

CHAPTER III
NEEDS-BASED ISSUES-- INCLUDING THE ELIMINATION OF IN-KIND
SUPPORT AND MAINTENANCE AND RAISING THE RESOURCES LIMITS
WHILE STREAMLINING THE EXCLUSIONS

A. PREAMBLE TO CHAPTER

Precursors to SSI--the national perspective. Historically, one objective of the Social Security Act was to establish a social-insurance program as the first line of defense against the future loss of income for persons who work. However, some persons were ineligible for social insurance benefits due to insufficient work history, and some received benefits which were inadequate to provide a basic living. Therefore, the Act provided incentives (in the form of matching funds) to the States to establish and maintain means-tested programs of assistance to persons who were aged, blind, or disabled.

For these Federal/State grant programs, the statute required that a person's income and resources be considered in determining need. However, neither the statute nor Federal regulations provided a definition of income or resources, or specified income levels or resource limits which would apply. Each State specified the amount that represented basic needs and defined those needs. All States recognized food, clothing, shelter, fuel and utilities as "basic" consumption items needed by everyone. Most States also included other items (e.g., personal care items, medicine chest supplies, household supplies, etc.).

The Act mandated certain disregards (exclusions) relating to earned income. States were given options in designing their measures of need: some options were to disregard a limited monthly amount of "any income" and to provide for some form of "relative responsibility."

Federal rules required States to specify the amounts and types of real and personal property, including liquid assets, that might be retained to meet current and future needs. In addition to the home, personal effects, automobile and income-producing property allowed by the State, the amount of real and personal property, including liquid assets, that could be reserved for each individual recipient was limited to \$2,000. States also were permitted to allow "reasonable" proportions of income from business or farms to be used to increase capital assets, so that a person's income might be increased.

Needs tests under SSI. When the SSI program was enacted, its primary objective was to provide a nationally uniform

income floor for persons who are aged, blind, or disabled and have little or nothing on which to live: i.e., those who are "needy." There were efforts to provide objective and nationally uniform rules, to remove the "stigma" of welfare, and to provide individuals with cash which could be used at their own discretion. At the same time, some of the adult programs' basic income and resource schemes carried over to the SSI program in addressing measures of need.

As with the former State programs, the SSI program uses two measures of need: income and resources. To be sufficiently "needy" to receive SSI benefits, a person must meet both the income test and the resources test. For someone who is eligible, the amount of his/her income also affects the amount of any SSI benefit which may be paid.

The Federal benefit standard functions as a limit on countable income which a person may have and still be eligible to receive Federal SSI benefits. Income which is counted is subtracted from the Federal benefit standard to arrive at the amount payable to an otherwise eligible person. This approach bears some similarity to the approach under the former programs. A discussion of the adequacy of the Federal benefit standard as a measure of income necessary to support a person's needs for food, clothing, and shelter, is provided in Part B of Chapter II. That chapter also contains information concerning the computation of benefits (in Part F).

This chapter addresses basic rules regarding what is considered to be income or resources; how much income should be counted against the Federal benefit standard, and the role of resources in efficiently and effectively identifying those who are needy. Although in-kind support and maintenance is a type of income, it is addressed separately (in Part C) since it has unique characteristics and has been frequently identified as one of the most complex and troublesome program areas.

B. INCOME

Background Information:

Meaning of income. For SSI purposes, there is a national definition of "income." In general, "income" means anything a person receives that can provide food, clothing, or shelter. Sometimes income takes the direct form of food, clothing, or shelter. More often, it comes in the form of cash (including checks and electronic funds transfers).

Income, under the statute, is either "earned" or "unearned." Earned income comes from wages, self-employment, and similar sources. Unearned income is every other kind of income. Examples of common types of unearned income are social insurance benefits, veterans benefits, rental and lease income, interest and dividend income, and "in-kind support and maintenance" (food, clothing, and shelter).

Exclusions from income. Income exclusions provide a financial advantage to persons who receive certain kinds of income (see "countable income"). The Social Security Act provides many exclusions from income. In addition, a number of other specific exclusions have been written into statutes governing other programs, such as housing subsidies and earned income tax credits. There are more than 50 income exclusions provided by statute.

Countable income. Countable income is the amount of income remaining after all appropriate exclusions are applied to income. It is the amount actually subtracted from the Federal benefit standard to determine eligibility and to compute the monthly benefit amount.

Areas Where Issues Arise:

Earned income exclusions. Some program rules relating to earned income address a program objective other than need: incentives and opportunities for SSI eligible persons who are able to work, or to be rehabilitated, to enable them to increase their independence. In designing the SSI program, the Congress recognized that some needy people, including the aged, would continue to work and attempt to be self-supporting long after others would have stopped. To encourage these attempts, Congress reasoned that those who work should find that their work resulted in a higher level of income than could be had without working. Therefore, the statute provides that, in determining eligibility for and the amount of SSI benefits, significant amounts of a worker's earnings are to be excluded. The experts' individual views concerning the income provisions related to such exclusions are addressed in Part C of Chapter IV.

The \$20 monthly general income exclusion. The first \$20 of monthly income does not count. The \$20 was set at the beginning of the program. This exclusion was intended to assure that persons who had previously worked in the labor force would receive somewhat higher monthly income than those who had not. It was believed that the exclusion would most often apply to social insurance benefits: however, it could apply to income from any source except need-related income.

The amount of the exclusion has never been increased, although the Federal benefit standard has more than tripled since it was first set in 1972. The \$20 is subtracted first from any unearned income a person has. If the person has less than \$20 in unearned income (or none at all), any remaining amount of the \$20 is subtracted from any earned income.

