

Understanding In-Kind Support and Maintenance

February 2011

What is In-Kind Support and Maintenance (ISM)?

Basically, in-kind support and maintenance (also known as ISM) is unearned income attributable to an SSI eligible individual in the form of food or shelter that is given to the individual or received because someone else pays for it. In-kind support may be provided by someone who lives in the same household as the recipient (such as a parent), or by someone outside of the household.

In-kind support and maintenance matters in the SSI program because SSI is intended to help pay for the basic costs of food and shelter. If someone else is helping to pay for these things, then it stands to reason that the SSI would be reduced. If too much ISM is received and other forms of income are in evidence, it may even cause a person to be found ineligible for SSI benefits. For people who are found eligible for SSI, in-kind support and maintenance can cause the benefit payment to be reduced. In-kind support and maintenance may be charged to an SSI eligible individual or an SSI eligible couple.

IMPORTANT NOTE: Based on a change in the SSI regulations, receipt of clothing is not counted as ISM beginning 03/09/2005. As of this date, only food and shelter are considered during ISM determinations.

When ISM is NOT Charged

The general rule is to charge ISM to an individual when he or she receives food or shelter, regardless of who is liable for payment of the cost of the food or shelter item received. However, there are numerous exceptions to this general rule. When an exception applies, the food or shelter an individual receives is not chargeable ISM. Some of these exceptions result from statutory exclusions while other exceptions result from situations in which the food or shelter received does not constitute income in accordance with SSA regulations. SSA does not charge ISM when an individual receives food or shelter which:

- Is specifically excluded by Federal law, (e.g., the Disaster Relief and Emergency Assistance Act). ([SI 00830.099](#));
- Meets the criteria for exclusion of infrequent or irregular unearned income ([SI 00810.410](#));
- Has no current market value ([SI 00835.320](#));
- Is provided under a governmental (Federal, State, or local) medical or social service program ([SI 00815.050](#));
- Is assistance based on need (ABON) from a State or one of its political subdivisions ([SI 00830.175](#));
- Is food or shelter received during a temporary absence ([SI 00835.040](#));
- Is received as a replacement of a lost, damaged or stolen resource. This includes temporary housing ([SI 01130.630](#));
- Is excluded under an approved Plan to Achieve Self-Support (PASS) ([SI 00870.001](#) ff.);
- Is received because of payments made under the terms of a credit life or credit disability policy ([SI 00815.300](#)); or
- Is received during medical confinement in an institution ([SI 00815.100](#)).

Relationship between ISM and Deeming

“Deeming” is the term the Social Security Administration uses to describe the process of considering another person’s income and/or resources to be available for meeting an SSI claimant’s (or recipient’s) basic need for food and shelter. The concept of deeming is based on the notion that those who have a responsibility for others share their income and resources for the benefit of these persons. Deeming relationships include:

- the parental relationship to a minor child,
- a spouse-to-spouse relationship, and
- the relationship between a sponsor and a legal alien.

In these situations, SSA determines that a certain amount of the responsible party’s income and/or resources are “deemed” available for the welfare of the SSI claimant or recipient. SSA considers this “deemed” income and/or resources when someone first applies for SSI, and when figuring the SSI payment amount for individuals already found eligible. For more information about deeming, refer to additional briefing papers posted to the WIPA NTC website at: <http://www.vcu-ntc.org/resources/briefpapers.cfm>

If income is deemed from the parent(s) to an eligible child, SSA will NOT also charge ISM from the parent(s) to that child. However, if in-kind support and maintenance is being provided to the eligible child by some other party from outside of the household, SSA will charge that to the child in addition to any income deemed from the parent(s).

Keep in mind that once an SSI recipient turns 18, SSA considers the person to be an adult. From that point forward, parent-to-child deeming stops. As of the 18th birthday, SSA no longer considers the income or resources of the parents when making eligibility determinations and calculating payment amount. There are no exceptions to this rule, even if the parents have been

appointed as the legal guardian of the young adult with the disability. Parent-to-child deeming never applies to an SSI recipient who is 18 years of age or older.

While the parent's income and resources are no longer relevant once an SSI recipient turns 18, SSA continues to be concerned about whether the parents (or anyone else for that matter) are helping the individual pay for the costs of food and shelter. After the 18th birthday has occurred and the individual has successfully established eligibility for SSI under the adult rules, SSA will look to see whether or not in-kind support and maintenance (ISM) is in evidence. For an SSI recipient aged 18 or older, ISM may be provided from within the household by the parent(s), from outside of the household by any other party, or even from both.

In situations in which spouse-to-spouse or sponsor-to-alien deeming is occurring, similar ISM rules apply. It is possible for ISM to be simultaneously assessed in situations where deeming occurs if the in-kind support and maintenance is provided by someone other than the deemor. SSA will not charge ISM if it is provided by someone living in the same household whose income is already subject to deeming to the individual.

