

Threshold

"The place or point of entering or beginning"

Housekeeping Details on Renting or Owning a Home for People with Disabilities

A Set of Four Booklets

Booklet 1 SSI, MA, In-Kind Income

Booklet 2 Owning Your Own Home

Booklet 3 Impact on Benefits, Paying Expenses

Booklet 4 Divestment, Liens, Estate Recovery

COMMUNITY
SUPPORTED
LIVING
SERIES



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◆ **COMMUNITY SUPPORTED LIVING SERIES** ◆

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Copies of this report and other titles in this series are available from the Wisconsin Council on Developmental Disabilities (WCDD), PO Box 7851, Madison, Wisconsin 53707-7851, (608) 266-7826. Please use the order form at the back of the booklets to order additional copies.

For additional information or assistance regarding options for home ownership, contact Marcie Brost, Wisconsin Department of Health and Family Services, Bureau of Developmental Disabilities Services, Madison, Wisconsin, 53707-7851, (608) 266-9366.

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Threshold: HOUSEKEEPING

A Set of Four Booklets

Booklet #1 – SSI, MA, In-Kind Income

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C A U T I O N S

This booklet does not take the place of getting professional advice and assistance from an attorney, accountant, or real estate agent concerning your individual situation. The rules and policies described may change over time, and are subject to different interpretation. It is always advisable to consult an attorney, tax advisor and real estate agent familiar with current rules and interpretations before making a substantial, long-term investment such as the purchase of a house.

A particular claims handler or local agency may have an opinion about how a particular housing arrangement affects your benefits that is different from the effects predicted by this booklet. Some of the predictions in this booklet are based on policies that may not be available to the person who is making a decision about your benefits. Some are based on unwritten agency interpretations that may not be followed by every office. In doing a housing plan, it is important to consider the risk that it will not affect your benefits as you had planned, or that you will have to go through a long appeal process to get the treatment of your plan predicted by this booklet. You may want to ask your Social Security or county Medical Assistance office ahead of time if your plan will be treated in the way you expect.

Dollar limits change from year to year. The examples in this booklet use 1998 figures; you can update these by contacting Social Security or your county Human Services Department.

I. WHO SHOULD USE THIS BOOKLET AND WHY

This booklet is one in a set of four. The four booklets, each of which focuses on different topics, are intended to answer questions about owning or renting a home for people with disabilities who rely for support and services on the Supplemental Security Income (SSI) or Medical Assistance (MA) programs.

Booklet #1 provides background on SSI and MA and also examines “in-kind” support. Booklet #2 explores the advantages and disadvantages of home ownership and describes how different forms of home ownership may have an impact on your benefits. Booklet #3 addresses mechanisms for paying ongoing housing expenses. Booklet #4 comments on divestment, liens and MA estate recovery.

This booklet is aimed at adults with disabilities who are thinking about buying or renting a home or apartment, whether alone, with a husband or wife, with friends, with their children, or with other family members. It is also intended to be helpful to family members, friends, service providers, guardians, and real estate and legal professionals who are trying to assist an adult with disabilities to make and carry out a housing plan. This booklet is not likely to be as helpful in considering the situation of minor children with disabilities who live with their families.

This booklet is not intended for people who receive Social Security benefits or Medicare benefits, unless they also are receiving SSI or MA or expect to need SSI or MA sometime in the future. Social Security and Medicare benefits are not affected by decisions about how you own or rent your home. This booklet is also not intended for people who qualify for Medical Assistance based on their status as low-income parents of minor children, as people in that situation are subject to different financial rules.

When the word *you* is used in this booklet, it refers to an adult with disabilities who is making a housing plan and who is concerned about

maintaining eligibility for SSI or MA. This could include people who are trying to keep the home they have, people who want to move from one place to another, or people who are moving into their own houses or apartments for the first time, whether from a family home, group home, or institutional setting.

When the word *home* is used in this booklet, it means the place that you live in most of the time. This can include a house, a condominium, an apartment, a duplex, or a mobile or manufactured home, and it can mean a home that you own or rent. Generally, the information in this booklet does not apply to real estate you own that is not your primary home.

This booklet is intended primarily for people who are looking for a home that is not owned or controlled by a paid service provider. Having a home that you own or rent yourself gives you more control over what happens in your home, and who can come there. It increases your ability to change the type or level of services you want, or the service provider, without having to give up your home. It may also make it easier for you to move without changing the way you get support or services.

