

In-kind Support & Maintenance in the Supplemental Security Income Program

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Introduction

- The Supplemental Security Income (SSI) program is a means-tested program, so benefits are reduced by income received.
- Congress requires SSA to reduce benefits for cash and in-kind income alike.
- Most other Federal means-tested programs do not consider in-kind support and maintenance (ISM).
- ISM is difficult to value so we have developed presumptions and rules to help us.



Why are we Discussing ISM Simplification?

- Developing and counting ISM have been a problem since January 1974 when SSI began.
- The first ISM simplification effort took place in November 1974.
- Most program changes have not simplified ISM policy.
- “One size doesn’t fit all.”
- Efforts directed toward improving equity have made policy more complex.



Problems With ISM Policy

- ISM is perennially a top cause of improper payments.
 - FY 2014, \$312 million in overpayments
 - \$269 million in underpayments (Lower than earlier years).
- Program complexity
 - Hard for recipients to understand
 - Hard for SSA to administer
- Time consuming development
 - SSA must develop living arrangements (LA) and ISM for almost all recipients.
 - Only about 9 percent of recipients have ISM reductions.



Problems With ISM Policy

- Verification
 - Intrusive, detailed questioning of household
 - Lack of objective information (allegations)
 - No electronic or third party source of data
- Means test = monthly determinations
 - Every change can cause an improper payment
 - Several million SSI address changes per year
 - Bills/household composition
- Equity
 - Disincentive for family help vs. government assistance
 - Knowledge of the rules

What is the Basis for In-kind Support and Maintenance (ISM)?

Social Security Act

Sec. 1612. [42 U.S.C. 1382a] (a) For purposes of this title, income means both earned income and unearned income; and—

(2) unearned income means all other income, including—

(A) support and maintenance furnished in cash or kind;



In-Kind Support and Maintenance

20 CFR § 416.1130. Introduction.

(b) *How we define in-kind support and maintenance.* In-kind support and maintenance means any food or shelter that is given to you or that you receive because someone else pays for it. Shelter includes room, rent, mortgage payments, real property taxes, heating fuel, gas, electricity, water, sewerage, and garbage collection services.

- ISM previously included “clothing.” In 2005 SSA eliminated “clothing” from the definition of income and from the definition of in-kind support and maintenance by regulatory change.
- ISM is never cash.



When Do We Count ISM?

If a recipient is provided food, shelter, or both and does not pay for it, we count ISM as income unless an exclusion applies.



Common ISM Exclusions

- Specifically excluded by Federal law, e.g., the Disaster Relief and Emergency Assistance Act;
- Meets the criteria for exclusion of infrequent or irregular unearned income;
- Provided under a governmental (Federal, State, or local) medical or social service program, e.g., food and shelter received during a medical confinement;
- Is assistance based on need (ABON) from a State, or one of its political subdivisions, e.g. State General Assistance or General Relief programs; or
- Provided by someone living in the same household whose income is subject to deeming to the beneficiary.



How Do We Count ISM?

We determine an SSI benefit amount based on a claimant's receipt of in-kind support and maintenance (ISM) and his or her living arrangements.

TYPES OF ISM

In-kind support and maintenance is calculated using:

- the Value of the One-Third Reduction (VTR) rule; or
- the Presumed Maximum Value (PMV) rule.
- The VTR rule is a reflection of Section 1612(a)(2)(A) of the Social Security Act.
- The PMV rule is regulatory and embodies the idea, that if a claimant can show that the food and shelter received is less than the PMV then we would develop and charge them the actual value of the food and shelter received. We always calculate outside ISM using the PMV rule.



