

## **Facts about Rental Liability for SSI Recipients**

### **From POMS SI 00835.120**

An SSI recipient is considered to be living in his/her own household when there is liability to a landlord for payment of any of the rental charges on the part of:

- the individual;
- the living-with eligible spouse;
- any person whose income may be deemed to the eligible individual.

While we typically think about rental liability in terms of an individual living in his/her own apartment or house, rental liability may actually take several different forms. For example, renting a room within someone else's private dwelling may be a form of rental liability. This would apply when an individual lives in the same dwelling with the landlord, but maintains a "separate household" from the landlord. A separate household functions as a separate economic unit, and more than one economic unit may exist in a single dwelling. If the individual and the landlord do not function as separate economic units, the individual is not in a separate household and cannot have rental liability.

A flat fee for room and board may be another form of rental liability. It is a variation of separate room rental within a private dwelling. With flat fee, the individual maintains a separate household from the landlord and pays a flat rate for food and shelter.

### **Separate Household Development**

When deciding if separate households exists, SSA will obtain signed statements from both the individual and the landlord as to whether they consider themselves members of the same household or separate households. If the landlord will not affirm or deny the individual's allegation of separate households, the separate household determination must be based on the individual's allegation and any available evidence. SSA will also consider the following factors:

**1. Household Organization:** Although not conclusive by itself, a "yes" answer to any of these questions is an indication that the individual may **not** be in a separate household within the dwelling.

- Do the individual and landlord make joint decisions regarding home repairs, improvements, and other aspects of daily activities (e.g., food purchases, TV cable service, phone service)?

- Is the individual responsible for any bills connected with the operation of the residence (e.g., are any bills in the individual's name)?
  - Do the individual and the landlord pool money for any household expenses?
2. **Rent:** Although not conclusive by itself, a “yes” answer to any of these questions is an indication that the individual **may be** in a separate household.
- Does the landlord charge rent (or a flat fee for food and shelter) based on the current market value?
  - Would the landlord ask the individual to move out if individual stopped paying rent?
  - Would the landlord continue to hold the individual responsible for back rent if the individual stopped paying rent?
3. **Meals:** Although not conclusive by itself, a “yes” answer to any of these questions is an indication that the individual **may be** in a separate household.
- Does the individual purchase most of his/her food separately from the rest of the household?
  - Does the individual store food separately from the rest of the household?
  - Does the individual prepare or eat meals separately from the rest of the household?
4. **Access:** Although not conclusive by itself, a “yes” answer is an indication that the individual **may be** in a separate household.
- Does the individual have access to only part of the residence?
  - Does the individual have a bedroom, cooking facilities, or a bathroom for his/her exclusive use?

The above factors are listed in the POMS to help the Claims Representative in determining whether separate households exist. Each factor may not apply in every case and no single factor is controlling. The determination is based upon the Claims Representative’s best judgment after considering all of the facts in the case.

### **Flat Fee for Food and Shelter**

The development for flat fee is essentially the same as for room rental in a private dwelling except for the additional consideration that the individual's payment is a payment for both food and shelter. The Claims Representative (CR) will first determine if the individual lives in a separate household. Next, the CR will determine that a flat fee for room and board exists and that rental liability is the living arrangement basis. If the individual does not live in a separate household, the CR will conclude that the individual does not have rental liability and proceed with sequential development.

The amount charged for the flat fee should be based upon current fair market value. The CR will generally ask the individual and the landlord how the flat fee was determined and whether this

same amount would be charged to any other renter. If the landlord would charge a higher amount to some other renter, then the difference between what the SSI recipient pays and what another renter would pay may be counted as ISM. The PMV rule is always used to determine ISM for an individual who has rental liability. The VTR never applies when an individual is in his/her own household. If the landlord indicates that the flat fee is what would be charged any renter and represents market value, then no ISM will be assessed.