work under both Social Security and SSI.

For more information on these provisions, you should ask for the booklet "Working While Disabled--How We Can Help" (Publication no. 05-10095). This booklet is available in braille from Social Security. A more detailed and technical explanation of work incentives is available in the publication "A Summary Guide To Social Security and Supplemental Security Income Work Incentive for People with Disabilities" (Publication No. 64-030). This booklet is available in braille and on cassette tape from Social Security.

### **Working While Receiving Social Security Benefits**

People getting Social Security disability benefits can continue to receive their benefits when they return to work as long as their earnings are not "substantial".

### **You Can Earn More**

Under the Social Security disability program, persons who are blind can earn up to \$960 a month in 1996 before their work is considered "substantial". This is higher than the substantial work level or \$500 a month that applies to nonblind disabled workers. The level of earnings a person who is blind can earn changes each year to reflect the changes in general wage levels.

If you are blind and self-employed, the \$960 level becomes the sole measure of substantial work. SSA does not make a separate evaluation of the time you spend in the business as SSA does for nonblind beneficiaries. This means you can be doing a lot of work for your business but still receive disability benefits as long as your net profit averages \$960 or less a month in 1996

### **Work Figured Differently After 55**

If you are 55 or older, SSA figures your ability to perform substantial work differently. After age 55, even if your earnings exceed \$960 a month in 1996, benefits are only suspended, not terminated, if your work requires a lower level of skill and ability than what you did before age 55. Thus, eligibility for Social Security benefits may continue indefinitely and benefits may be paid for any month your earnings fall below the substantial level.

### **The Trial Work Period**

A trial work period provide the beneficiary up to nine months to test his or her ability to work and earn any amount without fear of losing benefits. The nine months need not to be consecutive, and the trial work period does not ends until nine months are used within a 60-month period.

After the trial work period, your benefits will continue if your earnings are \$960 or less a month in 1996. If your earnings exceed \$960, benefits continue for three more months and then stop.

If you are 55 or older, the trial work period may affect you differently. You should contact your local Social Security office if you have any further queations.

### **The Extended Period Of Eligibility**

For 36 months after a successful trial work period, your Social Security benefits may be reinstated without a new application for any month your earnings drop to \$960 or below.

### **Impairment Related Work Expenses Rule**

This rules permits you to deduct impairment-related work expenses resulting from your blindness (such as the expense of paying for a sighted reader) from your income before SSA decides if it is substantial.

## **Continuation of Medicare Coverage**

This rule removes the fear of losing health care benefits due to work by continuing Medicare's premium-free hospital insurance coverage for at least 39 months after the end of the trial work period.

## **Medicare Coverage For Disabled People Who Work**

At the end of the 39-month period, people who continue to have a disability and who lose Medicare hospital insurance coverage because earnings are substantial are permitted to purchase Medicare hospital and medical insurance coverage.

## **Continued Payment Under An Approved Rehabilitation Program Despite Medical Recovery**

Ordinarily, benefits stop when a person shows sufficient medical improvement. Under this rule, benefits may continue after medical recovery if the person is participating in an approved vocational rehabilitation program whose services are likely to enable the person to work permanently. A person involved in such a program who had a successful eye operation, for example, could continue to receive benefits and complete the program even though he/she was no longer blind.

## **An Example Of How Social Security Work Incentives Can Help You**

Cathy Jones is 26 years old and receive \$460 each month in Social Security benefits because she is blind. Cathy also has Medicare coverage. In December 1994, Cathy completes a secretarial training course and gets a job in January 1995. She is hired by a local hospital to work 35 hours a week as a medical transcriber trainee. Her starting salary is \$750 per month.

Cathy reports her work and earnings to the Social Security office and learns that her benefits will continue during her nine-month trial work period regardless of how much she earns. Her monthly \$750 in earnings, and her Social Security benefits of \$460 increases her income to \$1,210.

Cathy contacts the Social Security office in September to report that she is completing her ninth month trial work period month. (September

1995). She also increased her hours to 40 hours per week and has received a pay raise. She is now earning \$1,000 per month, which is more than the \$960 substantial earnings level allowed for beneficiaries who are blind.

However, in evaluating her earnings, it is discovered that Cathy is paying a co-worker \$25 a week (\$100 a month) to take her to and from work because she does not have access to public transportation. This \$100 qualifies as an impairment-related work expense. After subtracting the \$100 per month, SSA finds that Cathy has countable earnings of \$900 per month which is less than the blind substantial earnings level of \$960. Consequently, Cathy's payments continue though she completed her trial work period in September. Her monthly income is \$460 plus \$1,000, or \$1,400.

In December 1995, Cathy contacts the Social Security office to let them know that she has received another pay raise because she has been promoted from the trainee position. Her monthly earnings beginning in January 1996 will be \$1,200 per month, and her transportation cost (her only impairment-related expense) remains at \$100. Cathy countable income is now \$1,100 per month, more than the \$960 blind substantial work level for 1996. For this reason, her Social Security disability stopped as of January 1996, but she will receive her check for three additional months--January, February and March--despite her earnings.

If Cathy earnings drop below the substantial level for any month during a 36-month period beginning October 1995 (the month following the month the trial work period ended), she can be paid her Social Security cash benefit. Additionally, Cathy's Medicare coverage will continue for at least 39 months after the end of her trial work period regardless of her earnings.

### **Working While Receiving Supplemental Security Income Benefits**

There are different work rules for people receiving SSI. The \$960 substantial earnings level does not apply to people receiving SSI. Instead, you are permitted to have earnings until you exceed the SSI income limits, which vary from state to state. As earnings rise, SSI benefits are reduced and eventually stopped.

However, not all income is counted and you may earn up to \$1,025 a

month in 1996 before your SSI stops if there is no income other than earnings. (This figure is higher for people who live in a state that adds money or a state supplement to the SSI payment.) In addition, there are other deductions applied to working SSI recipients under the work incentive rules.

### **The Student Earned Income Exclusion**

Unmarried persons under age 22 and regularly attending school may exclude up to \$400 of earned income per month. The maximum annual exclusion is \$1,620.

### **The Earned Income Exclusion**

The rule means SSA does not count the first \$65 (\$85 in some cases) of earnings in a month plus one half of any earnings over \$65 (\$85) when figuring the SSI payment amount.

### **Blind Work Expenses**

This rule permits a person who is blind to exclude earned income which is used to meet the expenses of working. The expenses need not be related to blindness. Examples include the portion of person's earnings used to pay income taxes, meals consumed during work hours, transportation costs, or guide dog expenses.

### **Plan For Achieving Self Support (PASS)**

What is a Plan for Achieving Self-Support? Basically, a plan for achieving self-support, or PASS for short, is a plan for your future. Many people with disabilities want to work, and you are one of them. But maybe you need to go back to school before you can get a job. Or, maybe, you would like to start your own business, but you don't have the money. Whatever your work goal may be, a PASS can help you reach it.

A PASS lets you set aside money, and/or other things you own to help you reach your goal. For example, you could set aside money to start a business or to go to school or to get training for a job.



Your goal **must be a job that will produce sufficient earnings to reduce your dependency on Supplemental Security Income (SSI) payments**. A PASS is meant to help you acquire those items, services or skills you need so that you can compete with able-bodied persons for an entry level job in a professional, business, or trade environment. If you are graduated from college or trade/technical school, SSA usually considers you capable of obtaining such a position without the assistance of a PASS. You can contact your local Social Security office to find out whether a PASS is appropriate for you.

### **How Will A Plan Affect Your SSI?**

Under regular SSI rules, your SSI benefits is reduced by the other income you have. But the income you set aside for a PASS **doesn't** reduce your SSI benefit. This means you can get a higher SSI benefit when you have a PASS. But you cannot get more than the maximum SSI benefit for the state where you live.

Money you save or things you own such as property or equipment that you set aside for a PASS won't count against the resource limit of \$2000 (or \$3,000 for a couple). Under regular SSI rules, you wouldn't be eligible for SSI if your resources are above \$2000. But with a plan, you may set aside some resources so you would be eligible.