Relationship between ISM and Living Arrangement

The first step in the process of determining if ISM is in evidence is to determine which living arrangement (LA) the individual is in. How in-kind support and maintenance is viewed by SSA and the value that is placed upon it depends upon the living arrangement an individual is determined to be in. SSA begins this process by collecting evidence about the individual's living situation and deciding whether the person resides in a "household" or "non-household". Social Security has very specific definitions that they apply here which are described below.

Non-Household Living Arrangements

A non-household situation exists if the recipient is either a transient or a resident of an institution. A transient is defined by SSA as someone with no permanent living arrangement, or no fixed place of residence. A transient can be a homeless individual (i.e., someone who sleeps in doorways, overnight shelters, parks, bus stations, etc.); or a person who stays with a succession of friends or relatives and has no permanent living arrangement.

Residing in an institution (as defined for SSI purposes) can affect an SSI recipient's eligibility and/or payment amount. Residents of public institutions generally are ineligible for SSI. The reasoning here is that some other government source is already paying for the individual's food and shelter, thus, SSI is not needed. Residents of medical facilities (public or private) may be eligible, but are limited to a maximum Federal payment of \$30 a month. However, there are many exceptions to these generalizations. Individuals living in a public shelter for the homeless may only be eligible for SSI for up to 6 months in any 9 month period. This is an exception to the standard rules which is intended to help homeless persons prepare for more permanent living arrangements.

Household Living Arrangements

A household situation exists when an individual is not a transient or a resident of an institution. It is important to remember that the SSI program defines “household” differently than the physical space in which the beneficiary resides. For SSI purposes, living within someone else’s household actually means that “someone else” takes financial responsibility for the SSI beneficiary. Living in one’s own household means that the beneficiary has financial responsibility for his or her own food and shelter--does not equate to living alone. Here are two examples:

Carol lives with her mother, Adriana. Carol and her mom pay all costs equally for food, rent, utilities and other basic expenses. Carol receives SSI as a disabled individual. For the purposes of SSI, Carol is living in her own household.

Carol moves out to an expensive apartment complex. A rich friend has decided to pay all of Carol’s expenses, including rent, food, utilities, etc. For the purposes of Carol’s SSI benefit, she is living in the household of another—even though she is living alone.

For purposes of living arrangement determinations and ISM, members of a household do not have to be related by blood or marriage. A person who is temporarily absent from a household is still a member of the household under some very specific circumstances. SSA applies very specific rules to temporary absences which will be covered a bit later in this document.

Developing Living Arrangements (LA)

The Social Security Administration follows a prescribed sequence in developing an individual’s living arrangement (LA) to ensure that the correct ISM valuation rule is used and that possible sources of ISM are not overlooked or developed unnecessarily. SSA develops the living arrangement only for a person’s permanent residence. For the purposes of developing LA, a residence is defined as the location of abode or dwelling place. A residence is also a place where a person makes his/her home. In SSA parlance, “residence” is synonymous with the term “permanent living arrangement.” Below is a brief description of the standard federal living arrangements.

1. *Noninstitutional Care*

This situation exists when an individual is placed by a public or private agency under a specific program of protective placement such as foster or family care. To qualify as non-institutional care, the placement must be a private dwelling (not an institution or commercial establishment) which is licensed or otherwise approved by the State to provide foster or family care. The placing agency retains responsibility for continuing supervision of the need for such placement and of the services provided. The individual, the placing agency, or some other third party pays for the food, shelter, and protective supervision provided. (See POMS SI 00835.790 Noninstitutional Care Situations for more information).

2. *Home Ownership*

SSA considers an individual to be living in his/her own household when any form of ownership interest in the home belongs to the individual; his/her living-with eligible spouse; or any person whose income may be deemed to the individual. See POMS SI 00835.110 - Home Ownership as LA Basis for more information.

3. *Rental Liability*

An individual is living in his own household when there is liability to the landlord for payment of any of the rental charges on the part of the individual; the living-with eligible spouse; or any person whose income may be deemed to the individual. Room rental within a private dwelling is also a form of rental liability. When an individual lives in the same dwelling with the landlord, he/ she must be in a separate household from the landlord's in order to have rental liability. 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 considered to be in a separate household and cannot have rental liability. An arrangement in which a flat fee for room and board is charged would be another form of rental liability. It is a variation of separate room rental within a private dwelling. With a flat fee arrangement, the individual maintains a separate household from the landlord and pays a flat rate for food and shelter. See POMS SI 00835.120 - Rental Liability as LA Basis for more information.

4. *Public Assistance (PA) Households*

A public assistance household is one in which every member receives some kind of public income maintenance payments (which this section refers to as "PA payments"). These are payments made under:

- Title IV-A of the Social Security Act - Temporary Assistance for Needy Families (TANF)
- Title XVI of the Social Security Act (SSI, including federally administered State supplements and State administered mandatory supplements);
- The Refugee Act of 1980 (those payments based on need)
- Disaster Relief and Emergency Assistance Act;
- General assistance programs of the Bureau of Indian Affairs
- State or local government assistance programs based on need (tax credits or refunds are **not** assistance based on need), and
- Department of Veterans Affairs programs (those payments based on need)

See POMS SI 00835.130 - Public Assistance Households for more information.

