



How In-Kind Support and Maintenance (ISM) Affects Benefits

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Special needs trusts (SNTs) are established to supplement the benefits that individuals with disabilities receive from government programs, such as Medicaid and SSI (Supplemental Security Income). They protect funds intended to enhance quality of life without rendering the beneficiary ineligible for means-tested benefits. Since SSI is meant to cover food and shelter, SNT distributions for those purposes are considered in-kind support and maintenance (ISM) and will reduce SSI payments. SSI cuts also result when another person helps to defray such costs, though this is not a consideration when a minor is living with parents.

ISM most often becomes an issue with regard to housing, since SSI payments are inadequate for many private rentals throughout the U.S. For that reason, individuals and their families should carefully consider whether a better residential option will justify reduced SSI.

The following housing expenses are considered ISM:

- Mortgage payments
- Home insurance, if required by mortgage terms
- Rent
- Property tax
- Heating fuel
- Gas
- Electricity
- Water
- Sewer
- Garbage removal

If a beneficiary lives in a home that is owned outright by their SNT, they may live there rent-free without affecting SSI. Another way to avoid the SSI penalty is for an adult child living

with parents to enter into a rental agreement with them, in which case payments are considered business-related expenses.

Calculating the SSI Reduction

Monthly SSI payments will be reduced by one-third of the value of food and housing paid for with non-SSI funds, up to what is termed the presumed maximum value (PMV). Calculated annually, PMV for food and housing equals one third of the largest monthly payment available through SSI. When food or shelter is involved, that number is increased by 20 dollars. For 2017, PMV is \$245/\$265. Once the PMV is reached, additional payment for food and lodging by an SNT or others will not affect SSI for that month.

Families should take care not to eliminate SSI entirely if the beneficiary is receiving services through Medicaid. In most states, eligibility for the two programs is linked, and losing SSI coverage could have serious consequences. Coverage for individuals receiving SSI “state supplements” could be affected, as well.

Overly Restrictive SNTs

When SNTs contain language prohibiting distributions that would reduce government benefits, they fail to recognize that, in some cases, reducing SSI can result in a higher standard of living. Families should, therefore, work closely with a special needs attorney to ensure that SNTs don’t contain self-defeating stipulations. But what if your loved one’s SNT already ties the trustee’s hands? In such a case, you could decant the trust—transfer its assets into another SNT with less restrictive language.

Managing an SNT is a huge responsibility. It’s critical for trustees to understand how ISM affects important public benefits and to have the ability to take action when enhancing a beneficiary’s lifestyle justifies reducing them.

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