

# Eligible Couples

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## What is an “Eligible couple”?

The Social Security Administration defines an eligible couple as two SSI eligible individuals who are legally married under the laws of the State where they have a permanent home, living together in the same household and holding themselves out as husband and wife to the community in which they live, or determined by SSA to be entitled to either husband’s or wife’s Social Security benefits as the spouse of the other. It is important to understand that eligible couples only exist when both members of the couple are SSI eligible, not when an eligible individual is married to an ineligible spouse. For this reason, spouse-to-spouse deeming in which income and/or resources from an ineligible spouse are “deemed” available to the eligible individual never applies to eligible couples.

Eligible couples may exist even when neither member is actually in SSI cash payment status. An example of this would be when both members of an eligible couple are working and in 1619(b) status. The term “eligible couple” only applies to SSI recipients, not beneficiaries of the Title II disability benefit programs (SSDI/CDB/DWB). In some instances, an eligible couple may also be a “concurrent” couple. This means that both members are SSI eligible and one or both also receive a Title II benefit of some type.

## Marital Relationships and SSI

Two people do not need to actually be legally married in order to be considered in a “marital relationship” for the purposes of SSI. The Social Security Act provides that a man and a woman, who are not legally married, yet who live in the same household are in a “marital relationship” for SSI purposes if they hold themselves out as husband and wife to the community in which they live. This provision is referred to as “holding out” by SSA. It applies even in states that do not recognize common-law or putative marriage. The SSA does NOT currently consider persons of the same sex to be married or in a marital relationship under any circumstances.

SSA usually accepts a person’s allegation about whether a marital relationship exists. However, SSA will ask a series of questions to decide if a “holding out” relationship exists when circumstances are uncertain. Form SSA-4178, Marital Relationship Questionnaire, is used for this purpose and includes questions listed on the following page:

## **SSA Marital Relationship Questionnaire:**

1. By what names are you known?
2. How do you introduce the other person to friends, relatives, and others?
3. How is mail addressed to you and to the other person?
4. Are there any bills, installments, contracts, tax returns, or other papers showing the two of you as husband and wife?
5. In what name or names are you renting or buying the place where you live?

SSA considers a man and a woman no longer married for SSI purposes as of the date that:

- Either member of the couple dies;
- An annulment or divorce is finalized;
- Either member of the couple begins living with another person as that person's spouse;
- SSA decides that either person is not a spouse of the other for purposes of husband's or wife's Social Security benefits, if SSA considered the persons married because of that entitlement; or
- The members of a couple who SSA determined to be holding themselves out as husband and wife begin living in separate households (with some exceptions).

If members of a couple report to SSA that their holding out relationship has ended, but they remain in the same household for financial reasons, SSA will request information from the couple supporting the fact the relationship has ended and efforts are being made to live in separate households.

## **Are there differences in the way SSA treats eligible couples and eligible individuals?**

There are some significant differences in the way these two distinct groups are treated when determining both SSI eligibility and the cash benefit amount. SSA basically treats two members of an eligible couple as if they were one person. The couple's combined income (earned and unearned) is considered when calculating the benefit amount as a couple. In addition, the \$20 general income exclusion (GIE) and the \$65 earned income exclusion (EIE) are applied only once to a couple even when both members have income. The eligible couple's work incentives are also combined and deducted where appropriate. Finally, the total countable income of the couple is then subtracted from the couple Federal Benefit Rate (FBR) (as opposed to the individual FBR) and half of the adjusted check is given to each member of the couple. These rules are referred to as "couple computation rules". An SSI calculation sheet for eligible couples is included in this paper.

SSA also applies different resource limits to eligible couples and eligible individuals when determining SSI eligibility. Resources include cash as well as other things an individual or couple owns that can be converted into cash. Currently, countable resources must not be worth more than \$2,000 for an individual or \$3,000 for an eligible couple. The SSA establishes the

value of a couple's **combined resources** (both money and property), subtracts all allowable exclusions and then compares that amount to the \$3,000 couple resource limit when making eligibility determinations. These determinations are made at the beginning of each month and are applicable for the entire month. Because of this rule, subsequent changes in resources have no effect until the following month's resource determination.