5. *Separate Consumption*

Separate consumption means that an individual (or at least one member of an eligible couple) is taking all meals outside of the household in which he resides and is not reimbursed by the householder. For separate consumption LA to apply, the individual

must consume all of his/her meals elsewhere. For more information, see SI 00835.140 - Separate Consumption

6. *Separate Purchase of Food*

Separate purchase of food exists when an individual (or at least one member of an eligible couple) physically shops for his/her own food or gives instructions and money to someone to buy the food for him/her. Separate purchase of food can exist when an individual shops for his/her own food but does not use his/her own money. It may also apply even if the individual uses the same condiments or facilities (e.g., refrigerator, stove) as the rest of the household, or consumes meals at the same time as the rest of the household. Separate purchase of food can also exist when an eligible spouse or a person whose income may be deemed to the individual buys food on behalf of the individual, but not necessarily only for the individual. See POMS SI 00835.150 - Separate Purchase of Food for more information.

7. *Sharing*

A sharing arrangement exists when an individual's contribution equals or exceeds his or her "pro rata" share of the household operating expenses, provided the household expenses include both food and shelter. Pro rata share is a term SSA uses to refer to an individual's share of the household operating expenses computed by dividing the household operating expenses by the number of persons permanently residing in the household. The pro rata share represents the dollar value of the individual's food and shelter received from within the household. If the individual pays his/her pro rata share, he/she is not considered to be receiving any ISM from within the household. For additional information, refer to POMS SI 00835.160 - Sharing

8. *Earmarked Sharing*

Earmarked sharing exists when an individual (or at least one member of an eligible couple) designates part or all of his or her contribution toward household operating expenses for food or shelter and the contribution equals or exceeds the pro rata share of household expenses for food or shelter. For example, if the individual's contribution is earmarked for shelter only, SSA determines the individual's pro rata share of shelter expenses. If the earmarked contribution equals or exceeds the pro rata share for shelter, earmarked sharing exists. Similarly, if the individual's contribution is earmarked for food only, SSA determines the individual's pro rata share of food expenses. If the earmarked contribution equals or exceeds the pro rata share of food expenses, earmarked sharing exists.

When an individual earmarks a specific portion of his contribution for food and another specific portion for shelter, it is called double earmarking. SSA computes the individual's pro rata share of food expenses and compare it to the portion of the contribution earmarked for food. Similarly, they compute the individual's pro rata share of shelter expenses and compare it to the portion of the contribution earmarked for shelter. If either

earmarked contribution equals or exceeds a pro rata share of the item for which it is earmarked (either food or shelter), earmarked sharing LA is determined. See POMS SI 00835.170 - Earmarked Sharing for more information.

SSA gathers the information necessary to make LA determinations by interviewing the beneficiary and/or the representative payee or legal guardian. The form SSA-8006-F4 is an interviewing and development tool which Claims Representatives often use for developing living arrangement (LA) and in-kind support and maintenance (ISM) issues. The answers to the questions on the SSA-8006-F4 document the individual's allegations regarding LA basis and cash income received from within and outside a household.

SSA may use an additional form (SSA-8011-F3) to verify things such as household operating expenses; the individual's contribution to household operating expenses, separate consumption, separate purchase of food, or earmarked contributions. Samples of these forms are provided at the end of this document under the "Conducting Independent Research" section.

The LA decision is important because it determines which rule SSA uses to calculate the value of the ISM. The value that is placed on the ISM is what affects the monthly SSI payment amount. A detailed discussion of how the ISM valuation rules work is provided a bit later in this document.

Temporary Absences

Temporary absence is an individual's physical move from his/her permanent place of residence which does not constitute a change in living arrangement for SSI purposes. In general, a temporary absence is an absence from a permanent residence which is not intended to, and does not, exceed a full calendar month. A temporary absence exists if an individual:

- has been in his permanent living arrangement for at least 1 full calendar month prior to his absence; and
- intends to, and actually does, return to the permanent living arrangement in the same calendar month he leaves or in the next month.

Under certain circumstances, there are no limits on the length of a temporary absence and the individual is not required actually to return. The exceptions are:

- temporary absence of a child due to school attendance, [SI 00835.042](#); and
- temporary absence due to confinement in a medical facility where Medicaid pays more than half the cost of care, [SI 00835.043](#).

During a temporary absence SSA continues to value ISM as if the individual were physically in his/ her permanent living arrangement. Temporary absence determinations can get very complex. When in doubt, CWICs are instructed to refer the matter to the local SSA office for a determination.