### **Who Can Have A PASS?**

You can if:

- ✘ you want to work, and
- ✘ You get SSI (or can qualify for SSI) because of blindness or a disability, and
- ✘ You have or expect to receive income (other than SSI) and/or resources to set aside toward a work goal.

### **What Kind Of Expenses Can A Plan Help Pay For?**

A plan may be used to pay for a variety of expenses that are necessary to help you reach your work goal.

For example, your plan may help you save for:

- ✘ Supplies to start a business;
  
- ✘ Tuition, fees, books, and supplies that are needed for school or training;
- ✘ Supported-employment services, including payments for a job coach;
- ✘ Attendant care or child care expenses;
- ✘ Equipment and tools to do the job;
- ✘ Transportation to and from work; and
- ✘ Uniforms, special clothing, and safety equipment.

These are only examples. Not all of these will apply to every plan. You might have other expenses depending on your goal.

### How To Set Up A Plan?

Your plan must be in writing, and Social Security must approve it. The following chart shows you how to set up a plan.

1. Choose a work goal. It should be a job that you are interested in doing, and that you think **you will be able to do** when your plan is completed. SSA can refer you to a vocational rehabilitation counselor who can help you choose your goal. You can also set up a PASS to cover any costs for the vocational services, including testing.
2. Find out all the steps you need to take to reach your goal, and how long it will take you to complete each step.
3. Decide what items or services you will need to reach your goal.

**Note:** *Each person will need different things to reach his/her goal. For example, if you want to work in a restaurant, you may need training to learn how to cook. If you want to become a computer programmer, you may need a college degree and a computer to reach your goal. If you want to start a business, you may need to buy equipment and supplies.*

4. Get several cost estimates for the things you need to achieve your goal.

5. Find out how much money you will need to set aside each month in order to pay for them.

**Note:** *If you are setting aside income for your plan, your SSI benefit usually will increase to help pay your living expenses. The people at Social Security can estimate what your new SSI payment will be if you set up your plan.*

6. Keep any money you save for your goal **separate** from any other money you have. The easiest way to do this is to open a separate bank account for the money you save under your plan. But, if you don't open a separate bank account, you must be able to tell SSA exactly how you are keeping the money separate.

7. Also include a business plan if you intend to start a business. Your business plan should explain:

- ✘ What kind of business you want to start (e.g., a restaurant, a print shop);
- ✘ How you will finance your business;
- ✘ Where you will set up business (e.g., rent a store, share space);
- ✘ Your hours of operation;
- ✘ How you will market your product or service;
- ✘ Who your suppliers and customers will be; and
- ✘ Your expected earnings.

**Note:** *SSA encourage you to talk with a local banker, the Small Business Administration, a vocational counselor, or other knowledgeable people about writing your business plan.*

8. Write the plan, and then sign and date it.
9. Bring or mail your plan to your local Social Security office

### **Who Can Help Set Up A Plan?**

You may set up a plan yourself or get help from:

- ✘ a vocational rehabilitation counselor;
- ✘ an organization that helps people with disabilities;
- ✘ an employer;
- ✘ a friend or relative; or
- ✘ the people at your Social Security office.

**Note:** Some organizations charge a fee for writing a PASS. The Social Security office may be able to refer you to someone who does not charge a fee.

### How To Write A Plan?

You should use the new PASS form SSA-545-BK. The form collects most of the information that Social Security needs to review your plan. You can get a copy at your local Social Security office. Be sure to answer all the questions on the form, and sign and date it. Then, bring or mail the completed form to Social Security.

### What Does Social Security Do After You Submit Your Plan?

After you submit your plan, Social Security will:

- ✘ review the plan to make sure it is complete;
- ✘ decide if there is a good chance that you can reach your goal;
- ✘ decide if the things you want to buy to reach your goal are necessary and are reasonably priced;
- ✘ decide if any changes are needed and discuss those changes with you;and
- ✘ send you a letter to tell you if the plan is approved or denied.

If your plan is approved, Social Security will contact you from time to time to make sure that you are doing what your plan says you will do to reach your goal. Make sure that you keep receipts for the items and services you have bought under the plan.

### What Happens If Your Plan Is Not Approved?

If your plan is not approved, you have a right to appeal the decision. The letter you get will explain your appeal rights and tell you what you need to do to file an appeal. **You may also submit a new plan to Social Security.**

### Can You Change Your Plan After It Is Approved?

Yes. However, you must get approval from Social Security **before** you

make any changes. Tell the Social Security office **in writing** what changes you want to make, such as a change in the amount of money you set aside monthly, or a change in the expenses you will have. Social Security will review your request, and let you know if the changes are approved.

It is very important that you tell Social Security as soon as possible about any changes that might affect your plan.

### **What Happens If You Cannot Complete Your Plan?**

If you cannot complete your plan, you may set up a new plan with a new work goal. If you don't set up a new plan, any money or other things set aside under the original plan **may count** toward the \$2,000 resource limit for getting SSI. If your resources are over the limit, it is possible you may lose your eligibility for SSI.

Also Social Security will start counting the income you were setting aside under the plan. Tell Social Security as soon as possible that you cannot complete your plan. Then, you won't have to pay back any extra SSI you got while you were following your plan.

### **How Will A Plan Affect Other Benefits You Get?**

You should check with the agency that is responsible for those benefits to find out if the plan (and the extra SSI) might affect those benefits.

In any cases, income and resources set aside under a plan will not be counted for food stamps and housing assistance provided through the U.S Department of Housing and Urban Development. **But, it is important that you contact the particular agency to find out how your benefits will be affected.**

### **Are There Any Other Rules That May Help?**

Yes. Other SSI rules may help you while you work. They can help you keep more of your SSI benefit, and they can help you keep your Medicaid. There are also some special rules for students. For more information, ask Social Security for the booklet "*Working While Disabled--How We Can Help*

“ (Publication No 05-10095).

### **Property Essential To Self Support**

This provision allows full or partial exclusion of certain income-producing property necessary for self-support when determining SSI eligibility and payment amount.

### **Continuation Of Medi-Cal Coverage**

Under this rule, Medicaid coverage for most working SSI beneficiaries continues even when their earnings become too high to allow an SSI cash payment.

### **Continued Payment Under An Approved Rehabilitation Program Despite Medical Recovery**

As is true for people receiving Social Security benefits, people receiving SSI may have payments continue even after medical recovery if they are participating in an approved vocational rehabilitation program whose services are likely to enable them to work permanently.

### **An Example Of How SSI Work Incentives Can Help You**

John Smith is 20 years old and receives SSI payments because he is blind. He receives \$470 each month and has Medicaid coverage.

In January 1996 John begins working part time during the evenings and on weekends for the veterinarian who cares for his guide dog. John is paid \$400 a month to answer the telephone, make appointments, and help with the care and feeding of animals at the kennel.

John reports his work and earnings to his Social Security office and reports that the following blind work expenses:

- Transportation to and from work . . . . . \$ 45.00
- Care and feeding of his dog . . . . . \$ 30.00
- Taxes . . . . . \$ 35.50

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- Total blind work expenses . . . . . **\$110.50**

Here is how SSA calculate John's SSI amount based on his earnings and his blind work expenses:

SSA first subtract \$85 from John earnings. This exclusion applies to anyone who works and has no other income:

$$\$400 - \$85 = \$315$$

Then SSA deduct half of the remaining \$315: (This exclusion also applies to anyone who works)

$$\$315 \text{ divided by } 2 = \$157.50$$

From this amount, SSA subtract the \$110.50 in blind work expenses:

$$\$157.50 - \$110.50 = \$47.00$$

John has \$47.00 in countable income which SSA subtract from his \$470 SSI payment, leaving:

$$\$470.00 - \$47.00 = \$423.$$

This means that, even though John is earning \$400 per month, he loses only \$47 in SSI payments, and his Medicaid coverage continues, John monthly income is \$823.