During the experts' meetings, they heard people state that this exclusion has lost much of its value and should be increased to reflect the increased cost of living since 1972 and it should be indexed for inflation. Some also said that if the exclusion were applied only to unearned income, it would be more understandable to the public.

Interest and dividends. The amounts of interest and dividends received by SSI beneficiaries usually are quite small. (The amounts are limited, in effect, by the program's eligibility limits on the resources that generate such income.) These amounts count as income unless they can be excluded under a provision that allows for exclusion of income that is "infrequent or irregular" or under the \$20 monthly general income exclusion.

Often, the "infrequent or irregular" exclusion cannot apply, even when the amount of the interest or dividend is very small. This is because interest and dividends often are received both "regularly" and "frequently." To be considered "infrequent," the income must be received no more than once in a calendar quarter and in an amount not greater than \$20.

The experts heard people state that there are inequities in the treatment of interest and dividends because some are excluded under the "infrequent or irregular" exclusion and others must be counted: sometimes the only difference is how often the bank or company chooses to pay its interest or dividends. Some people said that excluding interest and dividends would simplify program administration and it would reward SSI recipients who are thrifty and try to save money.

Income "deemed" from an ineligible spouse or parent. When a married person whose spouse is ineligible applies for SSI benefits, part of the spouse's income may be considered to belong to the applicant. Similarly, if a child applies for SSI benefits, part of the income of an ineligible parent(s) in the household may be considered to belong to the child. This process of considering some of a spouse's or parent's income is called for by statute; it is referred to as "deeming," because the SSI program "deems" part of the relative's income to be available for the support of the applicant or beneficiary. The Secretary of Health and Human Services determines, through regulations, how much of the

income of an ineligible spouse or parent(s) to deem as income.

The regulations provide three different formulas for deeming income from a parent(s) to a child. In all three formulas, an amount for each ineligible child in the household is excluded from the parent's income. This recognizes the need for the parent to support such other children. After this exclusion is applied, one of the three formulas is used, depending on whether the remaining income of the parent is earned income, unearned income, or a mixture of earned and unearned income.

Experience has shown that the three formulas do not always produce equitable and reasonable results. Often, a slight change in the nature of the parent's income (e.g., from a mixture of earned and unearned income to only unearned income) can produce a major increase in the amount of income deemed to the SSI child. This happens because of the differences between the formulas used in these two situations.

On July 8, 1991, the Secretary of Health and Human Services published a Notice of Proposed Rulemaking in the FEDERAL REGISTER (56 FR 30884) to change the rules so that the formula in use for situations where the parent(s) has both earned and unearned income would apply in all situations. A final regulation has not been published to date.

Other issues related to parent-to-child deeming of income were raised by the public in response to the issues paper which the SSI Modernization Project published in the FEDERAL REGISTER on July 31, 1991. People commented that unusual expenses incurred by parents for a disabled child should be deducted before deeming the parents' income to that child. Examples of such special expenses ranged from smaller items, such as disposable diapers needed by a child who is incontinent, to major investments, such as structural changes to a home to accommodate a child who uses a wheelchair. Money spent on such items is not available for the child's food, clothing, and shelter needs.

Some people also commented that certain types of income received by a parent who is no longer able to work due to disability or unemployment should be treated as earned, rather than unearned, income. Examples mentioned of such types of income are: unemployment compensation, workers' compensation, and disability and survivorship social insurance benefits. It was stated that, despite a substantial loss in household income, a child can actually lose entitlement to SSI, and possibly Medicaid, when wages

stop and these other benefits begin. The problem arises because earned income is treated more favorably than unearned income.

Income from individually-held Indian trust land. Many Federal statutes provide for the exclusion from income of payments made to members of Indian tribes and groups. There is, however, no specific exclusion that applies to income derived from individually held Indian trust lands.

Individually held Indian trust land is managed by the Bureau of Indian Affairs for the benefit of individual Indian landowners. It may generate income, typically from agricultural leases. Indians receive a portion of the lease income in proportion to the amount of land they own.

The experts were told during the public meetings that the SSI treatment of this lease income creates serious problems for tribal elders because receipt of the income is virtually always unpredictable and it may be received in 6 or 8 different months of the year. It was stated that the program pays monthly benefits based on estimates of such income which (of necessity) are highly unreliable; this too often leaves the tribal elders with little or no income.

Experts' Discussion of Unearned Income Issues:

The \$20 monthly general income exclusion. Several of the experts cited the historical purpose of the general income exclusion: to reward beneficiaries who receive social insurance benefits. Without such an exclusion, some persons who have worked and earned social security coverage would be no better off than SSI recipients who have never worked.

Some experts questioned whether, with an adequate Federal benefit standard, it would be appropriate to exclude a significant amount of other income and so lift SSI beneficiaries with other income significantly above the benefit standard. These experts pointed out that the need for a high general income exclusion is greater while the benefit standard remains low but diminishes as the benefit standard becomes more nearly adequate.

A number of experts said the cost of increasing the exclusion to one-seventh of the Federal benefit standard (the ratio at the beginning of the program) is prohibitively high, at least in the early years as the higher benefit standard is being phased in. Most experts agreed that achieving the higher benefit standard should take priority over an increase in the general income exclusion.

Several experts spoke in favor of restricting the exclusion to unearned income only. They agreed that this change would simplify the program. If accompanied by an increase in the basic earned income exclusion, the restriction would not cause any recipient to lose SSI benefits.

One expert suggested a different simplification: Replace the general income exclusion and the earned income exclusions with a \$200 exclusion for any combination of earned and unearned income. Exclude one-half of the balance: and index the basic (\$200) exclusion to the cost of living, increasing the exclusion when a change in the cost of living would raise the exclusion by a \$50 increment.