Determining the Value of In-Kind Support and Maintenance

SSA uses two standard approaches when determining the value of ISM an individual receives. These approaches are mutually exclusive – when one rule applies, the other does not. These two rules are known as:

- The Value of the One-Third Reduction (VTR) Rule, and
- The Presumed Maximum Value (PMV) Rule

The situations in which each rule is applied are specifically prescribed in SSA’s policies and procedures and are related to the specific living arrangement the person has been determined to be in. Let’s take a closer look at how each of these rules works.

The Value of the One-Third Reduction (VTR) Rule

When an individual/couple lives throughout a month in another person's household and receives both food and shelter from others living in the household, SSA applies the VTR rule for determining the value of the ISM received. It is important to understand that both of these criteria have to be met in order for SSA to apply the VTR rule – that is to say, the individual must reside in someone else’s household for an entire month, AND the individual must receive BOTH food and shelter from others in the household. If any of these criteria are not met, then SSA must apply the other rule when determining the value of the ISM.

When the VTR rule is applied, SSA reduces the individual’s SSI payment by a full one-third of the applicable FBR (individual FBR or couple FBR). Here are some additional facts about the VTR:

- If the VTR rule applies, it applies in full. Under the VTR, the applicable FBR is reduced by a full one-third and no exceptions to this rule are made.
- When the VTR applies, no additional ISM is chargeable. This means that no more than one-third of the applicable FBR may ever be charged as ISM when the VTR is in effect.

EXAMPLE: An eligible individual and his friend live in a house owned by the friend. The friend buys all of the food for the household and pays all the shelter expenses except for electricity. The friend's mother pays the electric bill each month. Because the eligible individual gets both food and shelter from the household and does not pay his pro rata share, he is subject to the VTR. Because the VTR applies, no additional ISM is counted for the payment of the electric bill by someone outside the household.

- The VTR (couple rate) can continue to apply to both members of an eligible couple in the month that the members separate. This can 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 operating expenses of that household. In

the month following the separation month, they are considered eligible individuals for ISM purposes.

- No income exclusions apply to the VTR. The one-third reduction acts as a base rate reduction, not as a form of unearned income subject to the \$20 general income exclusion. In addition, ISM valued under the VTR cannot be set aside in an approved Plan to Achieve Self-Support (PASS)
- The VTR may apply even if the individual receives part of his/her food and shelter from inside the household and part from outside.
- It is not necessary that an individual receive food and shelter from inside the household on each day of the month for SSA to apply the VTR for the entire month.

When an individual lives in his/her own household, ISM cannot be valued at the VTR, but must be determined under the second rule – the Presumed Maximum Value rule or PMV. The following individuals are considered to be living in their own household for ISM purposes:

- An individual who is in noninstitutional care;
- An individual who has ownership interest in the home in which he/she lives; An individual who has rental liability for the shelter in which he/she lives; and
- An individual who lives in a public assistance household;

NOTE: For purposes of determining ISM, more than one eligible individual in a household may be considered to be “living in his own household” even though all the individuals are members of the same larger economic unit known as a household.

The following individuals are also not subject to the VTR because they are not receiving **both** food and shelter from inside the household.

- An individual who is separately consuming food;
- An individual who is separately purchasing food;
- An individual who is contributing an earmarked share for food or shelter; and
- An individual whose household operating expenses do not include food (e.g., all food is purchased with food stamps) or do not include at least one item of shelter (e.g., all shelter expenses are paid by someone outside the household).

Individuals who are not living in a “household” as defined by SSA are also not subject to the VTR, but would have any ISM valued under the Presumed Maximum Value (PMV) rule. As described earlier in this document, these individuals would include:

- transients; and
- residents of institutions.

An individual who lives alone cannot be in the household of another (subject to the VTR) and because of this, food and shelter would not be provided from anyone else within the household. When an individual lives alone, ISM, if any, would be determined using the PMV rule.

Finally, an individual is not subject to the VTR unless he/she lives throughout the entire calendar month in the household of another.

The Presumed Maximum Value (PMV) Rule

When an individual/couple receives in-kind support and maintenance (ISM), but does **not** receive **both** food and shelter from the household in which the individual/couple lives, the value of the one-third reduction (VTR) rule does not apply and the ISM is valued under the Presumed Maximum Value (PMV) rule. The following individuals would be subject to the PMV rule if ISM were in evidence:

- An individual who is in noninstitutional care;
- An individual who has ownership interest in the home in which he/she lives;
- An individual who has rental liability for the shelter in which he/she lives;
- An individual who lives in a public assistance household;
- An individual who is separately consuming food;
- An individual who is separately purchasing food;
- An individual who is contributing an earmarked share for food or shelter; and
- An individual whose household operating expenses do not include food (e.g., all food is purchased with food stamps) or do not include at least one item of shelter (e.g., all shelter expenses are paid by someone outside the household).