In late March, John reports to SSA that his employer has asked him to work longer hours and is also giving him a pay raise. John begins earning \$650 per month in April. He tells SSA that he likes working with animals so much that he would like to go to school to learn to be a dog trainer and groomer. He plans to save \$200 per month from his increased earnings so that he will have \$1,000 saved to pay for books and tuition by September when the course begins at a local vocational school. SSA helps John to write a plan for achieving self-support (PASS) so that SSA can exclude \$200 per month from the income SSA must use to figure his SSI payment for the months from April through August.

Additionally, John reports that working longer hours and earning more will increase his transportation costs and his taxes. He reports the following blind work expenses beginning with April:

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- Transportation . . . . . \$ 60.00
- Expenses for the care and feeding of his dog guide . . . . . \$ 30.00
- Taxes . . . . . \$ 67.50
- Total blind work expenses . . . . . **\$157.50**

Here is how SSA computes John's SSI payment beginning April: \$650 minus \$85 (for the earned income exclusion) equals \$565. SSA then excludes half of this amount:

$$\$565 \text{ divided by } 2 = \$282.50$$

From this amount SSA subtracts John's blind work expenses of \$157.50 leaving \$125.00 in countable income.

$$\$282.50 \text{ minus } \$157.50 = \$125.00$$

Then subtract the \$200 that John is setting aside each month under PASS:

$$\$125.50 \text{ minus } \$200 = \text{ZERO}$$

Because SSA was able to deduct so many of his work expenses, SSA does not have to count any of John's income so he now receives \$470.00, which is the maximum SSI payment he can get in his state. Even though John is earning \$250 more each month than he did in January, February, or March, his SSI check will increase from \$423 to \$470 because he has developed a PASS to allow him to go to school. His Medicaid coverage continues. John's total monthly income beginning in April is \$1,120.

John begins a four-month course to learn to be a dog groomer and trainer in September of 1996. His PASS ends in August because he has saved \$1,000 to pay for books and tuition, but now that John is a student and is under age 22, he can use the student earned income exclusion to reduce his countable income. He can exclude earnings of \$400 per month up to a maximum of \$1,620 annually. Since he will be in school for only 4 months in the calendar year, he can use the exclusion for each of these month without exceeding the \$1,620 annual maximum.

John continues to work for the veterinarian and receives another pay



raise which increases his earnings to \$750 per month beginning in September. His blind work expenses for transportation and care and feeding of his guide dog are unchanged, but his increased wages cause his taxes to go up \$10. His total blind work expenses beginning in September rise from \$157.50 to \$167.50 per month, including the \$10 additional tax.

Here is how SSA computes John's countable income while he is a student from September through December: from the \$750 of earnings, SSA subtracts \$400 for the student earned income exclusion:

$$\$750 - \$400 = \$350$$

SSA then subtracts the \$85 income exclusion from this amount:

$$\$350 - \$85 = \$265$$

SSA exclude half of this amount:

$$\$265 \text{ divided by } 2 = \$132.50$$

From this amount, SSA subtracts \$167.50 in blind work expenses, leaving zero countable income for September through December.

$$\$132.50 \text{ minus } \$167.50 = \text{ZERO}$$

John continues to receive \$470 per month from SSI in addition to his monthly earnings of \$750 and his Medicaid coverage continues.

John's total monthly income is \$1,220.00.

### **3. SPECIAL SERVICES FOR PEOPLE WHO ARE BLIND**

There are a number of services and products specifically designed to ensure that you are able to take advantage of your rights and exercise your responsibilities under the Social Security program.

#### **Social Security Letters**

You have the option of receiving letters and other correspondence

from Social Security by certified mail, by telephone, or in person. Just let Social Security know your preference.

### **Radio Reading Service**

Social Security provides special tapes of its publications to local radio stations that offer reading service for their blind and visually impaired listeners. To find out which stations in your area provide radio reading services, you should call Social Security office.

### **Library Of Congress (LOC) Talking Book And Braille Booklet**

The National Library Service for the Blind and Physically Handicapped of the Library of Congress (LOC) has prepared a “talking book” (a cassette recording) and a braille booklet for distribution to LOC’s network of 160 libraries across the country. The talking booklet and the braille booklet each contain information about SSA’s major programs: Retirement, Survivors, Disability, Medicare, and Supplemental Security Income. To find the LOC branch nearest you, ask your Social Security office or your local library.

### **Audio Cassettes**

The booklet “If You Are Blind . . .How We Can Help” is available on a cassette tape. Also the booklet “A Summary Guide to Social Security and Supplemental Security Income Work Incentives for People With Disabilities” (Publication No. 64-030), has been recorded on a cassette tape. This guide is designed to assist professionals in the public and private sectors who work with disabled or visually impaired people. Requests for these tapes should be directed to any Social Security office.

### **Publication Available In Braille**

The following publications are also available in braille. The first five are booklets that provide an overview of each of the major Social Security related programs.

- ✘ Retirement Benefits (Publication No. 05-10035)
- ✘ Survivors Benefits ( (Publication No. 05-10084)
- ✘ Disability Benefits (Publication No. 05-10029)
- ✘ Supplemental Security Income Benefits (SSI) (Publication No. 05-

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- ✘ Medicare (Publication No. 05-10043)
- ✘ Social Security--Understanding The Benefits (Publication No. 05-10024. A general but comprehensive overview of the Social Security program
- ✘ Working While Disabled--How We Can Help (Publication No. 05-10095. A simple explanation of the work incentives under Social Security and SSI for beneficiaries who want to work.
- ✘ How Social Security Can Help With Vocational Rehabilitation (Publication No. 05-10050). An overview of Social Security's role in helping people with disabilities receive vocational rehabilitation service.
- ✘ Working While Disabled (Publication No. 05-11017). A guide to plans for achieving self-support (PASS) while receiving SSI.
- ✘ When You Get Social Security Disabilities Benefits--What You Need To Know (Publication No. 05-10153). A guide to your rights and responsibilities while receiving Social Security disability benefits.
- ✘ When You Get SSI--What You Need To Know (Publication No. 05-11011) A guide to your rights and responsibilities while receiving SSI.
- ✘ A Summary Guide to Social Security And Supplemental Security Income Work Incentives For People With Disabilities (Publication No. 64-030)--Known as the "Redbook," it provides a more detailed and technical explanations of work incentives than the booklet "Working While Disabled--How We Can Help.)

## XIV. THE APPEAL PROCESS

Social Security wants to be sure that every decision made about your Social Security or Supplemental Security Income (SSI) claim is correct. SSA carefully considers all the information in your case before SSA makes any decisions that affect your eligibility or your benefit amount.

If SSA decides that you are not eligible or no longer eligible for benefits, or that the amount of your payments should be changed, SSA will send you a letter explaining SSA's decision, you can ask to look at your case again. This is called an "appeal".

### When and How to Appeal

If you wish to appeal, you must make your request **in writing within 60 days** from the date you receive SSA's letter. SSA assumes you receive the letter five days after the date on it, unless you can show SSA you received it later. Call Social Security office if you need help with your appeal.

### The Four Appeal Levels

There are four levels of appeal. They are: (1) reconsideration, (2) hearing by an administrative law judge, (3) review by the Appeals Council, and (4) federal court review.

**1. Reconsideration:** A reconsideration is a complete review of your claim by someone who did not take part in the first decision. SSA will look at all the evidence submitted when the original decision was made plus any new evidence.

Most reconsiderations involve a review of your files without the need for you to be present. But when you appeal a decision that you are no longer eligible for disability benefits because your condition has improved, you have a choice of a file review or meeting with a Social Security representative to discuss your case. You can meet with a disability hearing officer and explain why you believe you still have a disability.

### **Continuation Of Benefits**

In some cases, you may ask SSA to continue paying your benefits while SSA makes a decision on your appeal. You can ask for this continuation of benefits when:

- ✘ you are appealing SSA's decision that you are no longer eligible for Social Security disability benefits because your condition has improved, or
- ✘ you are appealing SSA's decision that you are no longer eligible for SSI payments or that your SSI payments should be reduced.