For the most part, SSA applies the resource exclusions to eligible couples in the same way they are applied to individuals. However, SSA tends to treat an eligible couple as if they were one person in certain instances. For example, an eligible couple would only have one home excluded, even though two people are involved. In addition, SSA will only exclude one automobile per couple, regardless of its value, and assume that it is necessary for transportation.

## **When do Couple Computation and Resource Rules Begin and End?**

The timing of when two individuals become an "eligible couple" (or cease being one) for SSI purposes can be confusing. When an eligible couple forms or dissolves, the change is effective for benefit computation purposes with the first day of the month following the month in which the change occurs. The benefit month is the same month for both members of the couple when couple status exists. In general, for an eligible couple to form, the following three criteria must be met:

- Each member of the couple is eligible for SSI benefits,
- The members are legally married or in a marital relationship, and
- Both members are living in the same household (with a few exceptions).

Some of the myriad situations which could occur are described below.

### **1. Two SSI eligible individuals marry one another**

The two individuals will be considered an eligible couple effective with the first day of the month after the marriage or the start of the marital relationship. Starting with this month, SSA will apply the couple's resource limit, the couple FBR and utilize the couple computation rules to determine countable income.

NOTE: Due to Retrospective Monthly Accounting (RMA) practices used in the SSI program, different rules may apply if either or both members of the couple were not eligible for SSI 2 months prior to the month in which they become an eligible couple. For more information about this process, see POMS SI 02005.030.

### **2. An SSI eligible individual marries an ineligible individual who later establishes eligibility for SSI by filing an application.**

Effective August 22, 1996, when only one member of a couple is receiving SSI benefits and the other member files for SSI, couple computation rules begin to apply as of the first day of

the month following the date the application is filed **AND** all couple eligibility criteria are met.

For example, Mrs. Johnson is receiving SSI benefits. Her husband, Mr. Johnson files for SSI aged benefits on February 28, 2002 as he will be 65 years old on March 3, 2002. Eligible couple computation rules will not apply for March. Mr. Johnson is not eligible for benefits on March 1 because he reaches age 65 later in the month. Mr. and Mrs. Johnson will be determined to be an eligible couple April 1, 2002; the first day of the month following the date Mr. Johnson meets all eligibility factors.

**3. A formerly eligible couple requests reinstatement of SSI benefits after an eligibility suspension for both members.**

Remember that an eligible couple has a combined countable resource limit of \$3,000 instead of the individual limit of \$2,000. If this limit is exceeded, both members of the couple will be ineligible for SSI benefits. They may be considered an eligible couple again if resources are reduced below the allowable limit of \$3,000. As long as all other SSI eligibility criteria are met, SSI benefits may be reinstated without filing a new application if resources fall below the statutory limit within 12 months following the effective date of the suspension. If the suspension period goes beyond 12 consecutive months, a new application for SSI benefits must be filed.

For example, Mr. and Mrs. Morgan were members of an eligible couple for 7 months (July 2003 – January 2004). On February 1, 2004 their combined resources exceeded the eligible couple amount of \$3000. Their SSI benefits were suspended effective February 2004. In April of 2004, they request reinstatement of benefits and show that their resources dropped below the limit on March 15, 2004. SSA will determine the Morgan's to be an eligible couple and couple computation rules will apply for April since they are below the resource limit on April 1, 2004 and otherwise eligible for SSI.

**4. Members of a couple submit separate SSI applications or reinstatement requests in a month.**

If in a month, members of a couple file separate SSI applications, couple computation rules apply as of the first day of the month following the month the separate applications are filed **AND** all 3 of the eligible couple criteria are met. For example, Mr. and Mrs. Smith go to the local SSA field office to file for SSI on January 15, 2002. Mrs. Smith was 65 years of age on December 11, 2001 and Mr. Smith will be 65 on April 3, 2002. SSA will determine Mrs. Smith to be an eligible individual with an ineligible spouse beginning February 1, 2002. Beginning May 1, 2002, SSA will determine Mr. and Mrs. Smith to be an eligible couple and couple computation rules will apply. (May 1 is the first day of the month following the month in which Mr. Smith meets all eligibility factors).