The PMV is a regulatory cap on the amount of ISM that can be charged. Any food or shelter received is *presumed* to be worth a maximum value which is set at one-third the Federal benefit rate (FBR) for an individual or an eligible couple, plus \$20 (the amount equal to the general income exclusion). Under the PMV, in-kind support and maintenance is treated as a specific form of unearned income. The actual value of the ISM is determined up to the “presumed maximum value”. The good news about the PMV rule is that the recipient is guaranteed not to have the SSI payment reduced more than would be the case if he/she had ISM valued under the VTR rule. In addition, if the actual monetary value of the ISM is less than the applicable FBR plus \$20, then SSA applies whatever the ISM is actually valued at as unearned income to determine the payment amount. This means that the value of the ISM under PMV may be LESS than one third of the applicable FBR, resulting in less of a reduction in the monthly SSI payment. Unlike the VTR rule in which a one-third reduction always occurs, the PMV rule may result in a reduction of up to one-third of the applicable FBR, but may also be less than this amount.

Unlike the VTR, an individual may “rebut” the dollar value assigned to the PMV. When an individual produces evidence which establishes that the value of the ISM is less than the presumed maximum value (the FBR plus \$20), the lower value is charged as income. This lower value is termed the actual value (AV) of ISM. The AV of ISM provided by someone inside the household is the difference between the individual's pro rata share and his/her actual contribution. In most cases, individuals are given 5 calendar days to provide evidence of the actual value of the ISM when rebutting a PMV determination. If the individual does not provide complete evidence needed to establish the AV by the close of the 5th calendar day following the request for evidence, and has not indicated a need for assistance or more time, SSA will proceed with

charging the PMV. If a letter is sent advising the individual of his rebuttal rights, SSA allows 10 calendar days for a reply. If no reply is received by the close of business of the 10th calendar day, and the individual has not indicated a need for assistance, SSA proceeds with charging the PMV.

Instances in which ISM is Not Assessed

ISM determinations are one of the most complex areas of SSI policy and procedure. Many beneficiaries, their family members, and disability services professionals misunderstand the ISM provisions. For example, it is commonly believed that SSI recipients who live with others in a household always have ISM charged, or that living alone in one's own household means that ISM is never assessed. Neither of these beliefs is true; ISM determinations simply are not that cut and dried. Let's take a look at several common situations in which ISM is not charged.

Individual Lives in the Household of Another, but Pays the Full Pro Rata Share of Household Expenses:

When an individual resides in another person's household, but pays for their full pro rata share of the household expenses, ISM is not charged. This is because the person is considered to be paying all of the costs associated with their own food and shelter. To make these types of determinations, SSA has to complete four distinct steps:

1. Calculate the household's monthly operating expenses for food and shelter
2. Determine how much of these expenses are attributable to the SSI eligible individual – the pro rata share
3. Determine how much the SSI eligible individual is contributing to the household expenses for food and shelter
4. Compare the individual's contribution with his/her pro rata share

First, let's look at what type of expenses SSA considers when calculating household food and shelter costs and how these costs are dealt with to arrive at a monthly figure. When computing household operating expenses for inside ISM, the following 10 items are the only ones used in the applicable computations.

- Food
- Mortgage (including property insurance required by the mortgage holder)
- Real property taxes (less any tax rebate/credit)
- Rent
- Heating fuel
- Gas
- Electricity
- Water
- Sewer
- Garbage removal

The following are **not** household operating expenses:

- unpaid portions of food and shelter bills (i.e., arrearages) until they are paid;
- the cost of food consumed by individuals who separately consume or separately purchase their food;
- the value of food purchased with food stamps.

For purposes of ISM determinations, household operating expenses must be expressed as monthly amounts. Bills for food and shelter items which are not paid or billed monthly (e.g., weekly, quarterly, annually, etc.) must be converted to monthly amounts. Fluctuating household expenses are averaged to avoid giving undue weight to temporary or seasonal changes. The averaging period is the 12 full calendar months prior to the month for which the LA/ISM determination is needed. Examples of fluctuating expenses are food, electricity, or gas, i.e., expenses that vary from one billing period to the next depending on usage. Non-fluctuating expenses are not averaged. A non-fluctuating expense is one which does not vary from one billing period to the next or is not dependent on usage. Examples of non-fluctuating expenses are rent, mortgage, and budgeted utility bills. Monthly household operating expenses are determined by adding the average of the fluctuating household expenses for the applicable period to the amount paid for any non-fluctuating expenses in the month for which a determination is made. SSA then determines the individual's pro rata share of the monthly household expenses by dividing this figure by the number of people who reside in the household.

The next major step in the process is determining how much the SSI eligible individual contributes to the household expenses for food and shelter. A contribution must be from the individual's own funds unless the individual has an obligation to repay the value of food and/or shelter received under a bona fide loan agreement. The following are contributions for purposes of determining inside ISM:

- direct payment of a household operating expense (e.g., paying the rent);
- cash payments to the householder or other responsible person towards the household expenses for food and shelter;
- a promise to pay for the value of food and/or shelter received under a bona fide loan agreement; and
- payments (with the agreement of the householder) towards any expenses of the household or personal expenses of the householder (even if such a payment is not specifically for one of the ten household expenses listed above).