The set of *HOUSEKEEPING* booklets is one of a series of books on community supported living available from the Wisconsin Council on Developmental Disabilities. While these booklets stand alone, they are interrelated and most beneficial when reviewed collectively. For more detail on general issues of how SSI and MA treat income and resources of all kinds, see also, *One Step Ahead: Resource Planning for People with Disabilities Who Rely on Supplemental Security Income and Medical Assistance*. (Note that references below are to the 1997 version of *One Step Ahead*.) For more information on deciding whether and how to own your own home, see *Threshold: A House-Buying Guide for People with Disabilities*. Information and an order form are provided at the back of this booklet.

II. BASIC BACKGROUND ON SSI AND MA

A. What is Supplemental Security Income (SSI) and who gets it?

Supplemental Security Income, or SSI,¹ is intended to provide a basic minimum cash income for people who either are over age 65 or have a disability that severely limits their ability to work and who do not have other income or resources to meet their basic needs. To be eligible for SSI, you must meet set limits on the value of money or other property you receive in a month (income) and on the value of money or property you own from one month to the next (resources).

In Wisconsin, there is both a federal SSI program and a state SSI supplement. If you meet the federal SSI income limit, you will apply for and receive SSI benefits through the Social Security Administration (SSA). SSA will then inform the state that you are eligible and you will automatically get a state check. If you have too much income to get a federal SSI payment, you may still get a state SSI payment if you belong to a group of people who were receiving the state benefit, but not the federal benefit, at the end of 1995, or if you lost your federal benefit due to earnings from work. In that case, you will

get a check from the state, which may periodically ask you to provide updated information about your situation. You may be eligible for an increased state benefit if you need support services to live in your home or community. (See *One Step Ahead*, Part V, for more information on SSI payment levels and on how to qualify for the state supplement and the special needs supplement.)

The fact that you are receiving SSI now does not necessarily mean that you will need or qualify for SSI throughout your life. For example, you may be able to work and to earn enough money so that you no longer get an SSI payment. If you were disabled as a child, you may start getting a Social Security Disabled Adult Child benefit that puts you over the SSI income limit when one of your parents retires, becomes disabled, or dies. It is important to plan ahead for these kinds of changes in making decisions about owning or renting a home. (See *One Step Ahead*, Part II, for more information on planning for future changes.)

B. What is Medical Assistance (MA) and who gets it?

Medical Assistance² (MA or Medicaid) pays for medical, rehabilitation and support services for people who are over age 65 or who meet the disability test for SSI, and who meet limits on income and resources. MA is more than a health insurance program: it provides coverage for many services that people need to remain in their homes and communities and to function as independently as possible. These services

are not typically covered by private health insurance, and include: habilitative and rehabilitative therapies, home health services, personal care services, prescription medications, medical supplies and equipment and, through home and community-based (HCB) waiver programs such as the Community Integration Program and the Community Options Program Waiver, a broad range of flexible,

individualized services to support people to live in the community and be part of community life. Consequently, MA is often essential to people who need therapy, equipment and/or long-term support services, even if they otherwise have an income that can meet their needs for food, clothing and shelter, and even if they have access to private health insurance.

If you get SSI, you will automatically get MA. If you do not get SSI, you must apply for MA through your county Social or Human Services Department. In general, the state and county are supposed to follow the same rules for MA as SSI uses in figuring countable income and resources.³ However, there are some major exceptions that allow people who have incomes above the SSI limit to become or remain eligible for MA.

C. What are countable resources, what is countable income and how are they different?

For purposes of SSI and MA, resources in a particular month include money or other property that you owned at the beginning of a month and that you could use to provide yourself with food, clothing or shelter.⁴ Income includes money, property or benefits you receive during the month, and that you could use to provide yourself with food, clothing or shelter⁵. In any particular month, property is either a resource or income; it cannot count as both. Income you do not spend or use in a month usually becomes a resource if you hold it at the beginning of the next month. There are some exceptions: for example, retroactive

Social Security and SSI payments can be held for six months before they become a resource.⁶

In figuring eligibility and benefits, SSI and MA do not count all property that meets the basic definitions of resources and income. The items that are counted are referred to as countable resources and countable income; other items are referred to as excluded or disregarded income and resources. (See *One Step Ahead*, Parts IV, V and VI, for income and resource limits and for more information on what kinds of resources and income are counted for SSI and MA.)

