



STETSON LAW

**National Conference on
Special Needs Planning and Special Needs Trusts**

**Housing Boot Camp: Laws, Benefits, and
Creative Solutions**

Gimme Shelter

**Supplemental Security Income Policy Related to
Shelter and Housing Support**

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**STETSON
UNIVERSITY**

Center for Excellence in Elder Law

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Gimme Shelter - Supplemental Security Income Policy Related to Shelter and Housing Support

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INTRODUCTION

This session will cover SSI rules related to shelter and housing support, including: the home exclusion and its application; In-kind support and maintenance rules related to shelter; how payments from trusts and ABLE accounts may be used to obtain shelter and how they may impact benefits. Additional discussion will also include accessory dwelling units (ADUs) as a potential housing option for individuals receiving SSI, how they fit into current policy and some possible issues that may require further exploration.

Housing is often the single biggest barrier to independence for eligible individuals with disabilities who rely on Supplemental Security Income (SSI) and Medicaid.

Where a person lives can affect their eligibility for and amount of Supplemental Security Income (SSI) benefits. We will examine the current SSI policy on home ownership, renting or sharing a living space or other living arrangements.

Families sometimes try to solve housing through special needs trusts (SNTs). However, housing support from a trust can create SSI complications because SSI treats certain third-party payments for shelter as support that may reduce the monthly SSI payment. Even when families have resources, paying for rent or utilities the “wrong” way can cause an SSI payment reduction, create overpayment notices, or raise questions about continued eligibility.

We will look at some alternative methods to providing housing without significantly impacting eligibility for and the amount of benefits.

THE SSI HOME EXCLUSION

What is a Home?

An individual’s home is property in which they have an ownership interest and that serves as their principal place of residence. It can include:

- the shelter in which they live;
- the land on which the shelter is located; and
- related buildings on such land.

An individual's principal place of residence is the dwelling the individual considers their established or principal home and to which, if absent, they intend to return. It can be real or personal property, fixed or mobile, and located on land or water.

The Exclusion

An individual's home, regardless of value, is an excluded resource.

Ownership

For the home exclusion to apply, the individual must have an ownership interest in the property. Then ownership interest can be legal or equitable. An “equitable” ownership interest in property can result from personal considerations or from:

- making mortgage payments;
- making or paying for additions to a shelter; or
- making improvements to a shelter.

If an individual alleges an unwritten equitable ownership interest, SSA will gather all the necessary information and forward it to the Regional Chief Counsel for an opinion based on State law.

If an individual lives in a home owned by a trust and is the beneficiary of the trust, even though the trust holds legal title to the property, the individual, as trust beneficiary, still has an (equitable) ownership interest in it.

Exclusion of the Home Includes Land on Which the Shelter is Located

For purposes of excluding “the land on which the shelter is located,” it is not necessary that the individual own the shelter itself.

EXAMPLE: If an individual lives on their own land in someone else's trailer, the land meets the definition of a home and is excluded. However, if the individual does not own the shelter, it is necessary to consider whether the shelter results in in-kind support and maintenance (ISM) (e.g., rent-free shelter).

Exclusion of the Home Includes Adjoining Property and Related Buildings

a. Land

The home exclusion applies not only to the plot of land on which the home is located, but also to any adjoining land. Land that adjoins the home plot is land not completely

separated from the home plot by land in which neither the individual nor their spouse has an ownership interest.

Easements and public rights of way (e.g., utility lines, roads, etc.) do not separate other land from the home plot.

b. Buildings

The home exclusion applies to all buildings on excluded land.

Continued Exclusion of the Home During Periods of Absence

If an individual is temporarily absent from the home he or she owns, the home continues to be excluded as long as,

- If the individual is in an institution, and a spouse or dependent relative is living in the home.
- If not institutionalized, the individual intends to return to the home or
- If the house is co-owned, sale of the home would cause undue hardship, due to loss of housing for the co-owner.
- If the individual has left his or her home due to domestic abuse, the individual has not established a new principal place of residence or otherwise has taken action rendering the home no longer excludable.

Intent to Return

An individual's home continues to be excluded if the individual leaves the home but intends to return to it.

When an individual is absent from the home, SSA obtains the individual's statement either signed or recorded on a Report of Contact as to:

- when and why they left the home;
- whether they intend to return; and
- if they do not intend to return, when that decision was made.

This statement governs the "intent to return" determination unless the statement is self-contradictory. If the individual's statement of intent is self-contradictory, SSA will contact someone who knows the situation, such as a physician, family member, or close friend or relative, to clarify the situation.

