

# Resource Policy in the Supplemental Security Income Program

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July 12, 2016



# Introduction

- The Supplemental Security Income (SSI) was established as a nationally uniform program to provide a minimum level of support to eligible people.
- As with the former State program it replaced, the SSI program uses two measures in its means test.
  - Income – determines eligibility and payment amount
  - Resources – determines eligibility
- The income limits (along with the Federal Benefit Rate) are indexed for inflation. Resource limits do not change.



# Why are we Discussing Resources?

- Adequacy of resource limits
- Patchwork of resource exclusions
- Leading source of improper payments
- Equity issues
- Passage of the Achieving a Better Life Experience (ABLE) Act – a paradigm shift



# Problems With Resource Policy

- Resource limits
  - 1974 – resource limits were:
    - \$1,500 individual
    - \$2,250 couple
  - Between 1985 and 1989, the limits increased each year by \$100 for an individual and \$150 for a couple.
  - Since 1989 the limits have been:
    - \$2,000 individual
    - \$3,000 couple
  - Unchanged for 27 years



# Problems With Resource Policy

- Resources are a perennial cause of SSI improper payments
  - Financial accounts and non-home real property are two of the top four causes of overpayments
    - Financial accounts - \$939 million in FY 2014
    - NHRP - \$266 million in FY 2014
- Program complexity/Equity
  - “Sheltering” resources to stay under the limits
  - Web of exclusions – “pigeon-holing”
  - Trusts



# What is the Basis for Resource Policy?

## Social Security Act

The Social Security Act does not define resources.

Section 1611(a) [42 U.S.C. 1382] establishes the resource limits for eligibility.

Section 1613 [42 U.S.C. 1382b] provides a long list of resource exclusions.



# Definition of Resources

**Regulations at 20 CFR 416.1201 define resources as –**

- cash or other liquid assets or any real or personal property that an individual (or spouse, if any) owns and could convert to cash to be used for his or her support and maintenance.
- If the individual has the right, authority or power to liquidate the property or his or her share of the property, it is considered a resource. If a property right cannot be liquidated, the property will not be considered a resource of the individual (or spouse).





# When Do We Count Resources?

- Resources determinations are made as of the first moment of the month. A resource determination is based on what assets an individual has, what their values are, and whether or not they are excluded as of the first moment of the month.
  - *Increase in value of resources.* If, during a month, a resource increases in value or an individual acquires an additional resource or replaces an excluded resource with one that is not excluded, the increase in the value of the resources is counted as of the first moment of the next month
  - *Decrease in value of resources.* If, during a month, a resource decreases in value or an individual spends a resource or replaces a resource that is not excluded with one that is excluded, the decrease in the value of the resources is counted as of the first moment of the next month.





# Statutory Exclusions

**The Social Security Act provides for exclusion of:**

- The home (regardless of value) including the land appertaining thereto
- Household goods and personal effects
- An automobile, used for transportation
- Property used in a trade or business
- Resources used in a Plan for Achieving Self-Support
- Life insurance (face value \$1,500 or less)
- SSA underpayments (9 months)
- Burial spaces and up to \$1,500 in a burial fund
- Disaster assistance
- Tax refunds and credits (9 months)
- Dedicated accounts
- And about a dozen more



# Other Exclusions

Over two dozen Federal statutes other than the Social Security Act provide for exclusion of resources in the SSI program.

- Native American exclusions
- Federal Assistance programs (SNAP, housing assistance)
- Grants, scholarships and student assistance
- Reparations payments
  - Victims of Nazi persecution
  - Agent Orange
  - POWs
  - Radiation exposure
- The ABLE Act



## Achieving a Better Life Experience (ABLE) Act

- Public Law 113–295, The Stephen Beck, Jr., Achieving a Better Life Experience Act (ABLE Act) – Enacted December 19, 2014.
- Tax-advantaged account that an eligible individual can use to save funds for disability-related expenses.
- Account beneficiary/owner must be blind or disabled by a condition that began before age 26.
- An ABLE program can be established and maintained by a State.
- An eligible individual can open an ABLE account through the ABLE program in any State.



