

## SENIOR BULLETIN: SSI/GAU

### **Supplied shelter, clothing or food and its effect on SSI**

The Supplemental Security Income (SSI) program is supposed to provide enough income to cover basic needs for food, clothing and shelter. But it does not pay enough to allow an SSI recipient to pay for market-rate housing as well as food and clothing. (A single person in Washington this year with income only from SSI normally gets \$552.)

Policy makers are aware of this problem, and SSI rules reflect that awareness. In particular, SSI rules take the need for additional housing assistance into account in various ways. For example, if an SSI recipient gets low-cost public housing, or gets private rent subsidized through a government program, no reduction in SSI payments results.<sup>1</sup>

If housing help comes from friends or family members instead of from a government program, the result is more complicated. If friends or family members pay part or all of an SSI recipient's rent, or provide free or reduced-cost housing in some other way, SSI rules treat this private assistance as "in-kind support."<sup>2</sup> Because of the in-kind support, SSI payments will be reduced or, in some cases, lost altogether.

This bulletin explains how SSI is affected by in-kind support, and how negative effects can sometimes be avoided.

### **What is "in-kind support"?**

In-kind support means "any food, clothing, or shelter that is given to you or that you receive because someone else pays for it. Shelter includes room, rent, mortgage payments, real property taxes, heating fuel, gas, electricity, water, sewerage, and garbage collection services."<sup>3</sup> So, for example, if you are an SSI recipient living alone in a rental apartment, and your child is paying all or part of your rent directly to your landlord, you are receiving in-kind support. (The in-kind support in that case is the shelter you receive because your child is paying for it.) By contrast, if your child gives you cash so that you can pay your rent, you are receiving cash income, not in-kind support, from your child.

In general, each dollar of cash you receive from your child will count as one dollar of income for SSI purposes. A more favorable treatment is given to in-kind support. No matter how much in-kind support you receive, SSI rules will not attribute more than \$204 a month of additional income to you (in 2003). (The figure for a couple on SSI is \$276.) How income is attributed based on in-kind support is discussed later in this bulletin.

### **Some living situations that do not involve in-kind support**

To fully understand in-kind support, it is important to consider two common situations that do *not* involve in-kind support. You are not receiving in-kind support if you are either (1) a tenant paying fair-market rent, or if you are (2) sharing housing with others and paying your pro rata share of certain household expenses. The following example will illustrate these situations.

*Example: Adult daughter lives in a house that she owns. Mother comes to live in the house with her. Mother's only income is \$552 a month from SSI. How will mother's SSI be affected?*

There are two possibilities that do not involve in-kind support, depending on what choices mother and daughter make. (Note: if the two people were unrelated friends instead of mother and daughter the same rules would apply.)

**Mother as daughter's tenant.** One choice would be for mother to become daughter's tenant. For example, mother and daughter could prepare a rental agreement with mother paying for a bedroom and shared use of certain common areas of the house in exchange for a fixed monthly rent. If the rental rate is no lower than what would be the market rate for such an arrangement – the rate a stranger would pay in the same community for a similar arrangement – then mother is not receiving in-kind support in the form of supplied shelter. (Fair market rent can be shown, for example, by getting a statement from a real estate agent who handles rentals, or a community organization that arranges shared housing, giving an opinion about what a stranger would pay for the kind of shared arrangement mother and daughter have agreed on.)

If mother is paying fair market rent, so she has no in-kind support in the form of supplied shelter, and if she purchases and pays for her own food (so she does not get in-kind food income from her daughter), then

her living arrangement will not prevent her from getting her full monthly SSI check of \$552.

**Mother and daughter sharing expenses pro rata.** A second choice would be for mother and daughter to agree that each will pay an equal share of what SSI rules consider household operating expenses. These include:

- food
- rent or mortgage
- property taxes
- heating and electricity
- water and sewerage
- garbage collection

If a third person were living in the household, each household member would need to pay one third of the expenses (and one fourth if there were four people, and so on). Notice that mother does not need to pay other expenses not counted as “household operating expenses” under SSI rules. So, for example, daughter can pay all of any phone bill, or cable bill, or a bill for yard work. Mother only needs to pay half of the expenses listed above.

If mother is sharing housing with her daughter and paying a pro rata share of the household operating expenses, then she has no in-kind shelter or food income from her daughter. She should be able to get her full monthly SSI check of \$552.

### **How in-kind support affects SSI**

How in-kind support affects SSI depends on whether or not the SSI recipient is living in the household of a person who provides both food and shelter. For single SSI recipients who live in such households, SSI rules currently attribute \$184 of monthly income to the recipients, regardless of the actual value of the in-kind support. For other SSI recipients, SSI rules attribute the actual value of the in-kind income up to a maximum of \$204 of monthly income. These two approaches are explained in more detail below.