SSA does not consider other factors, such as the individual's age, physical condition, or other circumstances when determining intent to return home. Assuming the individual is mentally competent, age, mental capacity, and physical condition are not factors in evaluating the individual's statement of intent.

EXAMPLE: The recipient is 93 years old and in the intensive care unit of a hospital. They tell the field representative that their doctor believes they may not be able to leave the hospital and return home. However, they state that they intend to return to their former residence as soon as they are well enough to leave the hospital. Based on the recipient's statement, "intent to return home" is established.

EXAMPLE: The recipient's home was partially destroyed by fire. They do not know when the necessary repairs will be completed. In the meantime, they are living with a family member. They state that they intend to return to the former residence as soon as possible. Based on this statement, "intent to return home" is established.

SSI TRUST POLICY AND THE HOME EXCLUSION

There are several policies associated with the home exclusion that interact with trust policy that may be advantageous to a trust beneficiary receiving SSI.

Home Exclusion

If the trust is a resource to the individual, the property at issue is subject to exclusion as a home. Even though the trust holds legal title to the property, the individual, as trust beneficiary, still has an (equitable) ownership interest in it. Therefore, whether the property can be excluded as a home likely will depend on whether the property serves as the individual's principal place of residence.

If the trust is not a resource to the individual, then the property also is not a resource to the individual, regardless of whether the property serves as the individual's principal place of residence (that is, regardless of possible exclusion as a home, because the property is part of the trust principal that is not a resource to the individual).

In-Kind Support and Maintenance (ISM)

More information on how ISM is calculated is contained in the following section.

An eligible individual does not receive in-kind support and maintenance (ISM) in the form of rent-free shelter while living in a home in which he or she has an ownership interest. Accordingly, a trust beneficiary with an "equitable ownership interest in the trust principal" does not receive rent-free shelter (ISM).

The purchase of a home by a trust for the trust beneficiary establishes an equitable ownership interest for the trust beneficiary, the purchase results in the receipt of ISM, in the

form of shelter, in the month of purchase. This ISM is valued at no more than the presumed maximum value (PMV).

Even if the trust beneficiary has an ownership interest in the home that he or she resides in and is not receiving ISM in the form of rent-free shelter, the purchase of the home or payment of the monthly mortgage by the trust is a disbursement from the trust to a third party that results in the receipt of ISM in the form of shelter.

If the trust, whose principal is not a resource, purchases the home outright and the trust beneficiary lives in the home in the month of purchase, the home is income in the form of ISM, and reduces the trust beneficiary's payment no more than the PMV in the month of purchase only, regardless of the value of the home.

If the trust, whose principal is not a resource, purchases the home with a mortgage and the trust beneficiary lives in the home in the month of purchase, the home would be ISM in the month of purchase. Each of the subsequent monthly mortgage payments results in the receipt of income in the form of ISM to the trust beneficiary living in the house, each valued at no more than the PMV.

If the trust pays for repairs, maintenance, improvements, or renovations to the home, such as renovations to the bathroom to make it handicapped accessible, installation of a wheelchair ramp or assistive devices, or replacement of a roof, the trust beneficiary does not receive income. Disbursements from the trust for improvements increase the value of the resource and, unlike household operating expenses, do not provide ISM.

GENERAL IN-KIND SUPPORT AND MAINTENANCE (ISM) POLICY

SSA has two rules that apply to determining the value of ISM. The rules are mutually exclusive in that when one rule applies, the other does not. These two rules are the Value of the One-Third Reduction (VTR) Rule and the Presumed Maximum Value (PMV) Rule.

When it applies, the VTR is a statutory one-third reduction in the SSI payment rate. On the other hand, the PMV is a regulatory maximum cap on the amount of ISM that can be charged.

Value of the One-third Reduction (VTR) Rule

SSA will reduce the applicable Federal benefit rate (FBR) by one-third when an individual or couple:

- Lives throughout a month in another person's household; and
- Receives both food and shelter from others living in that household.