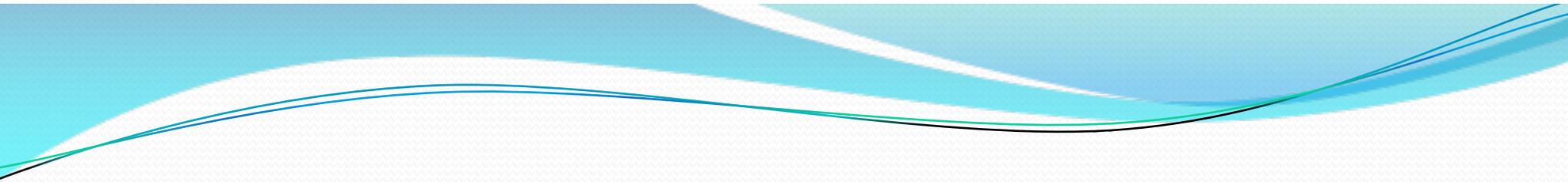
KEY POINTS ABOUT VTR

- The VTR applies when:
 - a recipient lives throughout a month in another person's household; and
 - receives both food and shelter from others living in the household.
- The VTR is equal to one-third of the Federal Benefit Rate (FBR) (\$244.33 in 2016).
- If the VTR applies, no other ISM (e.g., from outside the household) is counted.
- The VTR is not rebuttable. It applies in full or not at all.

Not in “Another Person’s Household”

A person is not living in another person’s household and not subject to the VTR when they:

- have an ownership interest in the home;
- have rental liability;
- live alone;
- live in a public assistance household;
- paid a pro rata share of household expenses;
- are transient;
- are in an institution; or
- had been placed by an agency in a foster care (non-institutional care) situation.



“Food and Shelter”

A person is subject to the VTR if they receive both food and shelter. They are not charged the VTR if they:

- purchase food separately;
- consume their food separately;
- earmark their contribution to pay for their share of food or shelter expenses;
- live in household whose expenses do not include food (food stamps) or shelter (paid from outside of the household).

The Presumed Maximum Value (PMV)

20 CFR § 416.1140. The presumed value rule.

(a) *How we apply the presumed value rule.* (1) When you receive in-kind support and maintenance and the one-third reduction rule does not apply, we use the presumed value rule. Instead of determining the actual dollar value of any food or shelter you receive, we presume that it is worth a maximum value. This maximum value is one-third of your Federal benefit rate plus the amount of the general income exclusion described in § 416.1124(c)(12).

(2) The presumed value rule allows you to show that your in-kind support and maintenance is not equal to the presumed value. We will not use the presumed value if you show us that—

- (i) The current market value of any food or shelter you receive, minus any payment you make for them, is lower than the presumed value; or
- (ii) The actual amount someone else pays for your food or shelter is lower than the presumed value.

KEY POINTS ABOUT PMV

- If the VTR does not apply to ISM received, the PMV applies.
- PMV is a cap on the amount of ISM SSA charges for receipt of food & shelter or both. The PMV is equal to one-third of the Federal Benefit Rate (FBR) plus \$20 (\$264.33 in 2016).
- The PMV is a rebuttable presumption. If a recipient can show that the value of food and shelter received is less than the PMV then we would do the necessary documentation and charge them the **actual value** of the food and shelter received.
- If the recipient receives ISM and does not rebut the PMV, then we charge the PMV until the recipient reports a change.



Living Arrangements

Living arrangements help us determine whether a recipient is subject to ISM and, if so whether we value the ISM using the Presumed Maximum Value (PMV) rule or the One-Third Reduction (VTR) rule. When a recipient moves, he or she must report the change because it could affect eligibility, payment amount, or both.

SSI Living Arrangements and ISM

| Living Arrangement | Description | ISM Rule | 2016 Value |
|--------------------|--|--------------------|------------|
| A | SSI recipient lives in own household (or no household) or does not receive food and shelter | PMV | \$264.33 |
| B | SSI recipient lives in another person's household throughout a month and receives both food and shelter from the household | VTR | \$244.33 |
| C | SSI recipient under age 18 and lives with parent(s) (NOTE: Also subject to deeming of parents' income and resources.) | PMV | \$264.33 |
| D | SSI recipient lives in a medical treatment facility throughout a month where Medicaid pays more than 50% of the cost of care | ISM does not apply | |

Sequential Development of Living Arrangements

This diagram shows a simplified version of the ISM development process.

