

SSI IN 2009

By Baron L. Miller*

In order to protect SSI benefits, it is important for those of us who supplement them to be familiar with the rules and to stay informed of changes. Following are the limitations on a recipient's resources and income in effect on January 1, 2009.

Resources

"Resources" is what the Social Security office calls assets owned by an SSI recipient, and in 2009 they continue to be limited to \$2,000.00. The limitation applies only to assets in the recipient's name or to which a recipient is deemed to have unfettered access. Regardless of their worth, a recipient's home, household goods, personal effects, and a vehicle for transportation are not included in this limitation, nor are any assets owned by a special needs trust.

Income

Because SSI is based on financial need, money received by an SSI recipient can adversely affect both eligibility and the amount of benefits. A recipient may receive up to \$20.00 each month from any source, and an additional \$65.00 per month as wages, without an adverse effect. Once the limit is reached, ½ of the excess received each month will be deducted from the allowable SSI benefit for that month.

Significantly, there is no limitation at all on payments to providers of a recipient's living expenses if they are not deemed to be for food or shelter. Some of these things that can be paid for without limitation are clothing, telephone, household goods, computer, transportation, recreation, case management, helpers, companions, travel, medical and dental, most insurance, education, rehabilitation, and training.

The limitation rules do apply to payments for rent, mortgage, home insurance, real estate taxes, home utilities, and gift cards for food. However, unlike cash, payments for these things will not render a recipient ineligible for SSI; instead they will reduce monthly benefits by the actual amount of the payments, up to a maximum reduction of \$245.00. Therefore, depending on a recipient's needs and another's ability to pay for them, it can be wise to pay a provider directly for shelter and/or food.

Cash received by an SSI recipient as reimbursement for expenses already paid for by the recipient will count as income in the month received (and will also count toward the \$2,000.00 limitation). Receipt of food stamps will not affect benefits, nor will loans which the recipient is realistically expected to repay.

MediCal considerations

A recipient of SSI will continue to automatically qualify for MediCal. Due to the exorbitant cost of treating mental illness, MediCal is often crucial. Again, while cash payments made directly to a recipient might result in ineligibility, payments made to a provider of shelter or food would at most reduce monthly benefits by \$245.00. If an SSI recipient's living expenses are going to be supplemented, this must be done in such a manner that it will not render the recipient ineligible for both SSI and MediCal.

Staying diligent

SSI rules do periodically change, and family members, friends, and trustees of special needs trusts should consult with the Social Security office or with an attorney familiar with the rules to determine what payments the current rules will allow, and what the potential loss to an SSI recipient could be.

*Baron L. Miller is an attorney in private practice in San Francisco who specializes in estate planning for California families of the mentally ill. He is a long-time NAMI

family member, and an advocate for the rights and interests of families of the mentally ill. He does not charge for telephone consultations on the propriety of making payments for the benefit of an SSI recipient. He can be reached at 415 522-0500.