EXAMPLE: Ann Thomas, an SSI recipient, lives with her brother in his apartment. Every month she makes his car payment of \$195 in lieu of contributing to the household expenses. In addition, she pays him \$10 every month as reimbursement for the gasoline used while she runs personal errands. Ms. Thomas also provides housekeeping services they both allege are worth \$50 a month.

Ms. Thomas' average monthly contribution is \$195. The \$10 reimbursement for gas and the value of the services cannot be included as part of her contribution because neither is a cash contribution towards the household operating expenses or towards the personal expenses of the householder.

The dollar amount of an individual's contribution toward household operating expenses is compared to the value of the food and/or shelter received from within the household to determine whether the individual receives countable in-kind support and maintenance (ISM) from inside the household. If the dollar amount of an individual's contribution equals or exceeds the value of the food and/or shelter received from within the household, the individual is considered to be paying his/her pro rata share and the individual is not considered to be receiving countable ISM from inside the household.

WARNING: Each of the 4 steps involved in determining whether or not an individual is paying his/her full pro rata share is complex. These steps involve applying multiple procedures with numerous specific rules for special situations. While basic explanations of these procedures are provided in this document, CWICs must be aware that determinations of this type can only be made by SSA personnel. SSI recipients must be referred to the local Field Office whenever changes in ISM determinations need to be made.

Individual Establishes a Separate Household under a Rental Agreement

There is another option for dealing with paying for food and shelter which involves establishing a different type of living arrangement. In this case, the eligible individual is considered to be in a “rental liability” living arrangement instead of residing in the household of another person.

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. For SSI purposes, 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. It may sound a bit unusual, but it is certainly possible for a beneficiary to reside in the home of his/her parents but still be considered to be maintaining a separate and distinct household.

When deciding if a separate household exists, SSA will obtain signed statements from both the individual and the landlord (which may be the parent or parents) 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 how the household is organized, how the rent is charged and paid, how meals are purchased and prepared, as well as issues relating to access to and use of the dwelling.

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 a flat fee arrangement, the individual maintains a separate household from the landlord and pays a flat rate for food and shelter. The way SSA develops for flat fee rental liability 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.

The amount charged for the flat fee should be based upon current fair market value (CMV). 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.

The rental liability option fits some individuals and their families very well, while other families would not feel comfortable with this arrangement at all. The CWIC should be knowledgeable about this option and present it as one possible method for paying for food and shelter.

Changing LA/ISM Determinations

SSA will check on living arrangement and any ISM being received each calendar year during the annual redetermination. However, LA/ISM determinations can be changed at any time throughout the year – there is no need to wait till the annual redeterminations. Numerous events could cause a change in the designated living arrangement and in turn, this may cause a change in the amount of ISM charged against the individual. Some events to be aware of would include:

- Moving to a new residence
- A change in the amount or type of contribution the individual makes to household expenses
- A change in household composition
- A change in household expenses related to food and shelter (example: paying off the mortgage)
- Assistance with a household item or expense provided by someone outside the household
- Placement in a medical facility, nursing home, or institution

Individuals may simply choose to change the way they pay the costs of their food and shelter and these changes should be reported to SSA as soon as they occur.

Helping Beneficiaries Understand ISM Determinations – the Role of the CWIC

When SSA interviews applicants and families, they specifically ask about whether or not the applicant contributes anything toward the cost of the household. Family members often answer this series of questions incorrectly because they do not understand why these questions are being asked or to how the information they supply will be used. In the first place, families get confused about timing. When SSA initially asks if a claimant is paying anything toward the cost of the household, families will sometimes answer “no” because the individual has no income or resources with which to contribute at the time the question is posed. SSA personnel really are asking whether the person will contribute, or would contribute if he/she had any funds with which to do so. Unfortunately, in this scenario, a simple misunderstanding about a question may cause an SSI applicant to be found ineligible, or if found eligible, could cause an automatic one-third reduction in the base SSI rate.

Let’s describe another scenario. Some families will respond in the negative to questions about asking the disabled individual to contribute toward the household costs because they are trying to answer in the way they believe SSA wants them to. In these situations, the families are under the impression that is not appropriate or acceptable to ask a disabled family member to help pay for the costs of his/her food and shelter. In some cases, the family may have every intention of using the SSI payment for food and shelter, but tells SSA that they will not because they fear giving the “wrong” answer. Again, this problem really speaks to a misunderstanding about how the information will be applied. When questions about contributing to the household are asked, SSA is not making a value judgment. They are simply trying to ascertain whether the family intends to “supplement” or “subsidize” the SSI by helping the individual with a disability to pay for his/her pro-rata share of the household expenses.