If you want your benefits to continue, you must tell SSA **within 10 days** of the date you receive SSA's letter. If your appeal is turned down, you may have to pay back any money you were not eligible to get.

**2. Hearing:** If you disagree with the reconsideration decision, you may ask for a hearing. The hearing will be conducted by an administrative law judge who had no part in the first decision or the reconsideration of your case.

The hearing is usually held within 75 miles of your home. The administrative law judge will notify you of the time and place of the hearing.

You and your representative, if you have one, may come to the hearing and explain your case in person. You may look at the information in your file and give new information.

The administrative law judge will question you and any witnesses you bring to the hearing. You or your representative may also question the witnesses.

It is usually to your advantage to attend the hearing. If you don't wish to do so, you must tell SSA in writing that you don't want to attend. Unless the administrative law judge believes your presence is needed to decide the case, he or she will make a decision based on all the information in your case, including any new information given.

After the hearing, SSA will send you a letter and a copy of the administrative law judge's decision.

**3. Review by the Appeals Council:** If you disagree with the hearing decision, you may ask for a review by Social Security's Appeals Council. SSA will be glad to help you ask for a review by the Appeals Council.

The Appeals Council look at all requests for review, but it may deny a request if it believes the hearing decision was correct. If the Appeals Council decides to review your case, it will either decide your case itself or return it to an administrative law judge for further review. You will receive a copy of the Appeals Council's decision or order sending it back to an administrative law judge.

**4. Federal Court Action:** If you disagree with the Appeals Council's decision or if the Appeals decides not to review your case, you may file a lawsuit in a federal district court.

### **Your Right To Representation**

Many people handle their own Social Security appeals with free help from Social Security. But you can choose a lawyer, a friend, or someone else to help you. Someone you appoint to help you is called your "representative." SSA will work with your representative just as SSA would work with you.

Your representative can act for you in most Social Security matters and will receive a copy of any decisions SSA makes about your claim.

Your representative cannot charge or collect a fee from you without first getting written approval from Social Security. If you want more information about having a representative, contact Social Security. SSA can give you a free factsheet called "*Social Security And Your Right To Representation*" (Publication No. 05-10075).

## **XV. OTHER THINGS ALL SSI RECIPIENTS SHOULD KNOW**

This section tells you other things you should know when you get SSI checks:

### **If You Disagree With A Decision SSA makes:**

If you ever disagree with a decision SSA makes about your checks, you have the right to ask SSA to look at it again. Whenever SSA sends you a letter about your SSI, SSA will tell you what to do if you disagree.

### **Your Right To Be Represented**

You have the right to be represented by an attorney, or other person of your choice, in any business you have with SSA. This does not mean you will need a representative. Most people handle their business themselves with the help of the people in the Social Security office. But, if you want somebody else to help you, SSA will be glad to work with your representative.

There are special rules about who may represent you and what representative may do. If you want more information, call SSA to get a copy of the factsheet "*Your Right To Representation*" (Publication No. 05-1007).

### **If A Social Security Employee Visits You**

If anyone comes to your home to talk about your SSI, ask for his or her identification. Anyone who is from Social Security will be glad to show you proper identification.

If you have any doubts about the person, you can call SSA to ask if someone was sent to see you. And remember: Social Security employees will never ask for money to have something done. It is their job to help you.

### **Free Social Security Services**

You never have to pay for information or service at Social Security. Some business advertise that they can provide name changes, Social Security cards, or earnings statements for a fee. All these services are provided free by Social Security. So don't pay for something that is free. Call SSA first. Social Security is the best place to get information about Social Security.

### **Social Services**

People who get SSI may also be able to get social services from the state they live in. These services include free meals, housekeeping help, transportation, or help with social problems. You can get information about services in your area from your state or local social services or welfare office.

### **Food Stamps**

People who get SSI can usually get food stamps, too. You can get a food stamp application at your Social Security office or local social services or welfare office.

### **A Special Note For People With Medicare**

If you get Medicare and have low income and few resources, your state may pay your Medicare premiums and, in some cases, other Medicare expenses such as deductibles and coinsurance. Only your state can decide if you qualify. To find out if you do, contact your state or local welfare office or Medicaid agency. For more general information about the program, contact Social Security and ask for a copy of the leaflet "Medicare Savings For Qualified Beneficiaries (HCFA Publication No. 02104.)"

### **Your Personal Information Is Safe With Social Security**

Social Security keeps personal information on millions of people. This information-such as your Social Security number, earnings record, age, and address-is personal and confidential. Generally, SSA will discuss this information only with you. SSA needs your permission if you want someone else to help with your Social Security business.



If you ask a friend or family member to call Social Security, you need to be with them when they call so SSA will know that you want them to help. The Social Security representative will ask your permission to discuss your Social Security business with that person.

If you send a friend or family member to SSA 's local office to conduct your Social Security business, send your written consent with them. Only with your written permission can Social Security discuss your personal information with them and provide the answers to your questions.

In the case of a minor child, the natural parent or legal guardian can act on the child's behalf in taking care of the child's Social Security business.

SSA urges you to be careful with your Social Security number and to protect its confidentiality whenever possible. Although SSA cannot prevent others from asking your Social Security number, you should know that your Social Security records are kept private.

There are times when the law requires Social Security to give information to other government agencies to conduct other government or health or welfare programs such as Aid To Family with Dependent Children, Medicaid, and food stamps. Programs receiving information from Social Security are prohibited from sharing that information.

For more information, visit or write any Social Security office. Or phone SSA's toll-free number: **1-800-773-1213**. If you think you may be able to get SSI, don't delay. Call today. SSA's toll-free telephone service is available 24 hours a day. You can speak to a service representative between the hours of 7 a.m. and 7 p.m. on business days. Whenever you call, have your Social Security number handy.

Recorded information and services are available 24 hours a day, including weekends and holidays.

People who are deaf or hard of hearing may call toll-free "TTY" number 1-800-325-0778, between 7 a.m. and 7 p.m. on business days.

The Social Security Administration treats all calls confidentially - whether they are made to SSA's toll-free number or to one of its local offices. SSA also wants to ensure that you receive accurate and courteous service. That is why SSA have a second Social Security representative monitor some incoming and outgoing telephone calls.

## **SOCIAL SECURITY RULES FOR DEEMING INCOME FROM PARENTS TO A DISABLED CHILD**

***Preliminary notes:*** Income received by a parent for providing In-Home Supportive Services (IHSS) to a disabled child is not counted as income for purpose of deeming - it is SSI exempt income. 20 CFR § 416.1161(a)(16). For more information about IHSS, call and ask us for a copy of bi-lingual manual on IHSS.

Social Security does not count as a resource parent's pension or retirement funds (such as IRAs, KEOGH, or tax deferred annuities for purpose of determining a child's SSI eligibility - even if the fund could be cashed in. 20 CFR § 416.1202(b). Social Security does not count resources used for self-support such as a small business inventory and operating account or tools, equipment, vehicle used for work. 42 USC §1382.b(a)(3).

The 1996 Welfare Reform legislation, P.L. 104-193, did two things that effect children with disabilities: (1) the disability definition is narrowed. (2) SSI benefits no longer start as of the date of application, but rather as of the first of the month following the month of application. While the 1996 welfare legislation said that legal residents will no longer eligible for SSI benefits after July or August of 1997 unless they meet one of the exemptions, the Balanced Budget Amendments, §§ 5301-5308 of P.L. 105-33, rescinded those provisions with respect to children and others receiving SSI on August 22, 1996, or lawfully present in the United States on August 22, 1996.

For general information about the SSI program, ask us to send you out bilingual manual on SSI.

