

# public benefits

for low-income individuals and families  
applying for and using  
public benefit programs

supplemental security income  
for adults

Center for  
Benefits and  
Services

Community  
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The Community Service Society of New York, a non-partisan social services agency, has been in the forefront of the fight against poverty for over 150 years. It has pioneered programs for school children, low-income tenants, health care patients, immigrants and poor people of every color and race throughout its history. At the midway point of its second century, CSS continues to do research on the causes and solutions to poverty-induced problems and to provide needy people with direct emergency help. Using advocacy and court challenges, CSS works to effect societal changes to improve the lives of those in poverty and empower them to provide better conditions for their children and communities.

Part of CSS, the Center for Benefits and Services is a single source for social service providers for information, training, and expert case assistance on the full range of government benefit programs. The Center provides training on government benefits, telephone consultations to service providers, direct assistance to the general public and publications, including the *PBRC Manual*, a comprehensive guide to government benefit programs.

**Community Service Society of New York**

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# **Supplemental Security Income for Adults**

## **Center for Benefits and Services**

### **A PROGRAM OF THE COMMUNITY SERVICE SOCIETY**

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# Supplemental Security Income

## What is SSI?

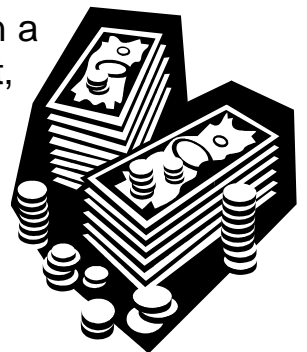
SSI stands for Supplemental Security Income. It is a federal welfare program that pays cash benefits, if you meet all the requirements of the program. The benefit comes from the U.S. Treasury and is called the "federal benefit rate". In some states, including New York, additional cash comes from the state, called the "state supplemental payment". When you get an SSI benefit payment, both federal and state money come in a single check. When you get SSI in NYS you also automatically get Medicaid coverage. Medicaid continues as long as you are paid any SSI benefit, no matter how small.

### *Who operates the SSI program?*

The Social Security Administration (SSA) operates the SSI program and determines whether you are eligible or not for SSI.

## How Much Does SSI Pay?

Each year in January, the federal benefit rate is raised based on a cost of living increase. The state supplemental payment, however, does not increase each year. The actual amount of your SSI benefit is based on the type of living arrangement you are in. That is, it depends on whether you are living alone, living with others, or someone else is supporting you.



### *What does "living alone" mean?*

Living alone is defined in many ways. It can mean any of the following:

- an eligible individual living by him/herself, or an eligible couple living by themselves, or
- an eligible individual/couple living with someone else, but they pay their fair share of all household expenses, and eat separately from anyone else in the household, or
- an eligible individual/couple who rents a room in someone else's house or apartment and fix their own meals separately from anyone else who lives there, or

- an eligible individual/couple who pays a flat fee to the landlord for both room and meals.

*How much does SSA pay to people who are “living alone”?*

SSA pays the highest SSI benefit to people who “live alone”. In 2008, the federal benefit rate for a single individual is \$637 and the state supplemental payment is \$87 for a total of \$724 per month. For couples, the federal benefit rate is \$956 and the state supplemental payment is \$104 for a total \$1,060 per month.



*What does “living with others” mean?*

SSA considers you as “living with others” if you pay your fair share of all the household expenses, but you share meals with other people in your household. Living with others also includes the following:

- parents living with disabled children under the age of 18, or children under 21 living with their disabled parents
- A couple, where one spouse is receiving SSI and the other spouse is not receiving SSI

*How much does SSA pay to people who are “living with others”?*

SSA pays the next highest benefit to people who “live with others”. In 2008, the federal benefit rate for a single individual living with others is the same as those who live alone, \$637, but the state supplemental payment is only \$23, for a total of \$660 per month. For a couple, the federal benefit rate is \$956; the state supplemental payment is \$46, for a total of \$1,002 per month.