Another expert suggested an immediate increase in the existing exclusion to \$30, to be followed by a phased-in increase to one-seventh of the benefit standard only after the benefit standard reaches 120 percent of the poverty line. A majority of the experts, however, expressed a preference for a one-time increase in the exclusion to \$30, and restricting its application to unearned income.

Interest and dividends. Many experts expressed the view that the present requirement to count very small amounts of interest and dividends is undesirable. It discourages beneficiaries who have only modest amounts of savings, and it adds unnecessary complexity to the management of the SSI program.

However, the experts were concerned that a blanket exclusion of all interest and dividends might be inappropriate in an SSI program with a significantly higher limit on assets (see Part D). Such an exclusion would benefit most those with the highest assets. In view of this concern, an expert suggested an annual exclusion of \$200 of interest and dividends; all additional interest and dividends would be counted. Most of the experts agreed with this suggestion.

Parent-to-child deeming. Most of the experts said that the present three formulas should be reduced to one. They said that the current formula which is used when the parents have both earned and unearned income should be used in all cases, regardless of whether the income is earned, unearned, or a mixture.

A majority also believed that itemized special expenses of the disabled child should be deducted from parental income before income is deemed to the child. This would recognize the need for parents to be able to provide for special needs directly related to the child's disabling condition. These

experts also stated that income received by a parent because s/he is no longer able to work should be treated as earned income so as to avoid a benefit decrease when income drops substantially.

Individual Indian trust income. One expert familiar with the problems of SSI beneficiaries who are Indians stated that, because income from individually held trust lands can be very irregular and unpredictable, the lease payments often cause SSI overpayments. The expert said that some Indians have given up on SSI because of frustration with these overpayments over which they have little or no control.

The same expert explained that proposed legislation (S. 754), which would provide a \$4,000 annual exclusion of income from individually held Indian trust lands, is intended to protect the large majority of affected SSI beneficiaries who receive this amount or less each year. Those few who receive more than \$4,000 per year would continue to have the excess amount counted for SSI purposes.

Another expert from a State with a large Indian population said that, because many Indians live in communities with non-Indian SSI beneficiaries, an annual exclusion of \$4,000 for some SSI beneficiaries might be resented by those who must rely on SSI alone. This expert suggested, as a compromise, an annual exclusion of \$2,000, since most income from individually held Indian trust land totals less than \$2,000 annually, and the Alaska Native Claims Settlement Act provides for a similar exclusion of up to \$2,000 per year of cash for certain Alaskan natives. The experts who supported an exclusion preferred this \$2,000 amount.

Recapitulation of Experts' Opinions on Unearned Income:

<u>Option</u>	<u>Experts Supporting</u>
<u>The \$20 general monthly income exclusion:</u>	
1. Increase the exclusion to \$30 but apply the exclusion only to unearned income.	16

Comment: One expert supporting this option also supports indexing the exclusion for inflation by setting its value at one-seventh of the Federal benefit standard and rounding to the nearest multiple of \$10.

A second expert supporting this option also supports such indexing, but prefers

that the value be rounded to the nearest multiple of \$5.

2. Replace the general income exclusion and the earned income exclusions with a \$200 exclusion for any combination of earned and unearned income. Also exclude one-half of the balance. Index the basic (\$200) exclusion to the cost of living, increasing the exclusion when a change in the cost of living would raise the exclusion by a \$50 increment. 1

Interest and Dividends:

1. Exclude from income an annual amount of \$200 of interest and dividends. Count any interest and dividends in excess of this annual amount. 17

Comment: One expert supporting this option also supports counting interest and dividends, but only if the resource limits are increased significantly or the Federal benefit standard is increased at least to the poverty line.

2. Continue to count interest and dividends, as at present, regardless of the resource limit and Federal benefit standard. 1

Parent-to-child deeming:

1. Adopt, for use in all parent-to-child deeming situations, the current formula used when the parents have both earned and unearned income. 16
2. Deduct itemized special expenses of the disabled child before deeming parental income to the child. 16
3. In parent-to-child deeming, treat unearned income that is intended to replace a parent's earnings (such as unemployment compensation, workers' compensation, and disability and survivorship social insurance benefits) as earned income. 16

Individual Indian trust income:

1. Exclude up to \$2,000 per year per individual of income derived from individually held Indian trust land. 16

Comment: One expert in favor of this option also supports indexing the \$2,000 amount to the cost of living and increasing the exclusion when a change in the cost of living would increase the exclusion by an increment of \$500.

2. Continue to count all income derived from individually held Indian trust land. 1

C. IN-KIND SUPPORT AND MAINTENANCE

Background Information:

One type of income that the SSI program considers is "in-kind support and maintenance." In-kind support and maintenance is not cash but is actual food, clothing, or shelter that is given to a person or that the person receives because someone else pays for it. Shelter means room, rent, mortgage payments, real property taxes, heating fuel, gas, electricity, water, sewerage, and garbage collection services. There are two rules for valuing in-kind support and maintenance: the one-third reduction rule and the presumed maximum value rule.

One-third reduction rule. The statute provides for reducing the SSI benefit rate by one-third instead of determining the actual dollar value of items received when the individual or couple lives in another's household and receives in-kind support and maintenance from that person. This **has** been interpreted to **mean** that a person in the household of another must receive both food and shelter from others in the household before the one-third reduction can apply.

An SSI claimant is not living in another person's household if s/he owns, or has rental liability for, the living quarters or is in a noninstitutional care arrangement such as foster or family care. Such a claimant is not subject to the one-third reduction.

