



## **In-Kind Support and Maintenance – A Trap for the Unwary**

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*Supplemental Security Income (SSI) is a means-based federal program that provides money to individuals who have little or no income and who are aged, blind, or disabled, to meet their basic needs for food and shelter. Under the Social Security Administration's (SSA) regulations, assistance an SSI recipient ("recipient") receives in the form of food and shelter is known as [in-kind support and maintenance \(ISM\)](#). ISM is counted as income to a recipient when calculating the amount an SSI recipient will receive in his or her monthly payment. Anyone receiving SSI must report ISM they receive to the SSA. Failing to report ISM will [result in an overpayment of SSI benefits](#) to a recipient, which overpayment must be repaid to the government.*

*The amount of SSI for 2020 is \$783, which is very modest and provides for a very meager existence. A well-meaning family member or friend, who wants to help an SSI recipient, may allow the recipient to live rent-free in their home, or they may pay the recipient's food or shelter expenses. In general, the SSA applies an offset against SSI benefits a person receives if someone else pays for that person's food or shelter. So, it is important to understand the basic rules associated with the amount of ISM provided to a recipient.*

*Before exploring the impact of ISM on the amount an SSI recipient receives, it is important to understand that some exceptions apply to the general rule (that the gifting of food and shelter to an SSI recipient reduces their monthly SSI benefit). Food or shelter received under the following scenarios is not considered ISM by the SSA and does not trigger a reduction in a person's SSI benefits:*

- 1. Food or shelter received during a temporary absence;*
- 2. Food or shelter that is excluded as infrequent or irregular income;*

3. *Food or shelter that has no current market value (leftover restaurant food, sleeping in an abandoned building);*
4. *Food or shelter received under a government medical or social service program;*
5. *Benefits specifically excluded under federal law;*
6. *Food or shelter provided by a state or its political subdivision;*
7. *Food or shelter received during a medical confinement in an institution.*

*As mentioned above, the gifting of food or shelter impacts the amount of a person's monthly SSI benefits. The definition of food is fairly common sense, but the ISM definition of shelter includes nearly all aspects of a recipient's housing expenses. Under the SSA regulations, shelter includes mortgage payments, rent, electricity, gas, heating oil, water, sewer, garbage, any required property insurance, and real estate taxes.*

*The amount by which a recipient's SSI will be reduced by ISM is determined under either the Value of the One-Third Reduction (VTR) rule or the Presumed Maximum Value (PMV) rule. The VTR is calculated by taking the maximum amount of SSI a person can receive monthly (the "Federal Benefit Rate" or FBR) and reducing it by one-third. The FBR for 2020 is \$783. So, the reduction in 2020 under the VTR rule is \$261 and results in a recipient receiving \$522 a month in SSI instead of \$783. The PMV reduction is calculated by reducing the FBR by one-third and adding \$20. The PMV reduction in 2020 will be \$281 ( $1/3 \times \$783 = \$261 + \$20 = \$281$ ) and results in the recipient receiving \$502 monthly in SSI ( $\$783 - \$281 = \$502$ ) payments. It is important to know when the VTR and PMV rules apply.*

*The VTR rule applies when a recipient lives in another person's home and others in the household pay for both the recipient's food and shelter. The VTR is an all or nothing rule, with the full one-third reduction being deducted from the recipient's monthly SSI benefit, but no more, even if the value of food and shelter the recipient receives is more than one-third of the SSI benefit. Situations in which the VTR rule does not apply include the following:*

1. *The recipient lives in their own home;*
2. *The recipient does not live an entire month in another person's home;*
3. *The recipient does not receive both food and shelter from the homeowner;*
4. *The recipient pays their equal, or pro-rata, share of the housing and food expenses (no ISM is being provided so no reduction in SSI benefits occurs). For example, a recipient lives in a friend's home where the mortgage and utilities are \$1,500 a month and food is \$500 a month. Four people live in the home. If the recipient pays*

*at least \$500 a month towards the food and shelter, no ISM is received, so no adjustment to the recipient's SSI benefits is made.*

*The PMV rule is used whenever the criteria to apply the VTR rule are not met. The PMV rule is also designed to be the maximum amount of ISM that can be charged against a recipient's monthly SSI benefit. A deduction calculated under the PMV rule is rebuttable. To challenge the PMV amount, a recipient must prove they received an amount less than the PVM of either (1) the current market value of ISM received, minus payments made by the recipient; or (2) the amount actually paid by someone else.*

*A person's living arrangements and support can change rapidly or over time. It is important for an SSI recipient and his or her family to remember that any change needs to be reported promptly to the SSA. Any failure to do so could result in an overpayment of SSI benefits and a demand for repayment of the benefits improperly received.*

*Because the ISM rules for SSI are complicated, SSI recipients and their families are well advised to seek professional legal advice about how the VTR or PMV rules apply to their particular situation, accurately reporting ISM to the SSA, and possible ways to avoid or reduce ISM reductions.*

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