Eligibility as a couple begins when both members meet the eligible couple rules again, regardless of whether they retain eligibility by reinstatement after a suspension, or by filing a new application.

**5. One member of an SSI eligible couple becomes ineligible.**

When benefits are suspended or terminated for both members of a couple because of ineligibility, no benefits will be due to either person for that month. However, when benefits are suspended or terminated for one member of a couple because of ineligibility for that month, the member who remains eligible assumes the status of an eligible individual for that month and the FBR for an eligible individual is applied. Suspension or termination of current benefits of one member of an eligible couple may be due, but is not limited to one or more of the following events:

- Absence from the U.S. for 30 consecutive days.
- Loss of U.S. Citizenship or alien status.
- Residence in a public or penal institution throughout a month.
- Failure to apply for all other benefits for which the individual may be eligible.
- Cessation of blindness or disability (medical improvement).
- Voluntary termination.

For example, Mr. and Mrs. Miller are members of an SSI eligible couple when Mr. Miller begins serving a prison term in January of 2004. Since confinement in a penal institution throughout a month precludes eligibility for SSI for that month, Mr. Miller would be suspended from SSI benefits as of February of 2004 and no SSI check would be due him starting with that month. Mrs. Miller would continue to receive SSI (assuming she met all eligibility criteria) as an eligible individual effective February of 2004. All individual computation and resource rules would apply to her at this point.

**6. An eligible couple separates, divorces, or one member dies.**

A member of an eligible couple becomes an eligible individual (without a spouse) as of the first of the month following the month of:

- Separation (effective October 1, 1990); or

NOTE: Prior to October 1, 1990, an eligible couple remained an eligible couple for 6 months following the month of separation and became eligible individuals effective with the seventh month. For examples of various couple computations prior to October 1, 1990, see POMS citations SI 02005.031, SI 02005.020E, SI 02005.020F, and SI 02005.020G.

- Divorce, or end of a “holding out” relationship, or
- Death of One Member of the Eligible Couple.

**7. One member of an SSI eligible couple becomes an ineligible spouse while the other member remains an eligible individual.**

This situation is quite common. For example, if one member of an eligible couple medically improved, that person's eligibility for SSI would terminate and benefits would cease. This person would now be considered an ineligible spouse and the other member would be considered an eligible individual. From this point forward, SSA would apply the spouse-to-spouse deeming rules to determine SSI eligibility and payment amount for the eligible individual in the couple.

## **How SSA Values In-kind Support and Maintenance for an Eligible Couple**

In-kind support and maintenance (ISM) is food, clothing or shelter provided to an SSI recipient or eligible couple by another person. ISM is treated as unearned income for the purposes of determining SSI payment amount. If both members of a couple live in another person's household, receive BOTH food and shelter from that person, and pay nothing toward their pro-rata share of the household expenses, SSA applies a one-third reduction in benefit payment to the couple.

Social Security refers to this as the value of the one-third reduction (VTR) rule. Eligible couples subject to the VTR will have the couple FBR reduced by a full one-third during SSI eligibility determinations and when calculating the SSI payment amount. The VTR rule is applied to eligible couples in exactly the same manner it is applied to individuals. The only difference is that the couple FBR is used to determine the amount of the one-third reduction, rather than the individual FBR.

The couple VTR rate can continue to apply to both members of an eligible couple in the month that they separate. This may occur when an eligible couple subject to the VTR separates, and the member who leaves the household moves into the household of another and makes no contribution toward the household operating expenses. In the month following the separation month, they are considered eligible individuals for ISM purposes.