An SSI claimant is not receiving both food and shelter from anyone else in the household if s/he pays a pro rata share of household operating expenses, lives in a household in which all members receive public assistance, or receives

food or shelter (but not both). Therefore, such a claimant is not subject to the one-third reduction even if s/he lives in another person's household.

Presumed maximum value rule. When an SSI claimant receives food, clothing, or shelter (from someone with whom s/he lives or does not-live) but the one-third reduction rule does not apply, the presumed maximum value rule is used. The value of any food, clothing, or shelter received is presumed to be worth a maximum of one-third the Federal benefit rate plus the amount of the general income exclusion (\$20). (This value results in the same benefit which would be payable to a person with no other income and subject to the one-third reduction.)

This amount is unearned income unless the presumed maximum value is higher than the actual value of the food, clothing, or shelter received. In such a case, the actual amount received is unearned income.

Discovering-in-kind support and maintenance. When a person applies for SSI, and periodically thereafter when eligibility is redetermined, s/he must answer many personal questions about her/his living arrangements. These include questions about the household operating expenses, the number and relationship of other household members, and any help the household may receive to meet expenses. Questions are also asked of--and statements obtained from--other household members, even though these other people may not be applying for SSI benefits themselves.

Testimony received. Many members of the public provided oral and written statements to the experts concerning the adverse effects of the current program treatment of in-kind support and maintenance. Such testimony came from officials of local government agencies as well as representatives of private non-profit organizations and advocacy groups, and recipients themselves.

Many people reported that the program's attempts to discover, and assign a value to, in-kind assistance provided to an SSI claimant are harsh and demeaning, a disincentive to family members helping each other, and in direct conflict with other government programs which encourage family involvement.

Some said that the application of these provisions discourages caregiving by family members and use of housing alternatives which are beneficial to the individual and to society. One person said, "The poorest and sickest of the elderly live with poor families who assist in caring for them." Another commented, "Informal caregiving provided by

friends and relatives provides valuable assistance to the elderly. It is estimated that relatives represent 84 percent of all caregivers....[The provisions] only serve to create further financial hardship for the family of the elderly or disabled and discourages family support....[and] encourages institutionalization, which is a much more expensive alternative to home caregiving."

It was stated that the pro-rata share analysis is inequitable since it assumes that all household members consume or otherwise benefit from equal portions of the food and shelter expenses of a household. This does not necessarily correlate to the facts of any given household situation.

A recipient commented, "There are as many reasons as there are people for having to live with [SSI]. No one expects government to pay them to live in luxury...but it would be nice to be able to accept a gift at Christmas or on your birthday without having to report it and have the small check you receive reduced because these things are considered 'in-kind income.'"

Others stated that it is inequitable that in-kind support provided by a nonprofit organization is not counted, but help from within a family reduces the benefit. Similarly, some stated that it is inequitable that those who receive public housing are not charged with income because of it, but those whose family members help with housing costs receive a benefit which is reduced because of that help.

Field office employees reported that the process of gathering information and decisionmaking regarding the existence and value of in-kind support and maintenance is one of the most complex and time-consuming tasks they face. They said that evaluating in-kind support and maintenance is subjective, and even experienced employees have difficulty in making the necessary judgments. They also viewed the provisions as inequitable, time consuming to administer, and error prone. Some also said that it is difficult for recipients to understand why they are being charged the determined amounts. Nearly all stated that an inordinate amount of the time they spend processing SSI claims is devoted to this area.

Other programs. Other income maintenance programs supported by the Federal Government do not require that a person's benefit be reduced due to the in-kind receipt of food, clothing, or shelter. With respect to the Aid to Families with Dependent Children program, States have the option of disregarding in-kind income which is not earned income. While there is no central data source on the matter,

it appears that most States, in recognition of the difficulty of valuing it, do disregard such income.

The VA, with respect to its needs-based cash benefit programs, looks to the source and purpose of an in-kind gift. If the purpose of the gift is to provide basic sustenance needs (e.g., food, clothing, and housing), it is not counted as income, even when received from a private party such as a friend or relative.

Experts' Discussion of In-kind Support and Maintenance:

None of the experts who addressed this issue was satisfied with the status quo. Each one favored some modification of the in-kind support and maintenance rules. Each also said that modification of these rules should be one of the top priorities.

Nearly all of the experts indicated that, as a result of public testimony and discussions with field office staff, SSI recipients, and others, the only option they felt they could support was to eliminate counting in-kind support and maintenance. They stated that efforts over the years to clarify or change the rules on counting in-kind support and maintenance have not succeeded, and have only made the policy more confusing and troublesome to recipients and SSA employees alike.

One expert stated that the proposal to eliminate counting in-kind support and maintenance would be too costly and, for this reason, the Congress probably would not support such a change to the program. This expert suggested that the better approach would be to replace present rules for addressing in-kind support and maintenance with a provision for a 25 percent reduction in benefits for any person residing in a household with another person who is an adult. The expert also favored including measures which would protect current recipients against a benefit reduction due to the operation of such a provision. This expert believed that this option would result in program savings, and stated that such savings should be used to improve the SSI program, rather than reverting to the general budget. (For more information, see "Additional Views" at the end of this report.)

Recapitulation of Experts' Opinions on In-kind Support and Maintenance:

<u>Option</u>	<u>Experts Supporting</u>
1. Eliminate consideration of in-kind support and maintenance as income.	17

2. For new beneficiaries, eliminate the current provisions regarding in-kind support and maintenance. The benefit for a person living in a household with another person who is **an** adult (whether or not an SSI beneficiary) would be based on 75 percent of the benefit for an individual living alone. 2

D. RESOURCES

Background Information:

Resources. Eligibility with respect to resources is determined based on a person's resources as of the first moment of each calendar month and the determination is applicable to the entire month. Thus, a person is determined to be resources eligible or ineligible for an entire month at a time.