**HOW TO DETERMINE HOW MUCH INCOME IS ATTRIBUTED OR DEEMED FROM THE PARENTS TO THE DISABLED CHILD AND HOW TO DETERMINE WHETHER THE DISABLED CHILD QUALIFIES FOR ANY SSI.**

Before getting to the actual procedures for calculating how much of a parent's income is attributed to the child and how you determine whether the child is eligible for any SSI and, if so, how much, you need to understand Social Security's "retrospective monthly accounting" system and your reporting obligations. Social Security counts only the income of the parent with whom the SSI child is living. Social Security does not count the income of a parent with whom the SSI child is not living. The income of a stepparent with whom the SSI child lives is counted.<sup>1</sup>

**Retrospective Monthly Accounting**

Social Security uses retrospective monthly accounting during a period of eligibility. 20 CFR §416.420. That means the income received in one month determines the amount of SSI two months later; the income received in January affects the amount of the March SSI check. However, if income is too high in one month to qualify for SSI, SSI is suspended as of that month. Thus, if income in January is so high that your child is ineligible for SSI, SSI is suspended as of January. Your child is entitled to automatic reinstatement without a new application if your income is low enough for your child to qualify for SSI in any of the subsequent 11 months.<sup>2</sup> 20 CFR §416.1323(b). If you go 12 months without your income dropping low enough for your child to qualify for any SSI, the suspension turns into a termination. 20 CFR §416.1335. Once your child has been terminated, you would have to file a new application for your child to get SSI again.

**Parent's Income Change Reporting Obligations**

To make the "Retrospective Monthly Accounting" work, Social Security has a rule that says you let the Social Security know by the 10<sup>th</sup> of the month if there is any change in income the prior month. 20 CFR §416.714<sup>3</sup>. If in January your income is more or less than your income in December, you must report the change so that Social Security knows about it by the 10<sup>th</sup> of February - *better if by the 5<sup>th</sup>* - You do not need to report if your income in January is the same as your income in December. When Social Security receives your income change report for January, Social Security will enter

the change information into the computer so that your March SSI check will be adjusted up or down to reflect the change in your January income.

We have attached a sample income change report form to help you meet the reporting obligations. We suggest that you partially fill in the attached report form by writing in the address of your Social Security Office and all the information after "re." Then photocopy many copies of the partially filled in form. Each month where there has been a change in income, write the date you are signing the form, the month you are reporting about, and the income information at the bottom. Then sign the form. Only one parent need sign the report form. Either photocopy the filled-on form or fill-in a second form as a copy for you to keep. Attach photocopies of any pay or check stubs to the report form you are sending to Social Security.

Attach the original to the copy you keep for your files. Do not send Social Security your pay stub originals, only copies<sup>4</sup>. Social Security often loses things sent to it in the mail. Keep the original pay and checks stubs attached to your copy of the report form so that Social Security may review the originals at the time of your annual review. On the income change report copy you keep, write down the date you put the letter in the mailbox.<sup>5</sup>

Keep a copy of everything you send to Social Security. Write down the date you talked, to whom you talked, and what was said. We recommend you three-hole punch what you receive from Social Security and copies of what you send to Social Security and put everything in a notebook.

### **Doing The Calculations**

The parent-to-child deeming regulations, as amended by 57 F.R. 18559 (10/27/92), are founded at 20 CFR §§ 416.1161, and 416.1165. "Earned Income" includes wages and salary or income from self-employment.<sup>6</sup> Everything else is "Unearned income." Gifts, unemployment benefits, state disability benefits, Social Security benefits and interest payments on a savings account are all examples of unearned income. You combine the parents' unearned income. You also combine the parents' earned income. For earned income you count the gross income, not what you take home. Gross income is the amount you earned before any deductions.

Social Security start by deducting an allocation for each nondisabled child in the family other than the disabled SSI child or children<sup>7</sup> You deduct

the allocation first from any unearned income and then, to the extent the allocation has not been used up, from the earned income. "Child" for purposes of the deduction includes children below the age of 21 living in the same household. 20 CFR § 416.1160(d). The allocation for each nondisabled child is the difference between the individual Federal Benefit Rate (FBR) and the couple FBR. (Federal Benefit Rate is that part of the SSI check that comes from the federal government, the rest of the SSI check represents state money.)<sup>8</sup>

After deductions for nondisabled children in the home, you next deduct the \$20.00 any-income disregard first from unearned income (if any or if any remaining) and then, to the extent the deduction is not used up by the unearned income, from the earned income. Next come special deductions for earned income -- first \$65.00 and then 50% of the balance. The remaining unearned and earned income amounts are added together. From the total you deduct either the individual FBR (if a single parent) or the couple FBR (if both parents or parent and stepparent are in the home). The balance is deemed to the disabled child as the child's unearned income. If there is more than one disabled child in the family, the amount deemed is divided among them.

The child's SSI grant is determined the same way as that of any SSI recipient with two exceptions. First, only two-third of any child support is counted. 20 CFR § 416.1124(c)(11). Second, if the child is a student, Social Security does not count the first \$400 in the earned income each month up to a yearly maximum of \$1,620. 20 CFR. § 416.1112(c)(2). This is in addition to the deduction applicable generally to earned income.

### **Examples of the Application of the Deeming Rules**

Attached is a blank worksheet. You may wish to make several copies of the worksheet to use in calculating the amount of your child's SSI. In addition, we have attached two worksheets which have been filled out in accord with examples "A" and "B". The calculations are based on 2000 benefits amounts. The numbers and letters below correspond to the numbers and letters on the deeming sheets.

**Example A:** Mr. and Mrs Apple have three children including Adam who has a disability. Mr. Apple's gross earned income is \$1,890.00 a month. Mrs. Apple works part-time and her gross income is \$470.00 a month. They also have a savings account that pays monthly interest of \$5.50.

**Calculating Amount of Parent's Income to Attribute to SSI Child in Example A:**

10. Enter \$5.50 which is the unearned income from the savings account.
11. There are two children in the family in addition to Adam. They have no income of their own in the example. The 2000 allowance for nondisabled children in the family is \$257 each. The total allowance for the nondisabled children is \$514 which is entered.
12. There is no unearned income from which to take the any-income deduction.
13. The total countable unearned income is of course zero.
14. The combined total gross earned income for both Mr. and Mrs. Apple is \$2,360.00 (\$1,890.00 plus \$470.00).
15. The balance of the allowance (#1 minus #2) for the nondisabled children in the family is \$508.50.
16. Since you did not reach the \$20.00 any-income disregard in number 3 above, the full \$20.00 deduction is entered here.
17. You next deduct the \$65.00 earned income deduction.
18. Your subtotal is \$1,766.50 (\$2,360 less \$508.50, less \$20.00, and less \$65.00)
19. You enter \$883.25, which is one half of number 9.
20. Your total countable earned income is \$883.25
21. Since there is no countable unearned income from number 4 above, the total countable income is also \$883.25.
22. The Federal Benefit Rate for a couple in 2000 is \$769.00
23. The amount deemed to the disabled child is the total countable income less the couple FBR or \$114.25.

**Calculating Child's Grant in Example A:**

- a. In 2000 the grant level for a disabled SSI child is \$593.00.
2. The amount deemed is \$114.25 and there is no other unearned income (such as Title II Social Security dependent benefits).
3. There is no child support in this example.
4. You deduct the \$20.00 any-income disregard from the child's income
5. The child has no earned income in this example.
6. The child 's total countable income is \$94.25 (\$114.25 less the child's allowable \$20.00 any-income deduction).
7. The child's SSI check would be \$498.75.

**Example B:** Betty Barton is a single parent with a disabled child. Bill. Bill receives \$150.00 a month in child support from his father. Ms. Burton earns \$2,000 a month before any deductions.

**Calculating Amount of Parent's Income to Attribute to SSI Child in Example B:**

1. -4 In the example there is no unearned income.
5. The gross earned income is \$2,000.00 a month.
6. In the example there are no other children in the family.
7. Since there was no unearned income, deduct the full \$20.00 any-income disregard here.
8. You next deduct the \$65.00 earned income deduction.
9. The subtotal is 1,915.00 -- \$2,000.00 less \$20.00 (# 7) and \$65.00 (# 8) disregards.
10. Less one half of \$1,915.00 or \$957.50.
11. The total countable earned income is \$957.50.
12. The total countable income is\$957.50 since there is no unearned income in the

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example.