D. How do countable resources affect your SSI and MA benefits?

If your countable resources are above the SSI limit on the first day of the month, you will not be eligible for an SSI payment for that month, even if you reduce your resources later in the month. If you receive something during a month that will put you over the resource limit, you must either spend it or convert it into a form that is not counted before the beginning of the next

month, or you will start to lose SSI payments.

Under the MA program, you may be able to get coverage for a service if you are under the resource limit at the time you get the service, even if you were over the resource limit at the beginning of the month. However, if you do not have an MA card and are over the resource limit at the time

you receive a medical service, you cannot apply for MA and get retroactive coverage for that service, even if the cost of the service is much higher than the amount of

your “excess” resources. It is therefore particularly important not to hold excess countable resources at a time when you are receiving a costly medical service.

E. How does countable income affect your SSI and MA benefits?

If you are eligible for SSI, SSI compares your countable income for a month to the SSI payment level that applies to your situation, and gives you enough money to make up the difference. Consequently, a one-dollar increase in your countable income results in a one-dollar decrease in your SSI payment.

Income affects MA differently. In general, an increase in countable income does not have any effect on MA as long as you do not go over the eligibility limit that applies to you. (One exception: an increase in income may increase your responsibility to share in costs for home and community-based waiver services.) When you have income over the countable income limit, you become ineligible for MA. If you want to continue to get MA, you will then have to reapply for MA through your county, and apply “excess” income towards medical expenses under the MA deductible program. This requires a lot of paperwork, and the deductible amount that applies may leave you substantially worse off in terms of disposable income, particularly if you were eligible based on the higher income tests that apply to people receiving home and community-based waiver services. (See *One Step Ahead*, Part VI.d.)

Because there is some income that is counted for SSI but not for MA, you may be able to get MA even if you have too much income to get SSI. For example, you may be eligible for MA if you would still be

eligible for SSI except for your income and if any one of the following situations applies to you:

- You have health-related bills which offset part of your income (“MA deductible”).
- You used to get SSI, and you would be eligible for SSI now except for your earnings from work (“1619(b) program”).
- You are subject to special income eligibility and cost-sharing rules that apply to people receiving MA home and community-based waiver services through the Community Integration and Community Options Programs (CIP and COP-W) and to people in nursing homes.
- You used to get SSI, and you would still be eligible except for cost-of-living increases in Social Security benefits.
- You used to get SSI but became ineligible because of an increase in Social Security “disabled adult child” benefits.

(See *One Step Ahead*, Part VI, for more information on these special income tests for MA.)

III. INCOME ISSUES: IN-KIND SUPPORT

A. What is in-kind support and why is it important in making a housing plan?

In-kind support is income you receive in the form of food, clothing or shelter. For example, if someone lets you live in a house or apartment that you do not own without charging you any rent, the value of the rent the owner might have charged to someone else who rented it on the open market may be considered to be in-kind support. If you own your home, and someone pays for all or part of your basic housing costs, such as mortgage and taxes, the amount they pay may also count as in-kind support.

The purpose of many housing plans is to figure out ways to reduce your housing costs by having someone else share in those costs. However, an arrangement where someone else helps you with housing costs may result in increasing your countable in-kind income, either reducing your SSI benefit or making you ineligible for SSI and MA. This does not mean that it is impossible for other people to help you with housing costs, but it does mean that the issue of in-kind support must always

be kept in mind if you do receive help with housing costs.

Note: In-kind support provided by a person whose income has been deemed to you in figuring your SSI payment does not count as income, if they live in the same household with you.⁷ For example, this may include support from a spouse who lives with you, and support from your sponsor if you are not a U.S. citizen.

Note: Assistance from public rental and housing assistance programs, and from state and local programs based on need, do not count as income.⁸ For example, SSI and MA do not count any assistance from the Department of Housing and Urban Development and the Farmer's Home Administration, including Section 8 rental subsidies as income. SSI and MA also do not count payments from the Community Options Program that assist with housing costs as income, because they are from a state program based on need.

B. What housing expenses are considered to be part of your shelter costs?

In deciding whether you have received in-kind support in the form of in-kind shelter, SSI and MA only consider things that other people have provided to you in-kind, or paid for on your behalf, if they are included on Social Security's list of shelter costs. For purposes of SSI and MA, shelter costs include only the following:⁹

- Rent.