The following policies apply to the VTR:

- In 2026, the VTR is equal to \$331.33 for an individual and \$497.00 for a couple based on an FBR of \$994.00 and \$1,491.00, respectively.
- When the VTR applies, it applies in full or not at all. The amount of the VTR cannot be rebutted.
- When the VTR applies, no additional ISM is countable, even if it is received from outside of the household.
- When the VTR applies, no income exclusions apply to the VTR (including the \$20 general income exclusion). The VTR is a reduction in the payment rate and not a charge of unearned income.
- The VTR may apply even if the individual receives part of his or 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 to apply the VTR.
- The VTR (couple rate) can continue to apply to both members of an eligible couple in the month that they separate. For example, when an eligible couple subject to the VTR separates, the VTR continues to apply to the member who leaves the household, moves into the household of another, and does not contribute toward the household operating expenses. For ISM purposes, SSA treats the members of an eligible couple as individuals in the month following the separation month. For example, if a married couple separates in May, for ISM purpose, they are two eligible individuals beginning in June.
- An individual is not subject to the VTR unless he or she lives throughout the entire calendar month in the household of another.

NOTE: If temporarily absent from the household, an individual who is not physically present in the household throughout the month may still meet the throughout a month requirement (see SI 00835.040). In addition, an individual may reside in more than one household where the VTR applies and meet the throughout a month requirement.

Under the new regulations, the VTR will continue to be calculated based on the individual receiving both food and shelter from within the household.

Presumed Maximum Value (PMV) Rule

When a beneficiary or couple receives ISM, is eligible for payment and the VTR does not apply, SSA uses the PMV rule to determine the value of ISM received.

The VTR may not apply because:

- The individual does not live in a household, e.g., they are transient, homeless or are residents of an institution.

- They do not live in the household of another, e.g., they live alone, are in non-institutional care, have an ownership interest in the home they live in, have rental liability for the residence, or are a member of a public assistance household.
- They do not receive both food and shelter from inside the household because they are separately consuming food, separately purchasing their food, earmarking their contributions for food or shelter, they are paying their pro rata share, or the household expenses do not include either food or shelter.
- They did not live throughout an entire month in the household of another.

The amount of the PMV is equal to one-third of the Federal benefit rate for an individual or couple, plus \$20. In 2026 the PMV is equal to \$351.33 for an individual and \$517.00 for an eligible couple, based on an FBR of \$994.00 and \$1,491.00, respectively.

The PMV is a regulatory cap on the amount of ISM that can be charged. The PMV is a rebuttable presumption, i.e., the regulation presumes that the value of ISM is worth one-third of the FBR plus \$20. If the individual or couple successfully presents evidence that the food or shelter has a lower value or cost (rebutts the PMV), SSA values the ISM at the current market value (CMV) or the actual value (AV), whichever is less.

While the VTR is a reduced payment level, the PMV is actually considered a type of unearned income and is charged as such. The PMV amount is equal to one-third of the FBR plus \$20 because, in application, the \$20 is equal to the \$20 general income exclusion, which when applied means that the maximum amount of the VTR and the PMV are the same.

Under the new regulations, individuals subject the PMV will only have ISM reductions calculated based on the receipt of shelter.

ACHIEVING A BETTER LIFE EXPERIENCE (ABLE) ACCOUNTS: USING A TRUST WITH ABLE ACCOUNTS AND VICE-VERSA

The enactment of the Stephen Beck Jr., Achieving a Better Life Experience Act provided trustees/beneficiaries/practitioners with probably the most useful tool in decades. I cannot imagine a situation where it would not be advantageous for a special needs trustee and beneficiary to have an ABLE account to use in conjunction with the trust.

Transfers From a Trust to an ABLE Account/Income Avoidance

The POMS explicitly permits transfers from a special needs or pooled trust to an ABLE account up to the annual contribution limit (\$20,000 for 2026). The benefit to this arrangement is that a transfer that would otherwise count as income is excluded from income. Furthermore, if those same funds are subsequently disbursed from the ABLE account to directly pay for housing (shelter) expenses, the shelter received does not count

as income in the form of in-kind support and maintenance. The use of an ABLE account provides a legal way to “launder” money to avoid income counting for housing expenses. Of course, any other expenditure for an item that qualifies as a Qualified Disability Expense is also excluded.

Support Payments

The use of a trust with an ABLE account also provides a method to avoid income counting for support payments such as child support or alimony. If a support payment is paid directly into an ABLE account, the payment is income because the ABLE account owner is the person legally entitled to receive that payment. Even if paid directly into the ABLE account, the individual is considered to have constructively received the payment prior to deposit into the ABLE account. However, if support payments are irrevocably assigned to a trust (a court order is deemed to be an irrevocable assignment), the payment is not income when deposited into the trust. The support payment can then be transferred into an ABLE account for the use of the trust beneficiary, avoiding income counting upon receipt, and if used correctly, avoiding income counting upon expenditure.

Why Housing Creates Benefit Problems

Housing is often the single biggest barrier to independence for eligible individuals with disabilities who rely on Supplemental Security Income (SSI) and Medicaid.