*What does “living in the household of another” mean?*

SSA considers you living in the household of another when someone else in the household (other than a spouse or parent) is paying for your food and shelter either in part or whole.

*How much does SSA pay to people who are “living in the household of another”?*

SSA pays the lowest SSI payment to people who are “living in the household of another”. In 2008, for a single individual the federal benefit rate is

\$424.67, plus the state supplemental payment of \$23, for a total of \$447.67 per month. For a couple the federal benefit rate is \$637.34, plus the state supplemental payment of \$46, for a total of \$683.34 per month.

### *Eligibility Chart*

Household Living Arrangement	Single	Couple
Living Alone	\$724.00	\$1,060.00
Living with Others	\$660.00	\$1,002.00
Living in the Household of Another	\$447.67	\$683.34

### **Who Can Get SSI?**

You can get SSI if you pass certain eligibility tests, called eligibility criteria. Eligibility criteria include your income, your resources, your living arrangement, your immigration status, and whether you are disabled or elderly. These criteria are explained below.

### **Do I Have to be a Certain Age or Disabled to Get SSI?**

Yes, in order to be eligible for SSI you must either be elderly, blind or disabled.

*How does SSA define elderly?*

You are elderly if you are age 65 or older.

*How does SSA define blind?*

You are blind if you meet the definition of legal blindness.

*How does SSA define disabled?*

You are disabled if you suffer from a physical or mental condition, or a combination of conditions that prevents you from working for at least 12 months, or, your medical problem is expected to end in death. Your age, education and any skills you developed in your past work will be considered

in making the determination of disability. If you are applying as a disabled applicant and earning more than \$940 a month when you first apply, SSA will probably not consider you disabled.

## How Much Income Can I Have?

You must have limited income. Income is a recurring payment from any source such as salary, Social Security, a pension, unemployment insurance, disability benefits, or bank interest. SSI counts most, but not all, of your income. There are different kinds of income, such as unearned income, earned income, in-kind support, and deemed income. It is important to understand how Social Security counts these kinds of income.

### *How does SSA count unearned income?*

Unearned income is any income that is not earned. This includes Social Security benefits, workers compensation payments, unemployment insurance benefits, private pension funds, dividends, interest, cash gifts or any other regular unearned income you might have. The first \$20 of unearned income is not counted. The remaining unearned income is subtracted dollar for dollar from the SSI payment; depending on your living arrangement, see above.



*For example, Mary receives \$400 per month from Social Security Disability Insurance (SSDI) benefits. SSDI is unearned income. The first \$20 is not counted, but \$380 does count and is subtracted from her SSI benefit. If Mary were living with others she would receive:  $\$660 - \$380 = \$280$ , her monthly SSI benefit.*

### *How does SSA count earned income?*

Earned income includes wages or self-employment income. Wages are counted before any deductions for taxes, union dues, medical insurance or anything else. Self-employment income is counted after expenses are deducted and is called net self-employment income. SSA counts earned income differently from other types of income.

The first \$65 of your earnings is not counted. If you do not have any unearned income, the first \$85 of your earnings is not counted. In addition, one half of whatever earned income remains is also not counted. The remaining income is subtracted dollar for dollar from the SSI payment; depending on your living arrangement, see above.

*For example, Joe has a part time job that pays him \$485 gross per month. He does not have any unearned income. In order to determine whether Joe is eligible for SSI, you would count his earnings, as follows: Gross wages:*

$$\$485 - 85 \text{ (earned income that is not counted)} = \$400$$

*You would divide \$400 in half to figure out how much SSA would subtract from his SSI benefit. Half of \$400 is \$200. If Joe were living alone he would receive:*

$$\$724 - \$200 = \$524, \text{ his monthly SSI benefit}$$

SSA rules say that if you are applying as a disabled person, you cannot earn more than \$940 per month when you first apply for SSI. However, once you are receiving SSI and you begin to work you can earn more than \$940 per month and you may still be eligible for SSI.

