ABCs of SSI

Part 1 of a continuing series
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The SSI program can be very difficult to understand for parents of children with disabilities. Last month's Special Needs Alliance column discussed why Harry and Sally's son Bill, who was eligible for Supplemental Security Income (SSI), could use a Special Needs Trust. This month, we will describe the SSI program in more detail with examples of how it might apply to your own family.

Due to parental assets and income, many minor children with disabilities cannot become eligible for Social Security Income (SSI). Given this, why should you be interested in SSI eligibility details at this time? Once your child reaches the age of 18, only his or her own resources and income count. Planning for your child's future SSI eligibility should start now.

SSI is a "needs based" cash payment program, which means that not only must your child meet the Social Security definition of disability or blindness, but benefits will only be paid if resource and income limitations of the program are met. Many states also provide automatic Medicaid eligibility if any amount of SSI is paid. SSI is a different program than Social Security Disability Benefits, Child's Benefits, Disabled Adult Child's Benefits, or the other Social Security insurance programs based upon the family relationship of a child to a worker covered by Social Security. We will describe how to meet the disability definition and eligibility for the insurance benefit programs in future articles.

Resource Limits
Only limited resources are allowed for SSI eligibility. "Resources" are something that the recipient keeps from month to month and has an ownership interest in. There is a limit of $2,000 for an individual for "countable" resources. Examples of resources include bank accounts, IRA's, savings bonds or stock, real estate and anything else that could be turned into cash, goods, or services used to support the person with special needs. Some resources that are "non-countable" against the $2,000 limit include the principal residence, a vehicle, household furnishings and supplies, a burial contract and gravesite, assets in certain trusts and property or goods necessary for work.

Income Limits
Income must also be limited in order to receive SSI benefits. "Income" is something of value that the person receives in a particular month that can be used to provide support, food, clothing, or shelter. Income does not have to be cash. It can be a Social Security insurance benefit, room and board, trust distribution, insurance settlement, annuity payment, child support or alimony, earnings, or anything else that is received of value. Some types of income are not counted at all and include many governmental needs based benefits such as Emergency Aid or General Relief, Medicaid, Food Stamps and Section 8 housing.

A certain amount of income received each month that is countable is then excluded, meaning that it won't count against eligibility or reduce SSI benefits. A person is allowed to not count the first $20 of regular income per month that is "unearned." Unearned means that it is any income not paid as earnings for work. "Earned" income is payment for work, and the first $65 plus one-half of the remainder per month may also be excluded. A working child with disabilities under age 22 who is a student, and any recipient with work related expenses or in a special approved work program, is allowed an additional earned income exemption. If a person does not fully spend or use the income in the month received, the remainder becomes a resource the following month.

For example, 25-year-old Bill receives a Social Security Disabled Adult Child's Insurance Benefit of $300 per month through his disabled father's own Social Security record. Bill also has a small bank account providing $10 in monthly interest, receives Food Stamps, and has a job in which he grosses $200 per month. His “countable” income for SSI purposes is $280 from the Social Security ($300-$20.), $10. from the interest, $0 for Food Stamps, and $67.50 from the work earnings ($200-$65= $135/2 = $67.50). Bill’s total countable income for SSI would be $357.50.

Parent’s Assets and Income Count

Resources and income belonging to parents who live in the same household of a child under age 18 are also counted against the child’s SSI eligibility. This is called income and resource “deeming.” Some income that the parents receive does not apply to the calculation and allowances that are given for the parents and other non-disabled children. Examples of non-countable income include other public needs based benefits, foster child payments, housing assistance and the same earned and unearned income exemptions that the child with disabilities would receive. There is a special exemption— a “waiver”—in which all of the income and resources of the parents of a minor would not be counted if the child could otherwise qualify to be institutionalized except for the extraordinary efforts of the parents to keep the child at home.

As an example of how income deeming works, assume that Bill is now age 16 and he lives with his parents, Harry and Sally, and two younger siblings who are not disabled. Harry and Sally pay for all of Bill’s food, clothing and shelter costs from their own income. Harry receives $3,000 in gross monthly work income. First subtract a credit of $564 allocated to the other two children, leaving a balance of $2,436. Next subtract the earned and unearned income exclusions ($65 and $20), and then exclude one-half of the remainder. This is calculated as $2,436-$85 = $2,351, and $2,351/2 = $1,175.50. Now subtract Harry and Sally’s parental living allowance of $846 and the remainder of $329.50 of Harry’s income is deemed to Bill as countable income for his SSI eligibility benefit amount calculation.