Families sometimes try to solve housing through special needs trusts (SNTs). However, housing support from a trust can create SSI complications because SSI treats certain third-party payments for shelter as support that may reduce the monthly SSI payment. Even when families have resources, paying for rent or utilities from a trust can cause an SSI payment reduction, create overpayments, or raise questions about continued eligibility.

This is where using an Achieving a Better Life Experience (ABLE) accounts provides benefits. One of the most practical uses of an ABLE account is paying housing costs such as rent and utilities directly while staying within SSI and Medicaid rules.

An ABLE account can be the tool that helps families fund stable living arrangements, cover immediate needs, and plan for future expenses, without triggering the same level of concern with means-tested eligibility.

What Counts as a Qualified Disability Expense for Housing

ABLE accounts are designed to pay for qualified disability expenses (QDEs), broadly defined as costs related to living with a disability and maintaining or improving quality of life, health, or independence.

Housing expenses for purposes of an ABLE account are similar to household costs for in-kind support and maintenance purposes. Housing expenses include expenses for:

- Mortgage (including property insurance required by the mortgage holder);
- Real property taxes;
- Rent;
- Heating fuel;
- Gas;
- Electricity;
- Water;
- Sewer; and
- Garbage removal.

Because housing is a major expense category, it is important to keep documentation that shows how the expenses support the person's independence and is related to their disability — leases, utility bills, invoices, and payment confirmations.

The SSI Timing Rule That Families Miss Most Often

The biggest avoidable mistake is not the expense — it's the timing.

For SSI purposes, housing support can reduce SSI payments when treated as in-kind support. ABLE accounts are often used to prevent that reduction, but only when housing payments are handled correctly.

A Practical Rule of Thumb

Withdraw funds from the ABLE account and pay the housing bill in the same calendar month.

If ABLE money is withdrawn and then the individual retains it into the next month (for example, in a personal checking account), it may be treated as a countable resource for SSI in the following month. That can create a benefits problem even if the original intent was perfectly legitimate.

EXAMPLE: Retained distribution intended for housing expenses is a resource

Amy takes a distribution of \$500 from their ABLE account in May to pay a housing expense for June. They deposit the \$500 into their checking account in May, withdraws \$500 in cash on June 3, and pay their landlord. This distribution is a housing expense and part of their checking account balance as of June 1, which makes it a countable resource for the month of June.

A Simple System for Paying Rent and Utilities from an ABLE Account

Many families succeed by choosing one consistent method and sticking to it. The goal is a clean paper trail and predictable timing.

Option 1: Pay housing providers directly. If the ABLE program allows it, pay rent and utilities directly from the ABLE account to the landlord or utility provider. This could be through a debit card connected to the account.

Option 2: Use a dedicated “housing-only” checking account. Use a separate checking account as a pass-through but keep the balance low and avoid carrying withdrawn ABLE funds past month-end.

Option 3: Schedule automatic recurring payments. Recurring payments reduce missed deadlines and make it easier to show that withdrawals were used promptly for QDEs.

Best Practices That Make ABLE Housing Spending Easier to Defend

Save Housing Documentation in One Place

- Lease agreements and renewals
- Utility bills
- Proof of payment (transaction history, confirmations)
- A short, written budget showing the purpose of withdrawals

Use Clear Transaction Descriptions. If the ABLE program provides memos or categories, label transactions “Rent,” “Electric,” “Internet,” and so on. Clean labeling reduces confusion later.

Avoid Cash Withdrawals for Housing. Cash is hard to document. When possible, use traceable electronic payments or checks tied to the ABLE account.