*How does SSA count in-kind support?*

In-kind support is not cash, rather it is goods or services that someone else (other than a spouse or parent) gives you that you can use for food or shelter. Thus, a bag of groceries, a delivery of heating oil or a cord of wood, someone paying your rent or utility bills would all be considered in-kind support. Any in-kind support in the form of food or shelter will be counted to reduce an SSI benefit in the month the in-kind support is received.

When you receive in-kind assistance its value is subtracted dollar for dollar from your SSI payment. There is a limit, however, to how much SSA is allowed to subtract from your SSI benefit. In 2008, the maximum SSA can subtract from your benefit amount, if you are a single individual is \$232.34. The maximum they can deduct from your benefit amount, if you are a couple is \$338.67.

*For example, if someone gives you, a single person, a bag of groceries every month worth \$250, SSA will only be able to subtract \$232.34 from your SSI payment. However, if the actual value of the in-kind assistance is only \$30, then SSA should only subtract \$30. It is up to you to prove the actual value of any in-kind support you report to SSA. You can do this by showing a bill of sale or a receipt or a statement from the person who gave you the in-kind support to SSA.*

### *What is deemed income?*

Deemed income is money from someone else that SSA counts as if it were yours. When income is deemed, SSI assumes that this other person's income is available to you, whether or not it actually is. There are three situations when SSA counts someone else's income to determine your eligibility. Deeming occurs between spouses, from parents to disabled children, and from those people who sponsor immigrants to the United States. Let's look at each situation.



### *How does SSA count my spouse's income?*



If you are married and living with your spouse, and both of you are applying for SSI, then you will use the couple rates, see above. However, if only one of you is blind, aged or disabled then a portion of your spouse's income will be counted as if it were yours. This is known as spousal deeming. You do not have to be legally married for deeming to happen. Under SSA rules if you are living together as a married couple, then your spouse's income will be deemed available to you. If you stop living together, whether you are legally married or not, your spouse's income will no longer be deemed available to you the month after you split.

### *How does SSA count a parent's income when a child is applying?*

If you are a parent applying for disabled child who is under 18, a portion of your income will be counted when determining your child's eligibility. This is known as "parental deeming". Only the income of the parent(s) who live in the same household will be counted. For more information about SSI for children, see the brochure, *SSI for Children*.

### *How does SSA count a sponsor's income when an immigrant is applying?*

If someone sponsored you so you could enter the U.S. a portion of your sponsor's income will be counted when determining your eligibility. This is known as "sponsor to immigrant deeming".

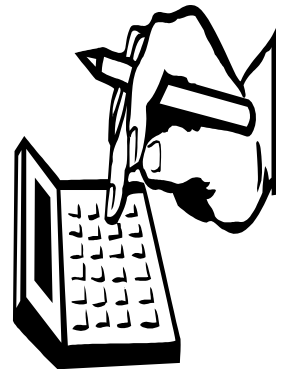
If you entered the country December 1997 or later, your sponsor must sign a legally binding contract to support you until you either become a citizen or you have worked for 10 years and contributed to Social Security. In addition, all of your sponsor's income is deemed available to you.

### *Are there other sources of income that do not count?*

Some other examples of income that SSA does not count are home energy assistance payments, income tax refunds, loans and money received as repayment of a loan and government financed rent subsidies. This is not a complete list, but will give you an idea of what does and does not count

### *When is income counted?*

Generally income is counted in the month you receive it. You probably won't see your benefit reduced until a later month. For example, if you receive \$400 in wages on October 23<sup>rd</sup>, SSA will count it as income for October. However, by the time you report it and SSA does its calculations you will probably only see your SSI benefit reduced in December or January.



### **How Many Resources Can I Own?**



You must have limited or no resources. Resources are assets or possessions that you own or have a partial interest in. Some examples of resources include a home, an automobile, life insurance policies, savings or checking accounts, CD's, or IRA's. This is not a complete list.

Resources count from the first t of the month, so if you don't actually have a resource in your possession on the first day of a month, it won't be counted as a resource until the following month.