13. The Federal Benefit Rate for a single parent in 2000 is \$512.00
14. The amount deemed to Bill is \$445.50, the difference between \$957.50 and \$512.00 ( $\$957.00 - \$512.00 = 445.50$ ).

**Calculating Child's Grant in Example B:**

1. The Child's grant level is \$593.00.
2. The amount deemed is \$445.50. There is no other unearned income.
3. In the example Bill receives \$150.00 a month in child support from an absent parent. Social Security deducts one-third of the child support so that \$100 is entered.
4. You deduct the \$20.00 any-income disregard from the child's income.
5. In the example the child has no earned income.
6. The child's countable unearned income is \$525.50 (\$445.50 plus \$100.00 less \$20.00).
7. The child's SSI grant is \$67,50 (\$593.00 less \$525.50).

	<b>1998</b>	<b>1999</b>	<b>2000</b>
Individual FBR	\$ 494.00	\$500.00	\$512.00
Couple FBR	\$ 741.00	\$ 751.00	\$ 769.00
Income deduction Non-disabled Child	\$247.00	\$ 251.00	\$257.00
SSI Disabled Child Rate	\$557.40	\$ 579.00	\$ 593.00
SSI Blind Child	\$ 795.40	\$ 732.00	\$749.00



**EXAMPLE A**  
**Monthly Parent-Child SSI Deeming Worksheet**

Parents' Income:		
1. Unearned income	\$ 5.50	
2. *Less allowance for other children	\$ 514.00	
3, Less \$20 any-income disregard	\$ 20.00	
4. Total countable unearned income		\$ 0.00
5. Gross earned income	\$ 2,360.00	
6.* Less balance for other children (2 minus 1)	\$ 508.50	
7. Less balance of any-income disregard	\$ 20.00	
8. Less \$65.00 earned income disregard	\$ 65.00	
9. Subtotal	\$ 1,766.50	
10. Less one half (50%) of # 9	\$ 883.25	
11. Total countable earned income		\$ 883.25
12. Subtotal - countable earned income		\$ 883.25
13. ** Less individual or couple FBR		\$ 769.00
14. *** Amount deemed to disabled child		\$ 114.25
<b>Calculating Child's Grant</b>		
a. **** Child's SSI Grant Level		\$ 593.00
b. Amount deemed from #14 above plus other unearned income	\$ 114.00	
c. + 2/3 of any child support	-----	
d. Less \$20.00 any-income disregard	\$ 20.00	
e. ++ Countable earned income	-----	
f. Child's total countable income		\$ 94.25
g. Child's SSI grant		\$ 498.75

**EXAMPLE B**  
**Monthly Parent-Child SSI Deeming Worksheet**

Parents' Income:		
1. Unearned income	\$0.00	
2. *Less allowance for other children	\$0.00	
3, Less \$20 any-income disregard	\$ 20.00	
4. Total countable unearned income		\$ 0.00
5. Gross earned income	\$ 2,000.00	
6.* Less balance for other children (2 minus 1)	\$0.00	
7. Less balance of any-income disregard	\$ 20.00	
8. Less \$65.00 earned income disregard	\$ 65.00	
9. Subtotal	\$ 1,915.00	
10. Less one half (50%) of # 9	\$957.50	
11. Total countable earned income		\$ 957.50
12. Subtotal - countable earned income		\$ 957.50
13. ** Less individual or couple FBR		\$ 512.00
14. *** Amount deemed to disabled child		\$ 445.50
<b>Calculating Child's Grant</b>		
a. **** Child's SSI Grant Level		\$ 579.00
b. Amount deemed from #14 above plus other unearned income	\$ 445.50	
c. + 2/3 of any child support	\$ 100.00	
d. Less \$20.00 any-income disregard	\$ 20.00	
e. ++ Countable earned income		
f. Child's total countable income		\$525.50
g. Child's SSI grant		\$ 67.00

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**MONTHLY PARENT-CHILD SSI DEEMING WORKSHEET**

Parents' Income:		
1. Unearned income	\$	
2. *Less allowance for other children	\$ -----	
3, Less \$20 any-income disregard	\$ 20.00	
4. Total countable unearned income		\$ 0.00
5. Gross earned income	\$ -----	
6.* Less balance for other children (2 minus 1)	\$0.00	
7. Less balance of any-income disregard	\$ 20.00	
8. Less \$65.00 earned income disregard	\$ 65.00	
9. Subtotal	\$ -----	
10. Less one half (50%) of # 9	\$ -----	
11. Total countable earned income		\$ -----
12. Subtotal - countable earned income		\$ -----
13. ** Less individual or couple FBR		\$ -----
14. *** Amount deemed to disabled child		\$ -----
Calculating Child's Grant		
a. **** Child's SSI Grant Level		\$ -----
b. Amount deemed from #14 above plus other unearned income	\$ -----	
c. + 2/3 of any child support	\$ -----	
d. Less \$20.00 any-income disregard	\$ 20.00	
e. ++ Countable earned income	\$ -----	
f. Child's total countable income		\$ -----
g. Child's SSI grant		\$ ----- -

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\* Allowance for each disabled child is \$247.00 in 1998, \$251.00 in 1999 and \$257 in 2000. Amount of deductible for other children may be reduced by child's income. Deductible not used in #2 would be deducted against earned income in # 6.

\*\* The individual FBR (federal benefit rate), in 1998: \$494.00, in 1999: 500.00 and in 2000: \$512.00. Couple FBR in 1996: 705.00, in 1997: 726.00, in 1998: \$741.00, in 1999: \$751, in 2000: \$769.00.

\*\*\* If more than one disabled child, the amount deemed is divided among the disabled children.

\*\*\*\* California SSI disabled child rate in 1998 \$557.40, blind child \$705.40; in 1999 child rate \$579.00, blind child \$732.00; 2000 child rate \$593.00; blind child rate \$749.00

+ Only two-thirds of child support is counted.

++ The first \$400.00 per month up to \$1,620.00 a year of a student's earned income is not counted. In addition, children have all the deductions for earned income available to adults.

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**LETTER TO REPORT CHANGE IN INCOME**

Date: \_\_\_\_\_

Social Security Administration  
District Office

\_\_\_\_\_

Subject: Child's name: \_\_\_\_\_

Child's SS number: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

I am (We are) the parent(s) of the above child. This is a report of a change of income for the month of \_\_\_\_\_. If the income change will change the amount of my (our) child's SSI check, please let me (us) know.

I (We) swear under penalty of perjury that the accounting in this report is true and correct and any copy attached is an exact copy of the original. Signed at the date and place indicated above.

\_\_\_\_\_  
Father

\_\_\_\_\_  
Mother

**PARENTS' EARNED INCOME**  
Photocopy of Pay Records/Paystub Attached;

Originals are being kept for SSA inspection at the annual review

Employer: \_\_\_\_\_ Amount/date received: \$  
\_\_\_\_\_

Amount/date received: \_\_\_\_\_ received: \_\_\_\_\_ Amount/date

**UNEARNED INCOME**

Source: \_\_\_\_\_ Amount/date received:  
\_\_\_\_\_

## CHANGES IN LAW AND SOCIAL SECURITY POLICIES

Following are some changes in law and Social Security policies:

### **SGA Limit Rises to \$700**

As of July 1, 1999, the earning limit the Social Security Administration (SSA) uses to determine whether you are engaging in substantial gainful activity (SGA) went up to \$700 a month. It had been \$500 a month. The increase applies to both Title II and Title XVI. It is part of SSA's incentive program to encourage people with disabilities to try to work. Different rules apply if you are blind.

Increasing the SGA level to \$700 means that:

- if you work and apply for Supplemental Security Income (SSI), Social Security Disability Insurance, or Disabled Adult Child (DAC) benefits, you can earn more money without SSA presuming that you are ineligible for benefits; and
- if you already get DAC, or SSDI benefits, and you return to work, you can earn more money without losing your right to benefits during and after the extended period of eligibility.