If countable resources (see below) do not exceed the applicable limit, the person is resources eligible; there is no effect on the amount of SSI payments. If countable resources exceed the limit, the person is ineligible. A basic premise of the resources test is that people whose resources exceed the applicable limit (currently \$2,000 for individuals and \$3,000 for couples whether or not both spouses are eligible) should use the excess to meet their needs before becoming eligible for SSI benefits.

Meaning of resources. Resources are cash, other personal **property**, and real property that an individual owns and has the right to turn into cash to use for his/her own basic needs of food, clothing, and shelter. Not everything a person owns is a resource. A person may own something that s/he does not have the right to turn into **cash or** use for basic needs. Such things are not resources for SSI purposes.

Certain statutory provisions of the SSI program are based on a presumption that other people share financial responsibility for an individual or couple. Thus, resources of certain other people, particularly an ineligible spouse, or ineligible parent of a child under age 18, are considered to be resources of the individual. This is referred to as "**deeming of resources**" and is addressed further under "Resources of an ineligible spouse or parent," below.

Excludable and countable resources. The statute provides that certain items shall be excluded from resources when determining whether an individual (or couple) meets the applicable resource limit. These items are referred to as

"excludable" resources. This term applies to such things as: the home; household goods and personal effects; an essential automobile; burial spaces and burial funds; life insurance; lump sum retroactive payments of SSI or social insurance benefits (time-limited exclusions); property essential to self-support; and resources set aside as part of a plan for achieving self-support.

Resources that are not excluded count against the statutory limits and are referred to as "countable" resources. Examples of common types of countable resources are cash, **nonhome** real property, checking and savings accounts, time deposits, stocks and bonds, and property agreements and property rights.

Reasons for resource exclusions. The SSI statute and regulations single out certain resources for special treatment (exclusion). The idea behind the resource exclusions is that certain property is so essential to one's well-being (for example, the home a person lives in) that its owner should not be expected to sell it and use the cash to meet day-to-day living expenses. In addition, certain funds which are provided for, or set aside for, special purposes are not counted in the SSI program (for example, money paid to a victim of a crime or set aside for burial expenses).

Areas Where Issues Arise:

The resources limits and exclusions. The original resources limits established by statute were \$1,500 for an individual and \$2250 for a couple. These remained the same for 10 years. Effective January 1985, and in each of the next 4 years, the limits were increased by \$100 for an individual and \$150 for a couple. By January 1989, the limits were \$2,000/\$3,000 and they have remained at these levels.

Questions frequently arise concerning what should be regarded as a resource, particularly with respect to trusts, and transfers of resources at less than market value.

Treatment of trusts. Money or other property in a trust is treated according to the basic rules concerning what is a resource and which resources count. In order for a trust fund to be considered a person's resource, the person must own the property in the trust and be legally able to access the trust and use the money for support. If the person cannot legally do so, the trust fund is not considered to be a resource. These rules allow a third party to set aside money in any amount in a trust for the benefit of an individual without it being counted as a resource for that individual.

Transfer of resources. If a person gives away something s/he owns, or sells it for less than it is worth, there is no effect on SSI eligibility. (Before July 1, 1988, if a person gave away something or sold it for less than it was worth, the difference between the fair market value and what the person received was counted under the SSI program as the person's resource for 24 months.) However, the Medicaid statute provides that if a person gives away a resource or sells it for less than its value, s/he may not be eligible for Medicaid-covered nursing home services for up to 30 months from the time of the transfer.

During the public meetings, people said that the resources limits are too low and keep people who are very needy from receiving benefits. Some pointed out that the limits prevent people from being able to save sums sufficient to provide for emergencies (e.g., repair of a roof, replacement of a heater or refrigerator, etc.). Others said that the resource exclusions lend complexity to the program--those who understand exclusions are able to make optimal use of the rules to gain eligibility while those who have total resources of equal or lesser value but do not understand (or receive knowledgeable help) are resources ineligible.

Time-limited resources exclusions. Some resources are not counted for a limited number of months, ranging from 1 to 9 months. These time-limited exclusions give people extra time to use the resources before they are counted toward the SSI limit. Examples of time-limited exclusions are: (a) retroactive payments of SSI, and retirement, survivors, and/or disability social insurance payments are excluded for 6 months; (b) payments from a fund established by a State to aid victims of crime, and certain relocation assistance provided by a State or local government, are excluded for 9 months.

Overpayments due to excess resources. When a person's resources exceed the limit at the beginning of a month for which s/he receives an SSI payment, the entire benefit paid for the month(s) represents an overpayment. In such a situation, if the individual requests waiver and is found to be without fault in creating the overpayment, recovery of a portion of the overpayment may be waived. However, the person must repay an amount equal to (a) the difference between his/her total resources and the resources limit or (b) the total overpayment, whichever is less. An exception applies in situations where the resources exceed the limit by \$50 or less. In such situations, the person does not have to pay back any amount unless the failure to report the excess resources in a timely manner was willful and knowing.

Resources of an ineligible spouse or parent. The value of all countable resources of an ineligible spouse is added to the value of the eligible individual's own countable resources. As long as the total value of those resources does not exceed the resource limit for a couple (currently \$3,000), the individual is resources eligible.