*For example, if you received an inheritance of \$1,000 in October, it is income in October. If you still have that \$1,000 as of the first of the month of November then it becomes a resource.*

*What are the maximum amounts of resources I can own?*

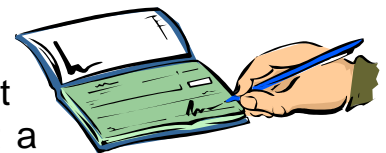
An individual can have resources of \$2,000 and a couple can have \$3,000 and still be SSI eligible.

*What kind of resources does SSA count?*

- any property that you own, if you are not living in it as your primary residence
- funds in bank accounts, stock accounts, bonds or other financial instruments which can be readily turned into cash and which exceed the applicable resource limit.
- all the money in a joint bank account, unless you are able to show that it belongs to someone else
- jewelry or other goods that have inherent resale value.

*Are there resources that SSA does not count?*

There are some types of resources that SSA does not count when they determine your eligibility. This is not a complete list, but will give you an idea of what does not count.



- the home you own as long as you live in it, it can be a house, a condo, or a coop
- a burial fund of up to \$1,500 plus any interest, or a life insurance policy with a cash value not exceeding \$1,500.
- personal and household goods: furniture, kitchen utensils, clothing, television, stereo and other household equipment and furnishings
- a wedding or engagement ring
- an automobile of unlimited value, if used for transportation for the individual or a member of the individual's household (Other automobiles would be counted toward the limit).
- family burial plot for each member of the household
- tools or other equipment used for work.

## Where Must I Live?

As long as you live in the United States you can receive SSI benefits. The United States includes the 50 states and the Northern Mariana Islands. It does not include Puerto Rico, Guam or the Virgin Islands. If you leave the country for 30 days or more, you are no longer eligible for SSI benefits. You must live in the U.S. for 30 days again before you can get your benefits back.



## Must I Be a U.S. Citizen?

No, you can be an immigrant and still get SSI. However, with the passage of the welfare reform law in 1996, only certain kind of immigrants, known as qualified aliens might be eligible for SSI.

### *What is a qualified alien?*

Qualified aliens include legal permanent residents, refugees, asylees, those who have withholding of deportation, parolees who have been admitted to the U.S. for at least one year, Cuban/Haitian entrants, and Amerasians, victims of trafficking. If you are not in one of these immigration statuses you probably are not eligible to receive SSI. However, you may want to check with an agency to make sure.

### *Can I get SSI if I am a qualified alien?*

Not necessarily. Just because you are a qualified alien does not mean you meet the immigration criteria. Only certain qualified aliens are eligible and include:

- Refugees, within the first nine years after entering the country
- Asylees, within the first nine years of receiving asylee status
- Persons granted withholding of deportation, within the first nine years of receiving this status
- Victims of trafficking, within the first nine year of receiving this status
- Qualified aliens who were lawfully residing in the U. S. before 8/22/96 and who are now blind or disabled

- Qualified aliens who are on active duty in the U.S. armed forces, or honorably discharged veterans and their dependents
- Legal permanent residents (these are people with a “green card”) who have 40 quarters of coverage under the Social Security system.
- Legal permanent residents who entered the U.S. on or after 8/22/96 are ineligible for SSI for 5 years, even if they have 40 quarters of coverage with Social Security

### *What are quarters of coverage?*

When you work both you and your employer pay a certain tax called a FICA tax. This tax goes to the Social Security Trust Fund, which is your contribution to the Social Security system. In 2008, when you earn \$1050 you receive one quarter of coverage with Social Security. You can only receive a maximum of 4 quarters a year. Under the SSI rules, legal permanent residents must have 40 quarters with Social Security to be eligible to receive SSI. U.S. citizens and other immigrants do not need quarters to receive SSI.

### *Do I have to collect all 40 quarters on my own?*

If you are a legal permanent resident, you do not have to collect all 40 quarters on your own work record. You can use your spouse’s quarters of coverage. But the work performed by your spouse must have been done while you were married. Any work performed before you were married does not count. And your husband or wife’s work record can only be counted while you remain married. So, if you divorce you will no longer be able to use these quarters. But you would be able to keep the quarters if your spouse dies.

