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The Voice is the e-mail newsletter of The Special Needs Alliance. The author of this installment, [John S. Kitchen, JD, LL.M.](#), has written articles published by the National College of Probate Judges and the Research Institute of America (RIA), and has drafted special needs trusts legislation enacted into law in New Hampshire. John has given [presentations](#) concerning special needs trusts at national conferences of the National Guardianship Association, ARC, National PLAN Alliance and Special Needs Alliance, as well as at the National Press Club in Washington, D.C. in a program sponsored by the National Disability Institute. John has a family member with disabilities, and he is a member of the Special Needs Alliance.

What Property May a Person Receiving SSI Own?



Are clothing, household goods, personal effects and automobiles counted when determining eligibility for benefits? BASICALLY NO.

In 2005, the Social Security Administration (SSA) issued important regulations designed to simplify what assets are excluded when determining a person's eligibility for benefits. This SSA rule explained how income and resources would be treated under the Supplemental Security Income (SSI) program and clarified three issues of concern for persons with disabilities, thereby offering important protections for people with disabilities:

First, clothing was eliminated from the definitions of income and in-kind support and maintenance. As a result, gifts of clothing generally are not counted as income when the SSA decides whether a person can receive SSI benefits, or when the amount of such benefits is computed.

Second, the resource-counting rules eliminated the dollar value limit for the exclusion of household goods and personal effects. Consequently, the SSA ignores the value of household goods and personal effects when it decides whether a person can receive SSI benefits.

Third, the SSA now has a bright-line rule that excludes one automobile from countable resources, regardless of its value, if the vehicle is used for the individual's transportation or for that of a member of the individual's household.

Can a family member or special needs trust buy groceries or pay rent for a person with disabilities without it impacting eligibility? BASICALLY NO. The SSI "food-and-shelter" standard is one of the most important federal regulations to remember. If a family member purchases food or shelter for a person receiving Medicaid or SSI, this may cause a reduction in public benefits. To understand the SSI "food-and-shelter" standard, it is important to understand the specific definitions of the words "food" and "shelter" under SSI rules:

"Food" is a straightforward concept, but under some circumstances the SSA does not consider food to be income. For example, food "provided during a medical confinement is not income," nor is food provided in conjunction with a governmental program. Food provided during a temporary absence of greater than 24 hours from home, such as on a trip, is not income. "Food which you or your spouse raise [is not income] if it is consumed by you or your household." Dog food, such as for a seeing-eye dog, is not considered income. There also is a \$20 monthly general income cash exclusion and a quarterly \$60 irregular and infrequent cash exclusion that could apply if a person or a special needs trust paid for a restaurant meal or other food for a person with disabilities.

The SSA's definition of "shelter" includes not only room and rent, but other items as well, such as heating fuel, gas, electricity, water, sewerage, and garbage collection services. However, as with food, a room is not considered income in the form of shelter if provided during medical confinement, or during a temporary absence of greater than 24 hours from home.

A home owned by a person with disabilities or their special needs trust does not disqualify the individual from SSI benefits. Furthermore, purchases of some household goods are not considered shelter. More specifically, "furniture, appliances, electronic equipment such as personal computers and television sets, carpets, cooking and eating utensils, and dishes" are permissible purchases. Likewise, "personal care items and educational or recreational items such as books or musical instruments" are permitted, as are "items required because of an individual's impairment." Other expenditures to keep an individual's home in good repair, including "weatherization," "insulation, storm doors and windows" and "lawn mowing" are not considered shelter.

In addition, some expenditures that ensure an individual remains comfortable at home do not qualify as shelter. For example, "home energy assistance" is not counted as shelter, and home energy assistance means "any assistance related to...heating or cooling a home, including portable heaters, fans and blankets." House cleaning and homemaker services, both of which may be essential for a person with a physical impairment, also do not constitute shelter.

The SSA similarly does not consider payment of telephone bills to be shelter. SSA gives the following example: "Joshua Hall, an SSI recipient, is unable to pay his phone bill so his sister pays the phone company with her own money. Neither the payment to the phone company nor the telephone service actually received is income because neither is food or shelter." Finally, personal effects are not counted when "ordinarily worn or carried by the individual" or "articles otherwise having an intimate relation to the individual" including personal care items and certain limited jewelry.

Knowing the exclusions from the definitions of food and shelter enables loved ones and trustees to increase the quality of life for persons with disabilities while still protecting essential governmental benefits. Sometimes these exclusions are not obvious, or have specific qualifications -- as is the case for homeowner's insurance, which is counted as part of the recipient's shelter only when insurance is mandated by the mortgage holder.

Can a family member or special needs trust pay bills other than for food or shelter? BASICALLY YES. "Payment of your bills by someone

else directly to the supplier is not income.” This is perhaps the most important of the “safe harbor” expenditure provisions in the federal regulations because this provision explicitly permits all payments made to vendors, if for goods and services other than for food or shelter. This SSA regulation then provides some helpful examples to illustrate this important distribution rule: “Examples: If your daughter uses her own money to pay the grocer to provide you with food, the payment itself is not your income because you did not receive it. However, because of your daughter’s payment, the grocer provides you with food; the food is in-kind income to you. On the other hand if your brother pays a lawn service to mow your grass, the payment is not income to you because the mowing cannot be used to meet your needs for food or shelter. Therefore, it is not in-kind income....”

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