When the VTR does not apply, the value of any ISM received is determined using the Presumed Maximum Value (PMV) rule. Under this rule, SSA presumes that the maximum value of the ISM received is one-third of the current FBR plus the \$20 general income exclusion. In-kind support and maintenance valued under the PMV rule is also counted as unearned income. Again, the PMV rules for eligible couples are applied in the same manner as they are to individuals. The only difference being that couple FBR is used instead of the individual FBR when determining the dollar value of the ISM.

## **Eligible Couples and Living Arrangement (LA)**

Keep in mind that living arrangement is critical in making ISM determinations and when SSA decides whether to apply the VTR or PMV rules. For eligible couples, these living arrangement assessments can get very complicated since two people are involved. Generally, part of the definition of an eligible couple is that they reside in the same household. However, it is possible for members of a married couple who are not physically living together to be considered living

together for SSI purposes due to temporary absence rules. For example, if one member of an eligible couple is living in a Medicaid facility, the individual may still be considered living with the eligible spouse at home if the individual is temporarily absent as defined in POMS SI 00835.043. Further, if both members of an eligible couple are in a Medicaid facility, but both are temporarily absent as defined by SSA, they will also be considered to be living together in a household (i.e., not separated). Thus, they may still be considered an eligible couple for SSI purposes and would be subject to the couple computation rules using the couple FBR, combined income, and the couple resource limit.

Keep in mind that the Federal SSI benefit is limited to a maximum of \$30 for an eligible individual (or \$60 for certain couple situations as described below), minus any countable income, when the individual is a resident in a public or private medical treatment facility throughout a month and Medicaid pays or is expected to pay over 50 percent of the cost of care for that month. For any full month that both members of an eligible couple reside in a Medicaid facility, the couple's Federal SSI payment may be limited to \$60 minus the sum of the countable income from the benefit month. See POMS SI 02005.031E. when a couple separates prior to 10/1/90 and only one member of an eligible couple is subject to the \$30 payment limit. See SI 02005.050 if one or both members of the couple are temporarily absent from home in a Medicaid facility.

Living arrangement (LA) determinations for SSI recipients are complex. When in doubt, always refer the matter to the SSA Claims Representative for a formal determination. CWICs are not authorized to make LA determinations.

### **Eligible Couples and 1619(b) Extended Medicaid Protections**

Eligibility for continued recipient status for Medicaid under section 1619 (b) results when an eligible individual has countable earned income (alone or in combination with unearned income) which exceeds the current FBR and the individual also meets the Medicaid use and threshold tests.

CWICs must be aware that there are some critical issues related to 1619(b) eligibility for members of an eligible couple. If both members of the eligible couple have earned income, and meet all other criteria, they may both receive 1619(b) extended Medicaid coverage, assuming all eligibility criteria for this provision have been met. It does not matter how much either person is contributing to the total earned income; one person may even be contributing less than the \$65 earned income exclusion. As long as BOTH members of the couple have earned income at some level, then both get 1619(b). Unfortunately, if only one member of the couple has earned income, ONLY the person who has the earned income receives 1619(b) - the spouse who is NOT working does not. Since 1619(b) is considered a work incentive, it is only available to persons who are working. A legislative proposal to extend 1619(b) protection to the non-working spouse is currently under consideration.

### **Couple Computations**

A special Eligible Couple Calculation Chart is attached to this paper for CWICs to use when helping recipients understand the effect of earned income on cash and medical benefits. The steps involved in making couple computations are all included in this chart in the correct order. While performing couple computations, keep the following issues in mind:

1. Income (both earned and unearned) must be combined for BOTH members of the couple before entering the figure into the calculation chart.
2. Only ONE general income exclusion and earned income exclusion is deducted from the combined income of an eligible couple. This may seem unfair since two people are involved, but it is how the calculation is performed. SSA treats the eligible couple as if it were a single person.
3. Work incentives for both members are added together and applied where appropriate. If both members have impairment-related work incentives (IRWEs) in a month, they are added together and the total expense is entered into the calculation chart. This also applies to income excluded under a PASS and blind work expenses (BWE).
4. Total countable income for the couple is subtracted from the current couple FBR – NOT the FBR for individuals! Keep in mind that ISM in the form of VTR may also apply to an eligible couple.
5. Once the total adjusted SSI benefit amount is determined, the SSA gives HALF of this amount to each member of the couple. The two members of an eligible couple generally get the same amount of SSI each month.