- Mortgage payments, payments on a land contract, or payments towards purchase of a mobile home, including both principle and interest.
- Property insurance, but only if your mortgage holder requires it.
- Real property taxes.
- Heating fuel, gas and electricity.
- Water and sewerage costs.
- Garbage collection services.

Some things that you might think of as housing or shelter costs (such as telephone bills) are not included in the above list, and do not count as in-kind shelter. It may be to

your benefit for other people to help you pay for these items rather than to help you pay for costs that count as in-kind income. (See Booklet #3, Part II. A. 2.)

C. How does in-kind support that you receive from your employer in exchange for work affect SSI and MA?

If you receive in-kind support from your employer in return for work that you do, the in-kind support may be considered earned income, and the current market value of the in-kind support will be treated the same as wages from work.¹⁰ (See *One Step Ahead*, Part V.) This may be a good way to get your housing costs paid. In figuring how much of your wages and earned in-kind support are considered countable income, SSI and MA will not count work expenses you have that are related to your disability. They will also apply a standard disregard of \$65-\$85, and half of any remaining earned income above that. In other words, half or

more of the value of housing that you receive in exchange for work will not be counted as income for SSI and MA. However, shelter that you receive in return for work will be treated as unearned income if any of the following apply:

- You are a domestic or agricultural worker;
- The work you do is not part of your employer's trade or business; or
- The housing is provided on your employer's premises and you are required to live in it in order to hold your job.

D. How do SSI and MA figure the value of in-kind support?

The value of in-kind support depends on how it is received. If someone pays a bill on your behalf, such as a rent, tax, or utility bill, the in-kind support is valued at the amount that was paid on your behalf. If someone gives you the item directly, for example by letting you live in a home rent-free or for reduced rent, then the in-kind support is valued at the difference between the market value of what you received and what you contributed.

If you rent your home, Social Security will ordinarily assume that a normal business arrangement exists and that there is no rental subsidy if your landlord (or the landlord's

spouse) is not a parent or child of someone in your household. If the landlord (or spouse) is the parent or child of someone in your household, Social Security will ask the landlord for a statement of the actual rent charged and an estimate of the market rental value. Social Security will usually accept the landlord's estimate.¹¹

The way in which in-kind support is counted may be different depending on whether you are treated as living in your own household or living in the household of another person. Whether one is better than another depends on your individual situation.

E. When do SSI and MA consider you to be living in your own household?

You will be considered to be living in your own household if you live by yourself or live with your spouse and minor children and no one else. If you live with people other than your spouse, you will still be considered to be living in your own household if you meet any one of the following conditions:¹²

- You or your spouse have an ownership interest in your home.¹³ (See Booklet #2, Part II. C.)
- Your landlord does not live with you, and you or your spouse have an agreement with the landlord under which one or both of you are responsible for paying rent.¹⁴ This is clearest where you have signed your name to a lease agreement, but a rental agreement can also be oral.

- You either arrange to buy your food separately from the other people, or you eat away from home.¹⁵
- You are in a household where everyone receives public income-maintenance payments based on need, such as SSI and Wisconsin Works payments.¹⁶
- You pay your share of household operating expenses, or you pay your share of either shelter costs or the cost of food. (See Part III. G., below.)

Note: Living in a facility that is arranged and supervised by an agency, such as a group home or adult family home, is not considered living in the household of another.¹⁷

F. How does unearned in-kind support affect SSI and MA if you are living in the household of another person?

You are considered to be living in the household of another person if you do not meet any of the conditions for being treated as living in your own household described in the last section. If you receive in-kind support from someone else in the household (other than your husband, wife, or someone else whose income is deemed to be your income), SSI will automatically reduce your payment by one-third of the federal payment amount (\$164.67 for a single person in 1998, no matter how much the in-kind

support is worth. No other in-kind support, whether from inside or outside the household, will be counted as income. This may be good or bad for you, depending on your situation. It will be good for you if the reduction does not affect your eligibility and the value of the in-kind support is greater than the value of the one-third reduction. In this situation, you get the benefit of the difference between the value of the in-kind support and the value of the reduction.