# Exclusion of ABLE Accounts

## **For Most Federal Means-Tested Programs**

- ABLE account balances are excluded.
- Limitation is the cumulative maximum amount that can be contributed under a State plan.
- Annual contribution limit currently \$14,000.

## **For the SSI Program**

- ABLE account balances are excluded up to **\$100,000**.
- Amounts over \$100,000 count toward the \$2,000 SSI resource limit.
- If the balance of an ABLE account exceeds \$100,000 by an amount that causes the recipient to exceed the SSI resource limit--whether alone or with other resources, the recipient is ineligible for SSI.



# Exclusion of ABLE Accounts

**If an individual has excess resource due to funds in an ABLE account -**

- We will place the recipient into a special ABLE suspension period where:
  - We suspend the recipient's SSI benefits without time limit (as long as he or she remains otherwise eligible);
  - The recipient is still considered to be SSI eligible for Medical Assistance (Medicaid) eligibility purposes.
- **Under normal SSI rules:**
  - After 12 months of suspension, eligibility is terminated and the person must reapply for benefits.
  - If a person is ineligible for SSI (in a suspension period), they are usually also ineligible for Medicaid.



# Contributions to ABLE Accounts

- Contributions from any source to an ABLE account are not considered income to an SSI recipient.
- **However:**
  - An SSI recipient's earnings contributed to an ABLE account are still considered wages and counted (even if payroll deduction).
  - Gifts to an SSI recipient to be deposited into an ABLE account are considered as income.
  - Gifts made directly into an ABLE account are not income.





# Distributions From ABLE Accounts

Distributions from an ABLE account are not income to the designated beneficiary, regardless of whether the distributions are for:

- Qualified Disability Expenses (QDE)
  - Housing-related QDEs,
  - Non-Housing-related QDEs; or
- Non-qualified expenses.





# Qualified Disability Expenses

Qualified disability expenses (QDE) are expenses related to the blindness or disability of the designated beneficiary and for the benefit of the designated beneficiary. QDEs include, but are not limited to:

- Education;
- Housing;
- Transportation;
- Employment training and support;
- Assistive technology and related services;
- Health;
- Prevention and wellness;
- Financial management and administrative services;
- Legal fees;
- Expenses for ABLE account oversight and monitoring;
- Funeral and burial; and,
- Basic living expenses.



# Distributions From ABLE Accounts

## **Retained Distribution for a Non-Housing Related QDE**

- We exclude from resources a distribution for a QDE other than housing if the beneficiary retains it beyond the month received.
- This exclusion applies while:
  - the designated beneficiary maintains, makes contributions to, or receives distributions from the ABLE account;
  - the distribution is unspent;
  - the distribution is identifiable; and
  - the individual still intends to use the distribution for a non-housing-related QDE.
- We have not established a timeframe for spending.



# Distributions From ABLE Accounts

## **Qualified Disability Expense (QDE) for Housing**

Although housing is a QDE under the statute, the statute also provides that QDEs for housing expenses are treated differently for SSI . Housing expenses for purposes of an ABLE account are the same as they are for other SSI program purposes and are defined in regulations.

### **QDEs for housing are payments for:**

- Mortgage (including property insurance);
- Real property taxes;
- Rent;
- Heating fuel;
- Gas;
- Electricity;
- Water;
- Sewer; and
- Garbage removal



# Distributions From ABLE Accounts

## **Retained Distributions for Housing-Related QDEs or Expenses that are not QDEs**

- We count a distribution for a housing-related QDE or for an expense that is not a QDE as a resource, if the beneficiary retains the distribution into the month following the month of receipt.
- We count previously excluded distributions (QDE) used for a non-qualified purpose or a housing related QDE as a resource at the earlier of:
  - the month spent; or
  - the month intent changed.