## **Frequently Asked Questions**

### **What happens to an SSI eligible couples benefit when one member of the couple becomes eligible for an SSDI benefit?**

As described above, SSA basically treats two members of an eligible couple as if they were one person by counting the couple's combined income (earned and unearned) when calculating the benefit amount as an eligible couple. SSDI benefits are considered unearned income. The general income exclusion of \$20 will be subtracted from the unearned income and then combined with any earned income the couple may have after the earned income exclusion of \$65 and half of the remaining earned income is deducted. The total countable income is the remaining unearned income and earned income which is then subtracted from the couple FBR once living arrangements and work incentives have been considered.

## **What happens if one member of the couple is absent from home in the month?**

In most cases where the absence is temporary, the couple's calculation still applies. If the change for one member of the couple to another residence is permanent, even if the couple is still married, the calculation will usually be done as eligible individuals, not as an eligible couple. When in doubt about which calculation will be used, ask the SSI Claims Representative who has responsibility for the determination.

## **What happens when both members of an eligible couple want to establish a Plan for Achieving Self Support (PASS)?**

PASS works fundamentally the same for eligible couples as it does for individuals with a few notable exceptions. First, either member may set aside any or all of the earned or unearned income generated by the couple in the PASS. It is NOT the case that the wife may only set aside that income which she contributes with the husband setting aside the income he contributes. The total income for the couple may be divided among the two PASS plans in any way that makes sense for achieving the goals of the respective plans. If only one member of the couple initiates a PASS, this individual may set aside any or all of the combined income the couple has. To calculate the adjusted SSI payment when one or both members has a PASS, simply total up the approved PASS expenses for the month and enter them into the Eligible Couple Calculation Chart on the line indicated. Keep in mind that SSA will continue to apply the couple FBR and whatever the total adjusted SSI payment is will be split equally among the two members of the couple.

## **Conducting Independent Research**

- SI 00501.150 -- Determining Whether a Marital Relationship Exists
- SI 00501.154 -- Determining When Couple Computation Rules Apply
- SI 00501.155 -- Couple Computation Rules for Applications Filed On or After August 22, 1996.
- SI 00835 -- Living Arrangements and In-Kind Support and Maintenance
- SI 02005.030 -- Couple Status Changes
- SI 02005.031 -- Couple Computations Prior to 10/1/90 (replaced SI 02005.040D-G)
- SI 02302.030 -- Section 1619 Process and Procedures

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## Eligible Couple Calculation Sheet (2011)

Customer Names \_\_\_\_\_ Date \_\_\_\_\_

WIPA Staff Person \_\_\_\_\_

**Scenario Description:**

Step	Calculations
Unearned Income (combine BOTH members)	
General Income Exclusion (GIE \$20)	-
Countable Unearned Income for Couple	=
Gross Earned Income (combine BOTH members)	
Student Earned Income Exclusion	-
Remainder	
GIE (if not already applied to unearned income)	-
Remainder	
Earned Income Exclusion (EIE \$65)	-
Remainder	
Impairment Related Work Expense (IRWE)	-
Remainder	
Divide by 2	
Blind Work Expenses (BWE)	-
Total Countable Earned Income for Couple	=
Total Countable Unearned Income for Couple	
Total Countable Earned Income for Couple	+
PASS Deduction	-
Total Countable Income for Couple	=
Couple FBR of \$1,011 (check on VTR status!)	
Total Countable Income for Couple	-
Adjusted SSI Benefit Due to Couple	=
Divide in Half for Amount Due Each Member	
Adjusted SSI Benefit Due to Couple	
Gross Earned Income Received by Couple	+
Gross Unearned Income Received by Couple	+
PASS, BWE or IRWE Expenses for Couple	-
Total Financial Outcome for Couple	=