Example. Your only income is from SSI. You are an adult living with your parents in a home that they own. It is a nice house with a big mortgage in a city with high taxes, and your fair share of shelter costs and food costs for the household comes to over \$800 per month. You contribute \$400 towards household expenses, and use the rest of your SSI for your personal needs and wants. In addition, your parents help you to pay for your clothing. Your SSI payment will only be reduced by the value of the one-third reduction, even though

the value of the in-kind income you receive is considerably more than that. The value of the clothing will not count as income.

On the other hand, being treated as living in the household of another person may be bad for you if the value of the in-kind support is

less than the value of the in-kind support you are getting, and/or if the reduction causes you to lose SSI completely.

Example. It is 1998. You get Social Security of \$400 per month and both a federal and a state SSI payment. You share an apartment with your brother. His name is the only one on the lease. Your share of household expenses for shelter and food costs is \$500, but you only contribute \$400 per month. As a result, you are subject to the one-third reduction in your federal SSI payment level. The \$100 your brother pays on your behalf produces a \$164.67 cut in your federal SSI payment level (from \$494 per month to \$329.33). With this reduction, your federal SSI payment level is below your income from Social Security, and you become ineligible for federal SSI benefits. Under Wisconsin law, this usually also means that you lose state SSI benefits.

If you decide that being treated as living in the household of another person is not to your benefit, you may be able to change your situation so that SSI and MA will consider you to be living in your own household. For example, you can change your situation by getting an ownership

interest in the home, by putting your name on the lease as a person responsible for rent, by buying your food separately from other people in the household, or by paying your share of household expenses. (See next section.)

G. When will SSI and MA consider that you are paying your share of household operating expenses?

You will not be considered to be living in the household of another person if you pay your share of housing expenses.¹⁸ Your share of household operating expenses is determined simply by dividing total household operating expenses by the number of people in the household, regardless of age. For this purpose, household operating expenses include the items SSI counts as shelter costs (see Part III. B. above), plus what the household pays for food.¹⁹ No other expenses (phone bill, home repairs, cleaning supplies, etc.) should be included. Only things that people living in the household pay for should be counted in deciding whether you are paying your

share. If someone outside the household is paying for expenses, those expenses should not be considered in figuring household operating expenses. (The benefit of those payments may still be income to you; see next section.)

You may not have enough cash to pay your share of household expenses until you start getting your full SSI check. One solution to this problem is to borrow what you need to pay your share. (See Booklet #3, Part II. A. 3.) You can do this by taking a loan in cash and using the loan to pay your share, or by promising to pay back whoever is helping you pay for household expenses.²⁰

Example. You are living in your parents' home and are not paying your share of household expenses because you have no income. You have applied for SSI, but are not receiving it yet. You promise to pay your parents back for your share of household expenses when your SSI starts coming. SSI will not treat your current housing expenses as income, and your SSI will not be subject to the one-third reduction.

Some costs are not included in what SSI and MA count as shelter costs. (See Part III.B. above.) It may help you to pay your share of household operating expenses to stop contributing to the cost of those items and to focus your contribution on shelter and food

costs. If you have an agreement under which you pay some non-shelter costs in exchange for payment of shelter costs by someone else in the household, this may count as a contribution by you toward shelter costs.

Example. You live with your brother, who has his name on the lease and pays all the rent. You agree that you will pay the phone bill for your brother as part of your payment toward rent. Your payment for your brother's share of the phone bill will be considered a contribution towards shelter costs. However, your payment for your share of the phone bill will not count as a contribution towards household expenses.

To be considered to be living in the household of another person, you must receive both food and shelter from someone else in the household. Consequently, if you pay your fair share of either food or shelter

you should be considered to be living in your own household. If you cannot pay your fair share of total household operating expenses, it may help you to " earmark " your payments for either food or shelter.²¹

Example. You share an apartment with your father. He pays the rent, and you cannot afford to pay your share of both rent and food. You pay your father \$300 per month, which is less than total household operating expenses. If you earmark enough of this money to pay for your share of food costs, you will not be considered to be living in the household of another person. Your father's contribution towards your rent may still be considered in-kind income. (See next section.)

H. How does unearned in-kind support affect SSI and MA if you are living in your own household, or the support comes from outside your household?

If you are living in your own household and get in-kind support from someone other than your spouse, or if you get in-kind support from someone outside your household, you

will not be subject to the one-third reduction rule. In that case, SSI and MA will count in-kind support as income, but only up to an amount called the presumed maximum

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