In general, if a child under age 18 lives in a household with both parents, the value of all countable resources of the parents which exceed the resources limit for a couple (currently \$3,000) is deemed to be a resource of the child. If only one parent is in the household, the value of all countable resources of that parent which exceed the resources limit for an individual (currently \$2,000) is deemed to be a resource of the child. There is no provision for an exclusion(s) for an ineligible child(ren) in the household. (If there is more than one SSI eligible child under age 18 in the household, the deemed parental resources are divided equally among the children.)

The child's countable resources include deemed parental resources in addition to his/her own resources. As long as the child's total resources do not exceed the resource limit for an individual, the child is resources eligible.

Experts' **Discussion of Resources Issues:**

Resources limits and exclusions. Most experts, affirming the views of most public commenters, said that the resources test needs to be changed.

During the course of their public meetings, the experts were concerned with a total review of the asset test to determine whether the test is useful, and if so, whether it effectively and efficiently identifies those who are truly needy. Various experts posed, for discussion purposes, a variety of different approaches to the resources test. One approach would have eliminated the test, creating incentives to place resources in an income producing mode while retaining rules which provide for counting the income. Most experts believed that this would open the program to potential abuse.

Other approaches were to increase the limits to various levels with alternatives as to whether current exclusions would be retained. Some experts introduced, for discussion, concerns over current program rules which: allow money to be set aside in trusts; ignore transfers of resources to others for less than full value; and, in effect, create the need to "pigeonhole" resources in order to take full advantage of the available exclusions.

Many experts said that increased resources limits are needed in order to enable people to set money aside to meet emergencies. Further, some contended that current limits make it impossible for people to save enough money to eventually achieve independence from public assistance. They believed that higher limits would improve the potential for people to do this.

The experts discussed what resources limits would be appropriate, taking into consideration the estimated costs of increasing the limits to various levels, and possible trade-offs between increases in the limits and elimination of some current exclusions. A few experts expressed concern that the elimination of exclusions for such things as life insurance and burial funds would mean that some recipients would have to dispose of assets in order to remain eligible to receive SSI benefits. However other experts pointed out that adequate increases in the limits would allow beneficiaries with such currently excluded resources to keep them. Eliminating specific exclusions while increasing the limits would simplify the program and provide people with greater flexibility in their conservation and use of funds.

One expert commented that the need for increases in the resources limits is overshadowed by the need for increased benefit levels and, therefore, the resources limits should remain as they are until benefits are more nearly adequate. Another expert said that the current limits impose restrictions on people which cannot be ignored. This expert stated it would be legitimate to consider some trusts as resources, but not those established by third parties in an effort to provide beneficiaries with things which are not considered to be income.

A majority of the experts supported increasing the resources limits to \$7,000 for an individual and \$10,500 for a couple and simplifying the resources test by streamlining the exclusions. The home, an essential car, business property essential for self-support, and household goods and personal effects would (continue to) be excluded. All other exclusions, including the exclusions for life insurance and burial funds would be eliminated. Assets not readily convertible to cash, such as real property, would not be counted. However, funds in a trust established with an individual's (or spouse's) own money, and funds in a trust established with judgment payments when the settlement order requires that the funds be made available for general needs, would be counted as resources. The experts did not propose changes to the SSI program regarding transfer of assets recognizing that this is an issue more for the Medicaid program than for SSI.

Several experts supported the streamlining of the exclusions, as described above, but favored larger increases to the resources limits. They would set the limits at \$12,000 for an individual and \$15,000 for a couple. Two more experts, while not objecting to increasing the resources limit, believed that other priorities should be addressed first.

In general, most experts supported increases in the resources limits with streamlined exclusions. The experts favored the above approaches over an option to triple the resources limit, without changing the exclusions. They said that streamlining the exclusions would remove present inequities (i.e., differences in how much people can retain, depending on the manner of retention): and it would make the program easier for beneficiaries to understand and for SSA to administer. A majority of experts said that the change in the resource limits, while streamlining the exclusions, should be one of the top priorities.

Another option considered was to set the resources limit for a couple at an amount equal to twice the limit for an individual. However most experts did not choose to pursue this. They also generally declined to support indexing the resources limits for cost-of-living increases, in favor of establishing new, higher limits and streamlining the resources test. One expert stated that the resources limits should be reviewed again in 5-10 years following an increase to determine whether changes in the cost of living had created a need for further increases in the limits.

Time-limited resources exclusions. Most experts concluded that it is reasonable to allow people time to dispose of certain resources, and uniform time limits would make the resources rules easier for the public to understand and easier for field offices to administer. For those exclusions which have time limits, they favored a limit of 12 months.

Treatment of excess resources. The experts discussed concerns over the ****notch**** effect created by the present resources eligibility test. That is, if resources exceed the limit by as little as one dollar, a person becomes ineligible to receive benefits. This can be troublesome in initial claims as well as for people who are on the rolls. In an initial claim, the person must spend down to become eligible. A person already receiving benefits can be removed from payment status because of a change in resources which is relatively small, such as interest added to a bank account. Several experts spoke in favor of a sliding scale approach such that resources in excess of the limit would, on a graduated basis, reduce the benefit amount (in much the same way as countable income reduces the benefit amount). Most of

the experts believed that this would introduce a new complexity to the program and would be of limited value since it would be so hard for beneficiaries to understand.

Most experts believed that they could alleviate the problem related to ongoing eligibility of people on the rolls by changing the method for calculating overpayments that result from excess resources. Under the favored policy change, the amount of an overpayment resulting from excess resources would not be greater than the maximum amount by which the person's resources exceeded the resources limit. This would remove the current onus on the beneficiary to request and justify waiver of recovery of the excess amount.