ACCESSORY DWELLING UNITS

Introduction

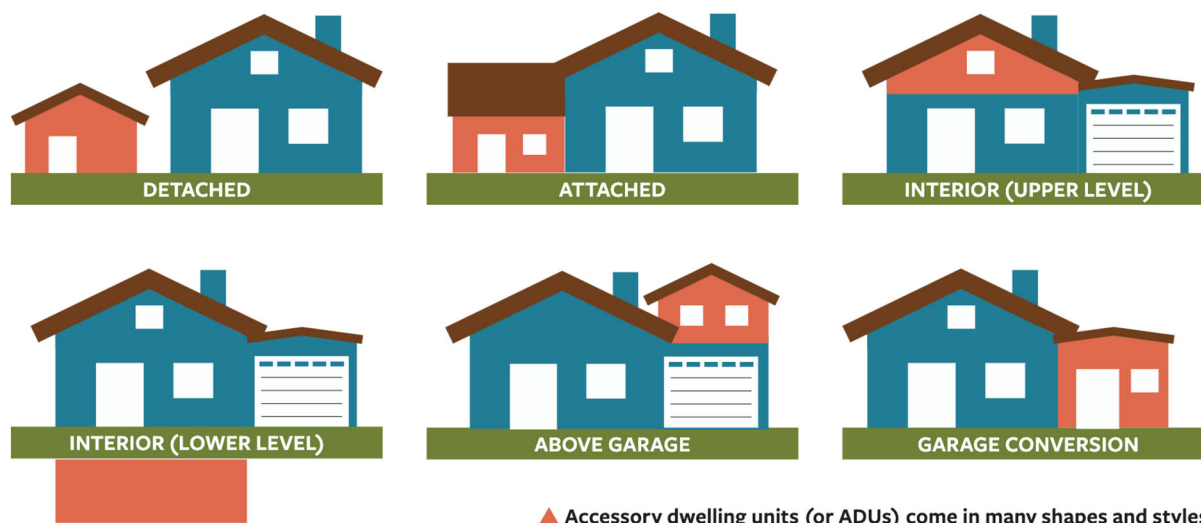
An “Accessory Dwelling Unit” or “ADU” is defined by the American Planning Association as “a smaller, independent residential dwelling unit located on the same lot as a stand-alone (i.e., detached) single-family home.” [Accessory Dwelling Units](#), American Planning Association, (Retrieved September 22, 2026). ADUs can be converted portions of existing homes (i.e., internal ADUs), additions to new or existing homes (i.e., attached ADUs), or new stand-alone accessory structures or converted portions of existing stand-alone accessory structures (i.e., detached ADUs).

Although most government regulations, zoning laws and urban planners refer to them as accessory dwelling units, ADUs have been around for decades (or centuries) and have been referred to by various names:

- accessory apartment
- backyard bungalow
- basement apartment
- casita
- carriage house
- coach house
- English basement
- garage apartment
- granny flat
- guest cottage
- guest house
- in-law suite
- multi-generational house
- ohana unit
- secondary dwelling unit

Generally, as an independent living space, an ADU is self-contained, with its own kitchen or kitchenette, bathroom and sleeping area. However, an attached ADU may share kitchen or bathroom facilities with the main dwelling unit (depending on local zoning requirements).

Once commonplace, after World War II, many local governments placed restrictions on or prohibited the construction of ADUs. With the advent of the housing affordability problem, many local, city, county and even State governments are relaxing restrictions on and encouraging the use of ADUs and even requiring communities to allow them.



▲ Accessory dwelling units (or ADUs) come in many shapes and styles.

[The ABCs of ADUs](#), AARP (last visited September 23, 2026).

OWNERSHIP ISSUES RELATED TO ACCESSORY DWELLING UNITS

Ownership issues related to Accessory Dwelling Units (ADUs) often arise because the ADU is located on the same parcel as the primary home, creating questions about property rights, control, financing, and inheritance. Common issues include:

Single Property Ownership

In many jurisdictions, an ADU cannot be sold separately from the primary residence because both structures share one legal lot. The homeowner owns both the main house and the ADU. This can create complications when family members or a trust contribute money to build an ADU but do not receive a legal ownership interest.

Co-Ownership and Family Arrangements

When parents, adult children, other relatives, or a trust help finance or occupy an ADU, disputes can arise over:

- Who owns the ADU structure.
- Rights to occupy the unit.
- Responsibility for maintenance and repairs.
- What happens if the property is sold.

Without a written agreement, these arrangements can become contentious.

Title and Financing Concerns

Because the ADU is usually part of the same real estate parcel:

- It generally cannot have a separate deed.
- Mortgages and liens typically affect both the main house and the ADU.
- Lenders may require all owners of the property to sign financing documents.

Inheritance and Estate Planning

If an ADU is intended for a child or elderly parent, problems may arise after the property owner's death:

- The ADU may pass with the entire property under a will or state inheritance laws.
- Occupants of the ADU may not automatically gain ownership rights.
- Heirs may disagree about whether to keep, occupy, rent, or sell the property.

Estate planning can help clarify these issues.

Zoning, Land Use and Property Rights Disputes

Ownership conflicts can arise when:

- Neighbors challenge ADU construction.
- Property boundaries are unclear.
- Easements or access rights affect the ADU.
- Owners disagree about use restrictions or rental rights.
- Zoning restrictions on and requirements of rental units or owner-occupancy requirements.