When working with beneficiaries and families, CWICs need to offer clear and concise information about how living arrangement determinations are made, how LA affects ISM, and how the VTR/PMV rules are applied to determine the value of the ISM being provided. CWICs can help beneficiaries and their family members understand the importance of the living arrangement and how different arrangements can lead to changes in SSI payment – for better or worse. If the SSI recipient is living in the household of others, the best way to begin counseling on paying for food and shelter is to start by estimating the recipient’s pro-rata share. Once the CWIC has this estimate, it will be much easier to talk to the family and the individual about ability to pay for some or even the all of the pro rata share.

If the individual is able to pay the full pro-rata share, this is certainly easy to arrange and document for SSA. When the full pro-rata share is paid for by the recipient, the SSI payment will be adjusted to reflect the full FBR for that year (less any countable income the person has). There are innumerable ways to handle payment of household expenses and different beneficiaries will chose different routes. The critical point is to make sure the individual and their family members/concerned professionals understand how decisions about paying for food and shelter impact SSI eligibility and payment amount so that informed decisions may be made which are in the best interests of the individual.

Conclusion

As a final note on the subject of living arrangements and in-kind support and maintenance, keep in mind that situations change all the time. SSI recipients and families need to understand that any change in the living arrangement or the payment for food and shelter must be reported to Social Security in a timely fashion. Since these issues can impact the SSI payment amount, failure to report changes can cause overpayments or underpayments to occur. It is always best to keep the Claims Representative apprised of all changes in the living arrangement.

Conducting Independent Research

A great many POMS citations cover the subject of in-kind support and maintenance. The Subchapter Table of Contents listing most of these citations can be found at POMS SI 00835.000 - Living Arrangements and In-Kind Support and Maintenance. This is available online at the SSA website at:

<https://secure.ssa.gov/apps10/poms.nsf/517e83681a5eb8b28525688d0058721c/cf914973c08945fd8525754c00072fb4!OpenDocument>

This Subchapter Table of Contents has been reproduced in it's entirety at the end of this document to assist in researching specific issue related to ISM.

Acknowledgements

Contributing Authors and Editors: Lucy Miller

The development of this paper was funded by the Social Security Administration under Contract Number: SS00-07-60050, Training and Technical Assistance for the Work Incentive Planning and Assistance (WIPA) Program

POMS Citations Dealing with ISM

SI 00835.000 Living Arrangements and In-Kind Support and Maintenance

Subchapter Table of Contents

Section		Latest Transmittal
SI 00835.001	Introduction to Living Arrangements and In-Kind Support and Maintenance	TN 57 03-05
SI 00835.005	Sequential Development of Living Arrangement and In-Kind Support and Maintenance — Flowchart	TN 35 02-95
SI 00835.020	Definitions of Terms Used in Living Arrangements (LA) and In-Kind Support and Maintenance (ISM) Instructions	TN 39 09-96
SI 00835.040	Temporary Absence from a Federal LA — General	TN 37 07-95
SI 00835.041	Temporary Absence from a Federal LA for Reasons Other than School Attendance or Confinement in a Medicaid Facility	TN 27 11-91
SI 00835.042	Temporary Absence of a Child from a Federal LA Due to School Attendance	TN 27 11-91
SI 00835.043	Temporary Absence from a Federal LA Due to Confinement in a Medicaid Facility	TN 27 11-91
SI 00835.060	Transients, Homeless Individuals, and LA/ISM Determinations	TN 54 01-04

HOUSEHOLD LIVING ARRANGEMENTS

SI 00835.100	Living in Households — General	TN 27 11-91
SI 00835.110	Home Ownership as LA Basis	TN 27 11-91
SI 00835.120	Rental Liability as LA Basis	TN 46 03-99
SI 00835.130	Public Assistance Households	TN 46 03-99
SI 00835.140	Separate Consumption	TN 46 03-

		99
SI 00835.150	Separate Purchase of Food	TN 46 03-99
SI 00835.160	Sharing	TN 63 12-08
SI 00835.170	Earmarked Sharing	TN 63 12-08

THE ONE-THIRD REDUCTION PROVISION

SI 00835.200	The One-Third Reduction Provision — General	TN 46 03-99
SI 00835.210	The One-Third Reduction Provision and Deeming	TN 46 03-99

IN-KIND SUPPORT AND MAINTENANCE SUBJECT TO THE PRESUMED MAXIMUM VALUE RULE — HOUSEHOLDS

SI 00835.300	Presumed Maximum Value Rule	TN 37 07-95
SI 00835.310	Distinguishing Between In-Kind Support and Maintenance and Other Unearned In-Kind Income	TN 37 07-95
SI 00835.320	Rebuttal Rule and Procedures — PMV	TN 37 07-95
SI 00835.331	Treatment of Home Energy Assistance (HEA) and Support and Maintenance Assistance (SMA) in Determinations of Inside ISM and Cash from Within a Household	TN 37 07-95
SI 00835.340	Computation of In-Kind Support and Maintenance from Within a Household	TN 43 02-98
SI 00835.350	Computation of In-Kind Support and Maintenance from Outside a Household (Including Vendor Payments by a Third Party Outside the Household)	TN 37 07-95
SI 00835.360	When to Charge ISM from Third Party Vendor Payments	TN 27 11-91
SI 00835.370	Rent-Free Shelter	TN 27 11-91
SI 00835.380	Rental Subsidies	TN 63 12-08