Parent-to-child **"deeming"** of resources. Most experts favored a policy change that would provide for a resources exclusion for an ineligible child(ren) in the household, along the lines of the current parent-to-child income deeming rules. Under the favored approach, when the amount of resources to be deemed from a parent(s) to an eligible child **was** determined, \$2,000 for each ineligible child in the household would be excluded.

Recapitulation of Experts' Opinions on Resources:

<u>Option</u>	<u>Experts Supporting</u>
<u>Resources limits.</u>	
A. Increasing the limits	
1. Increase resources limits to \$7,000 for an individual and \$10,500 for a couple and simplify the resources test by streamlining the exclusions. The home, an essential car, business property essential for self-support, and household goods and personal effects would be excluded. All other exclusions (except the time-limited exclusions) would be eliminated. Funds in a trust established with an individual's own money, and funds in a trust established with judgment payments when the settlement order requires that the funds be made available for general needs, would be counted as resources.	16

Comment: One expert who supports this option also favors increasing the limit for a couple to an amount

which would be twice the limit for an individual.

2. Increase resources limits to \$12,000 for an individual and \$15,000 for a couple. Streamline the resources exclusions as in option 1 above.

Comment: Two experts supporting this option also support option 1 above and are included in that count.

3. Increase resources limits, establishing reasonable levels based on the funds available and other priorities. 1
4. Do not change the resources limits until the benefit levels are increased significantly. 1

B. Indexing the resources limits.

1. Index new, higher resources limits to yearly increases in the cost of living. 3

Comment: One expert who supports this option also support(s) indexing the current limits to yearly increases in the cost of living.

2. Index the resources limits to the cost of living when a rise in the cost of living would result in raising the resources limit by an increment of \$500. 2

Comment: One expert supporting this option would support, as a second choice, indexing the current limits to yearly increases in the cost of living. This expert, while favoring higher limits, does not support indexing such new higher limits.

Time-Limited Resources Exclusions.

1. Change the current periods for the time-limited exclusions to 12 months. 15
2. Keep the current periods for the time-limited exclusions. 1

Treatment of Excess Resources.

1. Change the method for calculating overpayments that result from excess resources. The amount of an overpayment resulting from excess resources would not be greater than the maximum amount that the person's resources exceeded the resources limit.

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2. Implement a **"sliding scale"** approach. Resources over the limit would reduce SSI benefits in proportion to the amount of excess resources, as opposed to **across-the-board** ineligibility.

Comment: The three experts supporting this option also support option 1 above and are reflected in that count.

Parent-to-Child Deeming of Resources.

1. In determining the amount of resources to be deemed from a parent(s) to a child, exclude \$2,000 for each ineligible child in the household.

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E. OPTIONS PREFERRED BY A MAJORITY OF EXPERTS
SUMMARY AND COST ESTIMATES

In this chapter, the experts have made it clear that a majority favors the elimination of in-kind support and maintenance, including the reduction of benefits by one-third when a beneficiary moves into the household of a family or friend: and a majority favors an increase in the amount of resources people can retain--from \$2,000 for an individual and \$3,000 for a couple to \$7,000 and \$10,500 respectively--while streamlining the resources exclusions.

An elaboration of these and other views follows.

The \$20 monthly general income exclusion. A majority of experts supports increasing the general income exclusion to \$30 and applying it only to unearned income. These experts believe that it will simplify the program to apply this exclusion only to unearned income, and the option to increase the earned income exclusion (see Part C of Chapter IV) will prevent any person from being disadvantaged. These experts also believe that an initial increase in this exclusion will ameliorate the effects of inflation on the exclusion, but further increases are not needed in view of the option to increase the Federal benefit standard to 120 percent of the poverty guideline, as supported by a majority of experts. They stated that it is more important to increase the benefit rate than to exclude additional amounts of income, since the benefit increase will help those with the greatest need--those with no other income.

Estimated Cost
(In millions)

<u>Fiscal Year</u>	<u>SSI Program</u>	<u>SSI Administrative</u>	<u>Medicaid Program</u>
1993	\$ 203	\$ 150	\$ 260
1994	303	370	935
1995	321	40	1,105
1996	338	30	1,280
1997	355	30	1,475

* * * * *

Interest and dividends. Most experts support excluding from income an annual amount of \$200 of interest and dividends. This would encourage beneficiaries who have modest savings, and it would simplify administration of the program. The cost of this option would be limited by the \$200 ceiling on the exclusion: the ceiling also avoids a

potential problem of a blanket exclusion which would provide the most help to those with the highest assets.

Estimated Cost
(In millions)

<u>Fiscal Year</u>	<u>SSI Program</u>	<u>SSI Administrative</u>	<u>Medicaid Program</u>
1993	\$ 3	None	\$ 5
1994	4	Negligible	5
1995	5	None	5
1996	5	None	5
1997	5	None	5

* * * * *

Parent-to-child deeming: income formula. A majority of experts supports the use of a single formula in all parent-to-child deeming situations. The formula should be that currently used when the parents have both earned and unearned income. This would avoid inequities which now occur due to the use of other formulas in some situations. It would also help to simplify the program and make it more understandable to the public.

Estimated Cost
(In millions)

<u>Fiscal Year</u>	<u>SSI Program</u>	<u>SSI Administrative</u>	<u>Medicaid Program</u>
1993	\$ 11	Negligible	Negligible
1994	15	Negligible	Negligible
1995	15	Negligible	Negligible
1996	15	Negligible	Negligible
1997	16	Negligible	Negligible

* * * * *

Parent-to-child deeming: special expense deduction. A majority of experts supports the option to deduct itemized special expenses of a disabled child before deeming parental income to the child. This would recognize that the parents incur unusual expenses related to the child's disability and money spent on such items is not available for the child's food, clothing, and shelter needs.