SSI Benefit Amount

The actual SSI monthly benefit is calculated by subtracting countable income from a benefit level category that differs depending on the “living arrangement” that the eligible person lives in. For example, in 2004, the monthly full “federal benefit rate” (FBR) for a disabled or blind person “living alone” or proportionally “sharing” living expenses is $564. It is $376 if the person is “living in the household of another,” whereas this category applies to most children with disabilities who live in their parent’s home with the parents fully providing the child’s maintenance needs. Most states “supplement” the federal benefit rate by varying amounts depending on the living arrangement.

In Bill’s case, by using the income example above with countable income of $329.50, his federal SSI benefit would be $46.50 ($376-$329.50). What would happen if upon reaching age 18 Bill decided that he would pay his proportionate share of his own maintenance costs from his SSI benefit? He would be entitled to a monthly benefit of $564 from the “shared living” category. Since parental deeming no longer applies because Bill has reached age 18, he would receive the full benefit payment without reductions caused by counting his parent’s income. However, he would also have to show that he reasonably paid his share of household expenses, or have his benefit reduced due to “in-kind” income from the parents.

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In-kind Income

“In-kind” income is a good or service of value provided by another party for the benefit of the SSI eligible person. For example, it might be direct payment on behalf of the SSI recipient for medical or education services, shelter costs, transportation, clothing, rent, household goods, a vehicle, or food. Provision of food, clothing, or shelter is called “in-kind support and maintenance” or ISM. If the payment is not for ISM, it will not reduce or otherwise affect the monthly SSI benefit. If ISM payments are made on behalf of a recipient, the SSI benefit in the full FBR categories will be reduced dollar for dollar up to one-third of the current full FBR, or up to $188 per month.

The maximum ISM reduction is called the Presumed Maximum Value (PMV). The recipient's SSI will only be reduced by the lesser of the actual ISM or the PMV. The actual PMV reduction from a monthly benefit is $208 because the $20 unearned monthly exclusion is added to the one-third FBR of $188. Therefore, if the ISM were more than $208 per month, the reduction would be capped at $208. For those SSI recipients who are already in the reduced "living in the household of another" category, the PMV would never apply and their benefits would not be reduced further by receiving ISM because they have already received the maximum one-third reduction of the federal benefit.

For example, 16-year-old Bill's parents buy him $150 of clothing. Since he is already in the "living in the household of another" category, no further benefit reduction due to receiving the clothing would apply. Suppose that in February 2004, Bill is now 25 years old and is in the unreduced "shared living" category in his parent's home and receives $100 in subsidized rent, a used $300 computer and a $50 bus pass from Harry and Sally. Only the rent will count as ISM, and after his SSI benefit is reduced by $100, he will receive $464, ($564-$100.). Then, in March 2004, Bill's grandfather dies and leaves $100,000 in a special needs trust for Bill's benefit. Bill moves into an apartment in a special needs supported complex, and the trust directly pays his $600 per month rent and utilities. He pays for his own food. His benefit will only be reduced by the PMV maximum of $208. Bill will receive a SSI benefit of $356 ($564-$208 = $356).

Gifts May Cause Disqualification

Beginning in December 1999, gifts of countable resources for less than market value by or on behalf of a recipient will cause a period of ineligibility for SSI. Some gifts are excluded from the penalty, such as gifting a home to a disabled child or sibling co-owner, or gifting cash assets to another person with disabilities. Transfers of property into a special needs trust with certain clauses, including pay back of any Medicaid used upon the recipient's death, will not cause a disqualification period. If the resource is non-countable for eligibility, and the purpose of gifting it is not to create or keep eligibility, than the gift will also not cause a disqualification period.

If a disqualifying gift is made, SSI will be suspended one month for the equivalent of one month's SSI benefits gifted away up to a maximum of 36 months. For example, Bill receives a $10,000 inheritance and gifts it to his brother. If his combined federal and state supplement SSI benefit rates total $600 per month, his disqualification would be for about seventeen months ($10,000/$600= 16.7). If the gifted inheritance were $30,000, the disqualification period would be 36 months from the month of the gift. If all or part of the inheritance was returned to him, the disqualification period would be accordingly reduced.

Where To Get Help

Where can you get help with your own situation? Many individuals turn to the Social Security Administration, which is generally quite helpful in providing information. Nevertheless, agency interpretations can have some discretion involved, and therefore vary from person to person under similar situations and require representative advocacy. The SSA uses an operating manual called the Program Operation Manual System (POMS), which you can access on the Internet by going to www.socialsecurity.gov. On the right-hand side of the home page under Resources, go to Our Program Rules, and then the Program Operations Manual System reference. From there check out the table of contents, and then the Supplemental Security Income (SSI) section. The complete POMS is over 65,000 pages long in its written form, and the details in this manual could be more than you wish to get involved in.

One source of professional help is the Special Needs Alliance. Knowledge of certain aspects of the program is integral to their work. The SNA website is www.specialneedsalliance.com, or you can call for a list of participating attorneys at 1-877-572-8472.

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