### *Can my child collect quarters on my record?*

Yes, a disabled child can use the work quarters collected by both parents, as long as the quarters were earned before the child's 18th birthday.

## **How Do I Apply for SSI?**

The first step in applying for SSI is to fill out and submit an SSI application to SSA. You can get an application by visiting your nearest Social Security office. If you are not able to visit the office you can call **800-772-1213**.

### *What kind of documents will I need?*

You must be able to prove all the statements you made on the application, including proof of identity, proof of income, proof of resources, proof of residency, proof of age, disability or blindness, proof of citizenship/immigration status.

If you are applying for SSI-disability you should also have a list with the names, addresses and phone numbers of the doctors, clinics or hospitals which have treated you, including the dates and location of any hospital admissions. A list of your medications may also be helpful. If you can obtain a copy of your medical records from each place you have been treated it can speed up the processing time. Additionally, it will be helpful if you can get your treating doctor to explain why she or he believes you have not been able to perform any work for the last 12 months or why you are not expected to be able to perform any work for the next 12 months.

### *How soon will I receive a decision?*

Once you have filed your application, SSA must make a decision on your claim and send you a copy of that decision in writing. SSA is not subject to any specific time limit within which to make a decision. However, when you receive that written decision, if you are denied, you do have a time limit to file an appeal.

### **How Do I Keep SSI?**

You have to continue to prove that you meet all the eligibility criteria even after you are first approved. SSA will periodically re-determine both your financial and medical eligibility. Financial eligibility is likely to be performed about once every two to three years and is called a re-determination. If you are receiving SSI-disability benefits, medical reevaluation is required to be performed anywhere from once in every 18 months up to once in every 7 years. This process is called a Continuing Disability Review (CDR). It is important that you respond to the CDR. If you do not respond, SSA can discontinue your benefits.

*Do I need to tell SSA about any changes that happen before my re-determination?*

Yes, once you are approved for SSI you must report any changes that might affect your eligibility for SSI, the amount of an SSI payment or SSA's ability to find you. You must report if you are moving out of state, if you are leaving the U.S. for more than 30 days, if there are any changes in your living arrangements, if a child or spouse moves in or moves out, if you return to work, or any changes in your income or resources, such as receipt of an inheritance, money from an insurance settlement or a court award or any similar source of funds.



Report  
Changes

*What happens if I don't report changes to SSA?*

If you fail to report any changes as soon as they occur, you can be charged with an overpayment (or underpayment) of benefits. The longer a change goes unreported the bigger the overpayment (or underpayment) grows.

### **What Happens if I Get an Overpayment?**

SSA will attempt to get the money back that they overpaid you. If you are still receiving SSI, SSA will usually ask you for a refund. If you cannot pay the refund, you can ask to pay back on an installment plan. If you decide to do this, SSA can only take a maximum of 10% of your SSI benefit.

If you are no longer receiving SSI, SSA can take a portion of your wages, withhold any tax refunds, seek the help of collection agents and report the debt to credit reporting agencies. They can also file a civil (or in some instances a criminal fraud) action in federal court.

*What should I do if I think SSA is wrong?*

However, if you think SSA is wrong, that is, you believe the amount of the overpayment is more than you owe, or you were not overpaid at all, you can file an appeal. You must file the appeal within 60 days. If you think that you probably were overpaid but it was not your fault, you can request a waiver. A waiver can be requested any time. You must show both that you were not at fault in causing the overpayment and that you cannot afford to repay the

money or that forcing you to pay would make you unable to pay all your living expenses.

*What is an administrative waiver?*

SSA will automatically give up any claim for overpayment if you request an administrative waiver. You can only ask for an administrative waiver if you have an overpayment that is \$500 or less.