### **Retroactive SSI benefits**

When you are found eligible for SSI, your SSI benefits will no longer be retroactive to the date of application. Instead, SSI will begin the first of the month following the date of application. If you applied December 15, and were found eligible, your retroactive benefits would go back to January 1, not December 15. Similarly, if you were found presumptively eligible for benefits for 6 months while the disability determination was being made, those benefits could not begin until the first of the following month.

### **Special State Cash Assistance Program For Immigrants (CAPI)**

The CAPI program provides cash assistance to some elderly and disabled immigrants who may not be eligible for federal SSI because of changes in the law. Specifically, you will be eligible for CAPI if you meet the SSI income rules and you are:

- an immigrant who is 65 years and older who entered the U.S. before 8. 22. 1996 and is now lawfully residing in the U.S.;
- A PRUCOL (Person Residing Under Color of Law) immigrant who is 65 years or older or disabled who entered the U.S. before August 22, 1996; or
- A legal permanent resident who legally entered the U.S. after August 22, 1996 and who has a sponsor who is disabled, deceased or abusive. Your sponsor's income will still be deemed if your sponsor is disabled or abusive, even if that income is unavailable to you.

You can apply for CAPI at the county welfare department. Getting CAPI benefits will not hurt your chances to become a U.S. citizen unless you get the benefits fraudulently.

**SSI Eligibility and Citizenship: *If you were getting SSI on August 22, 1996, you will continue to get SSI.***

On October 9, 1998 Congress passed the "Noncitizen Benefit Clarification and Other Technical Amendments Act of 1998." This Act extends eligibility of "non qualified aliens" who were receiving SSI on August 22, 1996, *indefinitely* on the same basis as citizens.

You can apply for and get SSI even if you are not a U.S. citizen if you:

- (1) are a legal permanent resident,
- (2) were living in the U.S. on August 22, 1996, and
- (3) meet the SSI disability requirements.

On August 22, 1996, Congress passed a Welfare Reform law. This law said that only U.S. citizens were eligible for SSI, and that all legal immigrants would lose their SSI the following year. This law was devastating for many people because it meant they would lose the only

source of income they had. PAI joined other agencies and people who worked very hard to overturn this law. As a result, on August 5, 1997, Congress passed the Balanced Budget Act, an amendment to the Welfare Reform law. The amendment says that legal residents who were living in the U.S. on August 22, 1996, can apply for and get SSI, if they meet the SSI disability requirements.

*If you are an elderly or disabled immigrant and you apply for SSI keep in mind that you may be able to get CAPI benefits while you wait for your application to be processed.*

### **Special notes for asylees and refugees.**

People who are asylees or refugees are eligible to receive SSI for seven years from the day they received their asylum or refugees papers.

If you are a legal resident who applied for SSI, but Social Security sent you a notice saying that you could not get SSI because you were not a U.S. citizen, you should contact Social Security immediately to get your application “readjudicated” or “reopened.”

After August 22, 1996. Social Security denied every application for SSI from non-citizen applicants. However, because of the Balanced Budget Act, people who got a written denial can get their application processed now. This is called getting your application “readjudicated” or “reopened.” Social Security will look at your original application to make sure that they have all the information they need to make a decision. If they don’t have everything they need, Social Security may ask you to go to a doctor or psychiatrist for a disability evaluation. You will not have to pay for this evaluation, and if you need an interpreter Social Security must provide one free of charge. If you have already been evaluated you should tell Social Security, and make sure that they have a copy of that evaluation in your application file.

Some people get a “come-in to our office” letter from Social Security instead of a denial letter. If you got a letter like that, where Social Security asked you to call or come in to have your original SSI application reviewed, and you responded to that letter within 30 days from the date on the letter,



you can also get your application readjudicated or reopened. If you did not respond to your “come-in” letter within 30 days but have “good cause” for not responding you should still contact Social Security right away and ask for your application to be readjudicated/opened. “Good cause” means you had a good reason for not responding. Examples of good cause are not receiving a notice, not understanding a notice due to your disability or because the notice was sent in a language you did not understand, illness or family death. Be prepared to show documents or bring witnesses to help you explain the reasons why you could not respond to Social Security within 30 days.

Once your application for SSI is approved, your check will be calculated from the first day of the month after the date when you first applied. For example, if you originally applied on June, 1996, were denied by Social Security in September 1996 and then SSA readjudicated/opened your application and approved it on February 1, 1997, you will get benefits back to July 1, 1996, the first day of the month after the date when you first applied.

*Remember: Social Security will not readjudicate or reopen your SSI application unless you ask them to.*

If you do not have “good cause” for failing to respond to the “come-in” letter, or never applied for SSI, you will have to complete a new SSI application. If you were eligible to receive SSI, you will get benefits back to the first day of the month after your new application.

If you went to Social Security to apply for SSI on or after August 22, 1996, but they would not let you fill out an application because you were not a U.S. citizen, you can have your application reopened even if you did not receive a denial letter.

After August 22, 1996, many non-citizens tried to apply for SSI but Social Security would not let them fill out an application and told them that they were not eligible. These persons never got a written denial. Social Security considers these persons as having got “informal denial.” If you think that you got an informal denial, you should go to your Social Security office right away and ask that your case be reopened.

To prove that you received an informal denial, you must bring a signed statements explaining what happened on the date you tried to apply.

Be sure to include the name of the person that you spoke to at Social Security, if you have it. If you don't have the Social Security workers name, describe what they look like. You can bring you own statements as well as statements of friends, family members, social workers or medical personnel.

Bring statements of anyone who went with you to Social Security, or who talked with you either right after or right before you tried to apply, and can help you prove that you got an informal denial.

The date when you got the informal denial is the date Social Security will use as your 'deemed filing' date. This means that Social Security will use that date as your application date. If Social Security later approves your application, your eligibility for benefits will date back to the first day of the month after your deemed filing date.

*Remember: if you got an informal denial, Social Security will not reopen your case unless you ask them to.*

If you have PRUCOL status and applied for SSI *before* August 22, 1996, but were denied because you were not a U.S. citizen, you can get your application readjudicated/ reopened.

If you are a PRUCOL who applied for SSI before August 22, 1996, and were denied because you were not a U.S. citizen, you can now get SSI. You should have gotten a notice from Social Security telling you this but you may not have. Go to Social Security to have your application readjudicated/reopened. It does not matter if you were turned down for benefits verbally or in writing.

PRUCOL is not an immigrant status with INS. It is a special eligibility category for benefits. Before the Welfare Reform law was passed, persons who met the PRUCOL requirements were eligible to receive SSI like legal residents and U.S. citizens. Unfortunately, the Welfare Reform law eliminated PRUCOL category altogether. You cannot get SSI if you have this status and applied for SSI on or after August 22, 1996. However, if you applied before that date you are eligible to receive SSI and can continue to

receive SSI indefinitely under the recently passed Non-Citizen Benefit Clarification and Other Technical Amendments Act of 1998 (see above). ( You can also get continued benefits by or changing your immigration status, for example, by becoming a legal permanent resident.)

If you want to change your immigration status, you should talk to someone who knows a lot about immigration. PAI also has a publication that can help explain the special issues faced by people with disabilities.

You might be eligible to change your immigration status right now but do not know it. PAI recommends that you talk to an immigration agency or attorney as soon as possible. It usually takes at least a year to get all the papers processed in order to get the INS to change your status; so the sooner you start the better.

If you are receiving SSI, it is very important to tell Social Security as soon as your immigration status changes. Once you change your status, you will become eligible for SSI indefinitely, provided that you continue to meet the SSI disability, income and resource requirements.

Call 1-800-776-5746 to ask PAI for the 2<sup>nd</sup> edition of its Mini-Manual, "How Immigrants with Disabilities Can Become Citizens." The new manual includes an explanation of the new regulation under which persons with disabilities (including seniors) can proceed in their own language and waive the testing.