WHY OWNERSHIP MATTERS FOR SSI BENEFITS

Home Exclusion

Regardless of its physical form, legally an ADU is part of the same property as the main home. It cannot be bought or sold separately, as a condominium or a dwelling on wheels might be. The owner of the ADU is the owner of the main home. To qualify for the home exclusion, an individual must have an ownership interest, legal or equitable, in the home. You should note however, that without an ownership interest, a home would not count as a resource to the individual, but there are other consequences that flow from not having an ownership interest.

ISM

Without an ownership interest, the individual would be required to pay rent or else be charged with in-kind support and maintenance (ISM) in the form of rent-free shelter. Or they could be subject to the value of the one-third reduction (VTR) in their benefits because they are residing in the household of another.

Paying rent or shelter costs is not a bad thing in and of itself, but if the goal is to maximize benefits, paying rent and expenses or incurring a reduction for ISM is a step in the wrong direction.

If there is a rental situation, it is likely that there may be a parent-child relationship between the landlord and the tenant (anyone in the household is a parent or child of the landlord or landlord's spouse). In that case, rental subsidy (where the tenant is not paying CMRV (current market rental value)) may be an issue. However, a recent regulatory change now provides that effective 09/30/2024, a business arrangement exists when the monthly required rent (including a flat fee payment) equals or exceeds the PMV (\$351.33 for an individual and \$517.00 for an eligible couple in 2026). If the verified monthly required rent equals or exceeds either the CMRV or the PMV, no rental subsidy applies. If the monthly required rent is less than both the CMRV and the PMV, the amount of rental subsidy is determined by subtracting the monthly required rent from the CMRV or PMV, whichever is less.

Trust Management

If a trust is paying for the construction of an ADU for the use of the trust beneficiary, the trustee may feel it is necessary, in its fiduciary duty, for the trust to obtain an interest in the ADU. The following options would provide the beneficiary a place to live for life, give the trust a legal or equitable interest in the ADU for its payments and not benefit a non-beneficial interest, at least not immediately.

POSSIBLE SOLUTIONS FOR THE OWNERSHIP ISSUE

Equitable Ownership

As previously discussed, an “equitable” ownership interest in property can result from personal considerations or from:

- making mortgage payments;

- making or paying for additions to a shelter; or
- making improvements to a shelter.

If an individual alleges an unwritten equitable ownership interest, SSA will gather all the necessary information and forward it to the Regional Chief Counsel for an opinion based on State law.

Condominium or Separate Ownership Structures

Some states and local governments allow legal mechanisms, such as condominiumization or lot splits, that can create separate ownership interests for an ADU. However, such situations are currently very rare and availability varies significantly by jurisdiction. Local zoning and property laws determine whether separate ownership is allowed.

In most cities and towns, there's a preferred way to create separate ownership of homes: the subdivision process. But what if there's a desire to separate ownership and subdivision isn't an option?

This situation arises most often when (1) properties are on top of one another as described previously in multi-story buildings, or (2) land use regulations make it difficult or impossible to subdivide property horizontally (i.e., minimum lot sizes can't be met; subdivision regulations that preclude a desired site layout; there's no way to provide every lot required street frontage). For these instances, use of condominium ownership to separate ownership is the only choice. Conveniently, all 50 states and the District of Columbia have adopted condominium statutes that allow property to be converted to condominium ownership and back again, if desired. The power and appeal of the condominium legal structure is to offer a way to separate ownership between units in settings where subdivision doesn't work. Legally, condominiums are 'creatures of the state,' meaning that their existence depends on state laws that lay out the rules for their creation, maintenance, and dissolution. Each condominium project contains a group of housing units, defined by a map ('the 'Plat') and narrative description (found within the 'Declaration'). Condo unit owners each own a defined volume of air plus an undivided interest in the shared elements of the condominium property (called "General Common Elements") as drawn on the Plat and defined in the Declaration. These typically include the underlying land and any structures or parts of structures that need to be maintained by the association rather than by individual unit owners. In traditional multi-story buildings, the common elements include the underlying land and the building's foundation, structural elements, insulation, common utility lines, windows & doors, roof and siding. Individual units are usually defined to include the volume of air 'from the paint in' or some other appropriate demarking surface. [ADUs and Condos: Separating Ownership](#), Accessory Dwellings (Retrieved September 23, 2026).

Condominiumization and subsequent transfer of ownership to the trust would provide the trust beneficiary a home for as long as they wanted or need it and legal ownership of the ADU by the trust.