### **What are My Rights if I am Denied SSI?**

When your application has been denied, you have the right to file an appeal. This begins what can be a lengthy, multi-step appeal process. Each step must be taken in the correct order and you cannot avoid taking any step if you wish to keep your claim active in the hope of eventually winning SSI benefits.

*What are the time limits?*

All appeals must be filed within 60 days of receiving a denial notice. SSA adds on 5 days for mail delivery. If you miss that deadline you must show that you had good cause for late filing or you will have start over again by filing a new application. Good cause means that you were very sick during the appeal period and could not contact SSA in time, or that you had a death in your close family, or that you received wrong information from someone at SSA or from some other official government source about the filing requirements, or that you have a severe physical or mental impairment or language problem that prevented you from understanding how to file an appeal.



*What are the steps in the appeals process?*

Generally, if an SSI application is denied, the appeal process is composed of two steps. At any point in this process the denial of a claim might be reversed in your favor. The steps must be taken in the following order:

- Request for an Administrative Law Judge hearing
- Request for Appeals Council review

### *What is an Administrative Law Judge (ALJ) hearing?*

If your claim for disability is initially denied, you should request an ALJ hearing. Most ALJ hearings have to do with the denial of a disability claim. However, ALJ's can consider any issue that is properly appealed.

From the time you ask for an ALJ hearing until the hearing is scheduled it can be as much as a year, unfortunately. At an ALJ hearing you can testify yourself and you can bring witnesses to testify for you. You can ask the ALJ to issue subpoenas for any records that you cannot obtain by any other means. A tape recording is made of everything said during the hearing.

After the hearing it may take several weeks to several months for the ALJ to issue his or her decision, which will be in writing. If the ALJ approves your claim you need not do anything further. If the ALJ denies your claim, and you wish to continue pursuing it, you must file a request for Appeals Council review within 60 days.

### *What is an Appeals Council Review?*

The Appeals Council is a body that is located in Falls Church, Virginia. It is the final step in administrative review of SSI claims. Unfortunately, the Appeals Council takes even longer than ALJ hearings to decide cases. However, any additional evidence collected while you wait can be submitted to the Appeals Council as long as the condition is related to something that the ALJ considered, not a totally new condition.

Additionally, while you are waiting for the Appeals Council to consider and decide your case, you can also file a new application at your local social security office.

### *What happens after an Appeals Council denial?*

If the Appeals Council continues to deny the claim there is the possibility to take the case to federal court. This is called "filing a civil action." If you want to file a civil action you must do this within 60 days of the date on which you received the notice of the Appeals Council denial. You may file a civil action by yourself by going to the court clerk and asking for a "pro se" complaint form, and the clerk of the court may help you complete the complaint form. Or, better, you should seek legal representation (see below).

## *Do I need a lawyer?*

While it is not required, it is helpful to have a lawyer through the SSI appeal process. This is especially true at an ALJ hearing. Your representative need not be a lawyer but if you want representation you should try to find someone who is familiar with SSI rules and regulations, because a representative who is not familiar with SSI cannot be very helpful to you. A lawyer can also help you decide whether to file further appeals.

### **Where Can I Turn for Help?**

Representation can be found at many Legal Services and Legal Aid offices around NYC for individuals seeking SSI. For individuals seeking both Social Security Disability Insurance and SSI, you may not qualify for free legal assistance. However, private attorneys can charge a fee only if you win, and SSA must approve the fee before it can be paid. Some private attorneys and paralegals in private practice also handle SSI only cases. Any fee they charge must be approved by SSA. You can get a listing of attorneys from SSA.

#### **Find a lawyer**

[www.Lawhelp.org](http://www.Lawhelp.org)

#### **Legal Aid Society**

[www.legal-aid.org](http://www.legal-aid.org)

#### **Urban Justice Center Mental Health Project**

(646) 602-5600 x64

#### **Social Security Administration**

(800) 722-1213

[www.socialsecurity.gov](http://www.socialsecurity.gov)

#### **Center for Benefits and Services *(legal assistance not provided)***

(212) 614-5552

[www.cssny.org/pbrc](http://www.cssny.org/pbrc)