**The one-third reduction rule – SSI recipient living in the household of a person who provides both food and shelter.** If a single SSI recipient is living with someone else who provides both food and shelter, then SSI rules attribute \$184 of income to the recipient,

regardless of the actual value of the in-kind support. That amount, \$184, is one-third of the Federal benefit rate – one third of the Federal Government’s portion of a one-person SSI grant – and the rule establishing the amount is entitled “The one-third reduction rule.”<sup>4</sup> (If a married couple on SSI is living in a household with someone else who provides both food and shelter, then \$276 (one third of the Federal benefit rate for a couple) is attributed. How the one-third reduction rule works can be seen by considering, once again, the example of the mother living in her daughter’s house.

Earlier, we considered the alternatives of mother living with daughter as a paying tenant or mother living with daughter and paying a pro rata share of household expenses. In those cases, mother received no in-kind support from daughter and received her full \$552 SSI check. If mother lives with daughter in daughter’s home, and daughter provides free or reduced-cost shelter and food, then mother is receiving in-kind support. Under the one-third reduction rule, income of \$184 will be attributed to mother. (This is true regardless of the value of the in-kind support.) As a result, mother’s \$552 SSI grant will be reduced to \$368. She will continue to get full Medicaid coverage.

If mother and daughter can afford to give up the \$184 of SSI, choosing to accept the one-third reduction has some advantages. It eliminates the need to make a rental agreement or to keep records showing how household expenses are divided and paid. And mother continues to get \$368 in SSI payments and full Medicaid coverage.

Under some circumstances, application of the one-third reduction rule will make someone ineligible for SSI. For example, if instead of getting only SSI mother had been getting \$450 in Social Security retirement benefits, and \$122 in SSI, then the attribution of an additional \$184 in income would give her too much income to get any SSI. (She should still be eligible for Medicaid, which does not consider in-kind support.)

**The presumed value rule – SSI recipient not living in the household of a person who provides both food and shelter.** If an SSI recipient receives in-kind support but does not live in the household of a person who provides both food and shelter, a slightly different rule applies. It is called “The presumed value rule.”<sup>5</sup> Under the presumed value rule, the actual value of in-kind support, up to a maximum of \$204, is attributed to the SSI recipient as income. In the case of a married

couple on SSI, the actual value of in-kind support up to a maximum of \$296 is attributed to the couple.

Continuing with our mother and daughter example, the presumed value rule would apply if mother were living alone in an apartment and daughter (who lives elsewhere) were paying all or part of the rent, or paying for food. If the daughter were paying \$600 a month in rent, \$204 of income would be attributed to mother. If daughter paid only \$100 a month toward the rent, then only \$100 would be attributed.

Under either the one-third reduction rule or the presumed value rule, a friend or family member who has the financial ability can significantly improve the living situation of an SSI recipient by providing in-kind support in excess of \$184 or \$204. In-kind support worth less will generally not help, because of the corresponding attribution of income and reduction of SSI payments.

### **Why does all of this seem a little strange?**

When family members or friends live together, or when one family member or friend helps another, relations are often conducted in very informal ways. Often people help as they are able to, and pay what they can. As the examples discussed above illustrate, extended family life may be a little more complicated, and a little more formality may be useful, if one family member has SSI. This formality may be called for, on the one hand, because SSI is a program based on need and in-kind income affects need, and, on the other hand, because SSI rules treat in-kind support in a more favorable way than cash income.

For people who are not comfortable with the formality of tenancy agreements or pro-rata division of expenses and related record keeping, the one-third reduction rule and the presumed value rule provide some level of favorable treatment for in-kind support. When maintaining the maximum SSI benefit is important, creating a formal landlord-tenant relationship or providing for a pro rata division of household expenses will, when feasible, accomplish that result.

### **In-kind support rules**

The SSI rules relating to in-kind support are published in the Code of Federal Regulations. Their citations are 20 C.F.R. § 416.1130 through

1148. They are available on the Internet through the Social Security Administration web site, [www.ssa.gov](http://www.ssa.gov), or more directly at the following address: [www.access.gpo.gov/cgi-bin/cfrassemble.cgi?title=199920](http://www.access.gpo.gov/cgi-bin/cfrassemble.cgi?title=199920) .

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<sup>1</sup> 20 C.F.R. § 416.1124(c)(14).

<sup>2</sup> The assumption made in this discussion is that the family members who are providing food, clothing or shelter are not the spouse or someone legally obligated to support the SSI recipient. Food, clothing or shelter provided by spouses or by others who are legally obligated to support an SSI recipient is not treated as in-kind support.

<sup>3</sup> 20 C.F.R. § 416.1130(b).

<sup>4</sup> 20 C.F.R. § 416.1131.

<sup>5</sup> 20 C.F.R. § 416.1140.