Condominium conversion most often makes sense in a commercial situation where the ADU will be sold as a separate unit or in a rental situation rather than in a family-occupied ADU since the legal costs involved may reach several tens of thousands of dollars.

Life Estate

One possible avenue that could be explored – as I could not find any examples where it had been used before – is the use of a partial life estate. I say “partial” life estate since both the primary house and the ADU are part of the same deed and property, and a regular life estate would give the tenant use of and rights to the entire property. A partial life estate can legally apply to a specific portion or acreage of a larger piece of real estate (such as an ADU) rather than the entire property.

When you create a partial life estate, you split the legal ownership and use rights for just a designated section of land or a specific structure (such as a house while leaving surrounding acreage out, or vice versa). It can apply to a specific floor, a guest house, or a defined acreage of a larger farm.

The deed or trust must explicitly describe the specific portion assigned to the life tenant. It requires an accurate, legally sound survey and distinct legal description of the specific portion attached to the deed.

How a Partial Life Estate Works

- The Life Tenant: Obtains the exclusive right to use, occupy, or collect income from that specific part of the property for the rest of their life.
- The Remainderman: Holds the future interest to inherit that exact portion of the property automatically when the life tenant passes away, and, if the remainderman is not the original grantor, bypassing probate.

Duties like taxes and maintenance are typically prorated or assigned based on the terms of the agreement.

Key Advantages

- Targeted Inheritance: Directs a specific house, cabin, or section of land to a chosen heir, unless it returns to the grantor.
- Probate Avoidance: Transfers the designated portion automatically to the remainderman upon death.

- Continued Control: Guarantees the life tenant a secure place to live or use during their lifetime without interference.

Critical Risks & Limitations

- Subdivision Restrictions: Local zoning laws, county ordinances, or HOA rules may legally restrict dividing a single residential structure or lot.
- Shared Control: Depending on whether it is with or without "powers," you may need the remainderman's signature to sell, mortgage, or alter the designated portion later.
- Practical conflicts: Sharing access to utilities, land, or common areas can create friction between the life tenant and the remainderman.
- Maintenance & Taxes: The life tenant remains legally responsible for taxes, insurance, and upkeep on the property, which can get complicated if only a sub-portion is metes-and-bounds defined.

If a trust is paying for the construction of an ADU for the use of the trust beneficiary, the trustee may feel it is necessary, in its fiduciary duty, for the trust to obtain an interest in the ADU. Naming the trust as the life estate grantee would provide the beneficiary a place to live for life, give the trust a legal interest in the ADU for its payments and not benefit a non-beneficial interest, at least not immediately.

A FEW NOTES ON TINY HOUSES

A thorough discussion of tiny houses could take a session in itself because of the wide variety of structures that could qualify as tiny houses. This would include both fixed-site and mobile varieties.

There is some variation in defining a tiny home, but there are examples and they are usually based on floorspace. The International Residential Code states that a tiny house's floorspace is no larger than 400 square feet (37 m²). Merriam-Webster says they can be up to 500 ft². One architectural firm used a threshold of 600 ft² to define a tiny home. What further complicates the definition is that tiny homes may or may not be mobile and lack clearly defined features.

The tiny home movement started in the late 1990s has grown through the 2020s. The movement's core involves living full-time in a very small floorspace building. In some cases, tiny houses are very small houses with a foundation, plot, and traditional sewage and electrical hookups, while in other cases, they are more mobile, like an RV or mobile home. Types of tiny houses include shipping container homes, small houseboats, bus conversions, and more. [Tiny House Movement](#), Wikipedia (Retrieved September 23, 2026).

One of the biggest obstacles faced by the tiny-house movement is the difficulty of finding a region in which such a house can be constructed. Zoning regulations typically specify minimum square footage for new constructions on a foundation, and for tiny houses on wheels, parking on one's own land may be prohibited by local regulations against camping. Prohibitions may also extend to mobile homes, RVs, or temporary structures. Many localities do not allow these forms as legal dwellings, primarily due to concerns over stability, sanitation, and permanence.

In addition, RV parks do not always allow tiny houses unless they meet the criteria required for RVs. Tiny houses on wheels are considered RVs and are not suitable for permanent residence, according to the Recreational Vehicle Industry Association (RVIA). From *RV Business*, "The RVIA will continue to shy away from allowing members who produce products that are referred to as 'tiny houses' or 'tiny homes.'" Vail, K. (2016). "Saving the American Dream: The Legalization of the Tiny House Movement". *University of Louisville Law Review*, 54(2), 357–379.