Estimated Cost
(In millions)

<u>Fiscal Year</u>	<u>SSI Program</u>	<u>SSI Administrative</u>	<u>Medicaid Program</u>
1993	\$ 10	Negligible	Negligible
1994	15	Negligible	Negligible
1995	17	Negligible	Negligible
1996	18	Negligible	Negligible
1997	20	Negligible	Negligible

* * * * *

Parent-to-child deeming: new treatment of certain income. A majority of experts supports a change in the treatment of certain types of income received by parents when they are no longer **able** to work due to disability or unemployment. Such unearned income (e.g., unemployment compensation, workers' compensation, and disability and survivorship social insurance benefits) should be treated as earned income.

Estimated Cost
(In millions)

<u>Fiscal Year</u>	<u>SSI Program</u>	<u>SSI Administrative</u>	<u>Medicaid Program</u>
1993	\$ 18	Negligible	Negligible
1994	27	Negligible	Negligible
1995	29	Negligible	Negligible
1996	32	Negligible	Negligible
1997	35	Negligible	Negligible

* * * * *

Individual Indian trust income. Nearly all the experts favor excluding up to **\$2,000 per** year (per individual) of income derived from individually held Indian trust land. This would protect those who receive small amounts of income from individually held trust lands on an irregular and unpredictable schedule. The amount protected would be consistent with a similar exclusion of cash under the Alaska Native Claims Settlement Act.

Estimated Cost
(In millions)

<u>Fiscal Year</u>	<u>SSI Program</u>	<u>SSI Administrative</u>	<u>Medicaid Program</u>
All	Negligible	Negligible	Negligible

* * * * *

In-kind Support and Maintenance. A majority of experts supports, as a high priority, the elimination of in-kind support and maintenance from consideration as income. They believe the current provisions are harsh, demeaning, inequitable, an invasion of privacy, subject to manipulation, and contrary to principles which most programs endorse (e.g., support of the family unit, encouragement for voluntary assistance, etc.). Additionally, they view the provisions as inordinately complex to administer. Many past efforts to ameliorate the problems have been unsuccessful and, in some cases, have added to the complexities. Elimination of in-kind support and maintenance from consideration as income is one of the four top priorities of most of the experts.

Estimated Cost
(In millions)

<u>Fiscal Year</u>	<u>SSI Program</u>	<u>SSI Administrative</u>	<u>Medicaid Program</u>
1993	\$ 600	\$ 60	\$ 140
1994	1,003.	170	510
1995	1,066	4)	600
1996	1,122	(695
1997	1,178	(4)	805

* * * * *

Resource limits. A majority of experts supports increasing the resource limits to \$7,000 for an individual and \$10,500 for a couple, while eliminating most of the resource exclusions. The home, an essential car, business property essential for self-support, and household goods and personal effects would continue to be excluded. Assets not readily convertible to cash, such as real property, would not be counted. However, funds in a trust established with an individual's (or spouse's) own money, and funds in a trust established with judgment payments when the settlement order requires that the funds be made available for general needs, would be counted as resources.

These experts see these changes as making the program simpler and more equitable. The increased resource limits, with fewer exclusions, would more efficiently and effectively identify the truly needy among persons who are aged, blind, or disabled. Also, the increases in the resource limits would be sufficient to assure that currently eligible persons with resources which are excluded would not be made ineligible due to the elimination of the exclusions. These changes are among the top four priorities of a majority of the experts.

Estimated Cost
(In millions)

<u>Fiscal Year</u>	<u>SSI Program</u>	<u>SSI Administrative</u>	<u>Medicaid Program</u>
1993	\$ 55	\$ 40	\$ 75
1994	191	100	265
1995	215	10	315
1996	236	10	365
1997	257	10	420

* * * * *

Time-limited resource-exclusions. Nearly all of the experts who expressed an opinion favor making all of the time-limited exclusions available for 12 months. This would recognize that there are certain situations in which it is reasonable to allow individuals time to dispose of certain resources, and, at the same time, make the program easier for the public to understand and easier for field offices to administer.

Estimated Cost
(In millions)

<u>Fiscal Year</u>	<u>SSI Program</u>	<u>SSI Administrative</u>	<u>Medicaid Program</u>
All	Negligible	Negligible	Negligible

* * * * *

Treatment of excess resources. Most experts support a change in the method for calculating overpayments so that the amount considered overpaid would never exceed the maximum amount that the person's resources exceeded the resource limit. This would alleviate an unreasonable effect of current rules which require that a beneficiary request and

justify waiver of an overpayment amount in excess of the amount by which his/her resources exceeded the limit.

Estimated Cost
(In millions)

<u>Fiscal Year</u>	<u>SSI Program</u>	<u>SSI Administrative</u>	<u>Medicaid Program</u>
1993	\$ 3	Negligible	Negligible
1994	3	Negligible	Negligible
1995	3	Negligible	Negligible
1996	2	Negligible	Negligible
1997	2	Negligible	Negligible

* * * * *

Parent-to-child deeming of resources. A majority of experts supports a change in regulations governing deeming of resources from a parent to a child. The change would provide a resource allocation of \$2,000 per ineligible child in the household. This would recognize the parents' obligation to provide for needs of other children in the household.

Estimated Cost
(In millions)

<u>Fiscal Year</u>	<u>SSI Program</u>	<u>SSI Administrative</u>	<u>Medicaid Program</u>
1993	\$ 7	Negligible	(a)
1994	11	Negligible	(a)
1995	12	Negligible	(a)
1996	13	Negligible	(a)
1997	14	Negligible	(a)

(a): Unable to estimate

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