#### **New SSI Disability Standard for Children:**

Attached is information about changes in the disability standard for children. Social Security reviewed the cases of many children after the changes took effect, targeting children whose files did not contain enough information to show that they met the new definition. New eligibility determination were made for each of these children after Social Security got and reviewed additional information about them. This include information from a questionnaire that family members were asked to fill out. These questionnaires are also used by Social Security in determining a child's initial eligibility for benefits, and during continuing disabilities reviews for children.

If you get a questionnaire from Social Security to fill out for your child, you should give specific examples of problem behaviors and emphasize the following to the extent they apply to your child:

- need for close supervision beyond what is required because of child's age. Does your child have an aide at school? Describe the things you intervene to prevent.
- need for prompting through a series of tasks or need for prompting to keep on task. A child may be able to do all the self-help tasks involved in getting ready in the morning but needs prompts to go from one task to another. You and your child's teacher may report that the child needs to have his attention brought back to his task every few minutes.
- Isolation and inability to make or keep friends. Be concrete and specific. Social Security is looking for severe limitations.
- Is the disability problems episodic? Describe absences and hospitalizations due to the disability. What is involved in the treatment (time, frequency) including treatment to prevent hospitalization and absences -- such as pulmonary treatment for children with cystic fibrosis.
- Are there multiple disability problems? Describe how they interact to produce severe limitations.
- Are there side effects to any medications your child is taking? What are they and how do they affect functioning?

Request reconsideration if your child is denied eligibility for benefits after applying or after a review. If your child is getting SSI, her/his benefits will continue if you request for reconsideration is within 15 days of the date on the termination notice and you ask for continued benefits. On the reconsideration request put under "reason":

*"My child is disabled. I am getting more information. Call and tell me where to send the additional information."*

You should get help from others in collecting information to show that your child meets the new definition of disability. If your child is a regional center client, talk to your counselor about getting help in documenting that

he/she qualifies under the new definition. If your child gets help from a CCS special care center, or County Mental Health clinic, alert the social worker or liaison nurse at the special care center or mental health clinic that you need their help. When you go the Social Security office for your appointment, give the name, address and phone number of your regional center counselor or other person who can help get the medical record and other documentation that your child is, or continues to be, eligible for SSI. You can turn a “no” into “yes” at reconsideration with additional information about your child’s disability.

If your child is denied benefits at reconsideration, file for a hearing within 15 days of the date on the notice.

#### **New Rules For Disability Reviews of Children:**

Any child who qualifies for benefits based on the basis of low birth weight will be reviewed within 12 months measured from the child’s birth. Other children who are expected to improve will be reviewed annually. In both cases, the parent or representative payee has to show as part of the review process that the child received medically recommended treatment services.

#### **Money In A Child’s Dedicated Savings Account Is Exempt.**

When a child gets retroactive SSI benefits that total more than six months worth of benefits, that money must be put in a special account and used for limited purposes - the way you would use a special needs trust or a PASS account. Both the resources in the account and any interest income are exempt, and not considered countable income. The money in this “Dedicated Savings Account” will stay exempt even after the child turns 18 years of age.

#### **More Disability Reviews Of Current Beneficiaries:**

Social Security is required to review the cases of current beneficiaries -- persons receiving SSI and/or Social Security Disability benefits -- in most case every one to three years to see if they have medically improved so that they are now able to work. However, because of other demands and limited

funds, this was not happening. In 1996, Congress earmarked funds to increase the number of current SSI and Social Security Disability beneficiaries reviewed each year. Review are still occurring on a regular basis because of that funding.

It is important that your doctor respond to requests for information from Social Security about your continuing disability. Your doctor should explain his or her conclusions about your disability in detail. In addition, your doctor should compare your condition now with your condition at the time you were found eligible for benefits or the time of your last favorable review. The opinions of your treating doctors are very important, because they know you the best.

#### **State Ends Telephone Dictation Service for Treating Doctors:**

The State Disability Evaluation Division, the State agency that develops the evidence and makes the disability determination under contract with Social Security, used to have a service where your doctor could dictate a report to be used in the disability determination. The State has eliminated that.

#### **Social Security Issued Revisions to the New Rules For Plans For Achieving Self-Support:**

In April 1996, Social Security issued new internal rules on Plans for Achieving Self-Support (PASS). These new rules make it more difficult to get plans approved. They say that you cannot use a PASS to make payments on a car and discourage people who only receive Title II from applying for a PASS. One good thing about these rules is that they say that PASS can be extended to more than four years to accommodate a person's disability and give them the time they need to finish their plan.

On December 1, 1997, Social Security issued revisions to the April 1996 rules in response to complaints by consumers and advocacy groups. The revisions say that from now on PASS Specialists will presume an individual's occupational goal to be feasible unless there is evidence to the contrary. These revisions also say that PASS occupational goals are no longer limited to "entry level" positions; that PASS money can be used for installment payments; and describe circumstances where consumers can get retroactive amendments when they did something different then what

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was in their plan.

Under the December 1997 revisions, anyone whose PASS was terminated or denied after March 1996 was contacted by Social Security, informed of the revisions to the new rules and invited to submit a new PASS.

## ENDNOTES

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1. Although Social Security counts the income and resources of a stepparent for purpose of SSI, the state Medi-Cal (Medicaid) agency cannot. 42 USC § 1396a (a)(17)(D). For a child, the Medi-Cal program only looks to the income and resources of the parent and child. If your child does not qualify for SSI because of the income and resources of a stepparent, apply for “ABD” Medi-Cal for your child at your County Welfare office. Explain that your child is a *Sneede* case.
2. To get your child’s SSI start again, write or go into your local Social Security Office to report the reduction in income. You should specifically ask that SSI be reinstated. If you request reinstatement by mail, we suggest you do so by certified mail.
3. Income change is not the only thing you need to report. See 20 CFR §416.708. You need to tell Social Security if you move, if your disabled child or non-disabled children go to live elsewhere, if a parent marries or one of the parents moves out of the home, etc..
4. Some parents have reported that local offices tell them that Social Security cannot accept photocopies. That is not correct. In the income change letter you swear under penalty of perjury that the photocopies are true copies of the originals.
5. Some families report that their Social Security office tells them they do not need to send in monthly income change reports, that Social Security will make the adjustments after the fact at the time of the annual review. Sometimes it is correct when Social Security arranges for your benefits to be adjusted in line with anticipated fluctuations in your income. If paid weekly, you receive five instead of four paychecks in some months; if paid every two weeks, you receive three rather than two paychecks in a month twice a year. At the time of the annual review Social Security may program in anticipated income fluctuations for the coming year. However, unless Social Security give you something in writing saying you are not to report changes in income, you must send in the income change reports. If you do not and there is an overpayment as a result, Social Security will say that you are at fault because you did not report the income changes.
6. If you are self-employed, Social Security wants to know your adjusted gross



income. 20 CFR § 416.1110(b). Bring to Social Security your income tax return from last year together with information about your gross receipts this year. Social Security will look to your income tax return last year as a yardstick for estimating your adjusted gross income this year. If your gross receipts last year was \$40,000 but your adjusted gross income (what you paid taxes on after IRS allowable business deductions) was \$18,000 or 45% of your gross receipts, Social Security would estimate that your estimate that your adjusted gross income this year would be 45% of this year's gross receipts. Because self-employment income is determined on an annual basis which is then evenly divided over the 12 months in accord with 20 CFR § 416.1111(b), you will be using estimates subject to adjustment when you prepare your income tax return. Social Security does not count as a resource property necessary for self-employment. 42 USC § 1382(a)(3). That can include inventory, computers, farm equipment and livestock, farmland, separate business accounts, etc.

7. The allocation for nondisabled children in the family may be reduced by the child's own income. However, a student's income of up to \$400 a month to \$1,620 a year maximum is not counted. If the nondisabled child's own countable income is above the allocation amount, the nondisabled child's income does not affect the deeming process or the SSI child's benefits.

8. Because of retrospective month accounting calculations for income received in November and December should use the Federal Benefit Rate for the following year. This is because the SSI check received in January and February is supposed to reflect income received and deemed in November and December of the prior year.