SI 00835.382	Form SSA-L5061 (Letter to Landlord Requesting Rental Information)	TN 63 12-08
SI 00835.390	Food, or Shelter That is Remuneration for Work But is not Wages	TN 40 02-97
SI 00835.400	In-Kind Support and Maintenance (ISM) to One Person	TN 59 09-06
SI 00835.450	Cash Income from Within and from Outside Households	TN 46 03-99

**ELEMENTS OF IN-KIND SUPPORT AND MAINTENANCE
DETERMINATIONS — HOUSEHOLDS**

SI 00835.460	Overview of Policies and Procedures that Apply to the Computation of ISM in Households	TN 39 09-96
SI 00835.465	ISM and Households - Household Costs	TN 39 09-96
SI 00835.470	ISM and Households - Conversions	TN 39 09-96
SI 00835.471	Conversions — Distinguishing Between Household Costs and Non-Household Costs	TN 39 09-96
SI 00835.472	Conversions — More than One Household Uses the Same Shelter Item	TN 39 09-96
SI 00835.473	Conversions — Arrearages	TN 39 09-96
SI 00835.474	Conversions — Converting to Monthly Amounts	TN 39 09-96
SI 00835.475	Averaging	TN 39 09-96
SI 00835.480	Contributions Toward Household Operating Expenses	TN 52 05-03
SI 00835.481	Policy Effective Dates — Loans of Food and/or Shelter	TN 36 03-95
SI 00835.482	Loans of In-Kind Support and Maintenance	TN 52 05-03
SI 00835.485	Household Composition	TN 46 03-99

CHANGES IN LIVING ARRANGEMENTS AND IN-KIND SUPPORT AND MAINTENANCE

<u>SI 00835.500</u>	First-of-the-Month (FOM) Residence and ISM Determinations	TN 46 03-99
<u>SI 00835.510</u>	Breakpoints	TN 46 03-99
<u>SI 00835.515</u>	Gradual Changes in ISM	TN 45 02-99
<u>SI 00835.520</u>	Redetermination Guidelines - LA and ISM	TN 45 02-99

Forms SSA-8006-F4, SSA-8008, and SSA-8011

<u>SI 00835.600</u>	SSA-8006-F4 — Statement of Living Arrangements, In-Kind Support and Maintenance	TN 63 12-08
<u>SI 00835.620</u>	Exhibit of Form SSA-8006-F4	TN 36 03-95
<u>SI 00835.625</u>	SSA-8011 — Statement of Household Expenses and Contributions	TN 63 12-08
<u>SI 00835.630</u>	Use of Form SSA-8008 — Living Arrangements/In-Kind Support and Maintenance Development Guide and Summary	TN 26 01-91
<u>SI 00835.640</u>	Exhibit of Form SSA-8008	

IN-KIND SUPPORT AND MAINTENANCE SUBJECT TO THE PRESUMED MAXIMUM VALUE RULE - INSTITUTIONS AND NONINSTITUTIONAL CARE

<u>SI 00835.704</u>	In-Kind Support and Maintenance Provided Residents of Institutions	TN 47 07-99
<u>SI 00835.706</u>	In-Kind Support and Maintenance Provided Residents of Institutions	TN 47 07-99
<u>SI 00835.707</u>	Procedures For Determining ISM Provided To Residents of Institutions	TN 47 07-99
<u>SI 00835.708</u>	In-Kind Support and Maintenance Provided Residents of Private For-Profit Residential Care Institutions	TN 47 07-99
<u>SI 00835.710</u>	In-Kind Support and Maintenance Provided Residents of Private Nonprofit Residential Care Institutions	TN 47 07-99
<u>SI 00835.712</u>	Exclusion of In-Kind Support and Maintenance Provided	TN 47 07-

	Residents of Private Nonprofit Residential Care Institutions	99
SI 00835.713	Determining In-Kind Support and Maintenance for a Member of a Religious Order Who Moves into a Private Nonprofit Residential Care Institution	TN 55 09-04
SI 00835.714	In-Kind Support and Maintenance Provided Residents of Educational or Vocational Training Institutions	TN 47 07-99
SI 00835.716	In-Kind Support and Maintenance Provided Residents of Public Institutions	TN 47 07-99
SI 00835.790	Noninstitutional Care Situations	TN 47 07-99
SI 00835.900	Values for In-Kind Support and Maintenance for Years 1984 through 2005	TN 56 11-04
SI 00835.901	Values for In-Kind Support and Maintenance for 2006 and Later	TN 62 10-08
SI DAL00835.380	Rental Subsidies For Residents Of Texas Effective May 1, 1996	