In general, SSA should consider any tiny house built on a foundation with utility hookups as real property, the same as it would consider an ADU or other full-sized house and the same policy considerations would apply.

Considering a mobile tiny house (which would be considered as personal property), for purposes of the home exclusion, a home can be real or personal property, fixed or mobile, and located on land or water. For purposes of excluding "the land on which the shelter is located," it is not necessary that the individual own the shelter itself.

EXAMPLE: If an individual lives on their own land in someone else's trailer, the land meets the definition of a home and is excluded. However, if the individual does not own the shelter, it is necessary to consider whether the shelter results in in-kind support and maintenance (ISM) (e.g., rent-free shelter).

Use of Land

The use of land alone is not a household cost. Thus, if an individual receives land or the use of land without charge, this does not result in outside ISM. Similarly, third party vendor payments of real property tax, rent or mortgage on land alone do not cause an individual to receive ISM in the form of shelter.

A trailer space rental fee which is for space alone is not a household operating expense for purposes of determining inside ISM, nor is it outside ISM if someone outside the household pays the fee. However, if the fee is not for use of land alone, that part of the fee which is for water, sewer, etc., is part of the household costs for purposes of determining inside and outside ISM.

EXAMPLE: James Smith, an eligible individual, lives alone in a house trailer they own. The trailer is situated on the property of their sibling, Bill. James pays no rent for the use of the land. Bill provides water and electricity free of charge. The free use of the land results in no ISM to James. However, James is charged with outside ISM based on the CMV of the water and electricity.

NOTE: The use of land without charge may result from the individual holding an easement, a life estate, or a similar arrangement. If so, resource development of the arrangement may be necessary. POMS, SI 00835.465D.4.

APPENDICES

APPENDIX A

POMS SI 01130.100 The Home Exclusion

CITATIONS:

Social Security Act [1613](#);
20 CFR [416.1210](#)
20 CFR [416.1212](#)

A. Definitions

1. The home

An individual's home is property in which they have an ownership interest and that serves as their principal place of residence. It can include:

- the shelter in which they live;
- the land on which the shelter is located; and
- related buildings on such land.

2. Principal place of residence

An individual's principal place of residence is the dwelling the individual considers their established or principal home and to which, if absent, they intend to return. It can be real or personal property, fixed or mobile, and located on land or water.

3. Dependent relative

a. Dependency may be of any kind (e.g., financial, medical, etc.).

b. Relative means:

- child, stepchild, or grandchild;
- parent, stepparent, or grandparent;
- aunt, uncle, niece, or nephew;
- sibling (i.e., traditional sibling, step sibling, half sibling);
- cousin; or
- in-law.

4. Equitable ownership

An “equitable” ownership interest in property can result from personal considerations or from:

- making mortgage payments;
- making or paying for additions to a shelter; or
- making improvements to a shelter.

(For the definition of equitable ownership, see [SI 01110.515A.2.b.](#))

5. Shared ownership

Shared ownership of property means that two or more people own it concurrently. For information regarding different types of shared ownership, see [SI 01110.510](#).

B. Policy for excluding the home

1. Exclusion of the home

An individual's home, regardless of value, is an excluded resource. For the definition of a home, see [SI 01130.100A.1](#).

2. Exclusion of the home includes land on which the shelter is located

For purposes of excluding “the land on which the shelter is located” (see [SI 01130.100A.1](#)), it is not necessary that the individual own the shelter itself.

EXAMPLE: If an individual lives on their own land in someone else's trailer, the land meets the definition of a home and is excluded. However, if the individual does not own the shelter, it is

necessary to consider whether the shelter results in in-kind support and maintenance (ISM) (e.g., rent-free shelter). For information on rent-free shelter, see [SI 00835.370](#).

3. Exclusion of the home includes adjoining property and related buildings

a. Land

The home exclusion applies not only to the plot of land on which the home is located, but also to any adjoining land. Land that adjoins the home plot is land not completely separated from the home plot by land in which neither the individual nor their spouse has an ownership interest.

Easements and public rights of way (e.g., utility lines, roads, etc.) do not separate other land from the home plot.

b. Buildings

The home exclusion applies to all buildings on excluded land.

4. Continued exclusion of the home during periods of absence

An individual's home continues to be excluded if the individual leaves the home but intends to return to it. For development instructions on "intent to return," see [SI 01130.100C.7.c](#) and [SI 01130.100E](#) in this section.

5. General rule for property that no longer serves as the principal place of residence

Property ceases to be the principal place of residence as of the date that the individual left it with no intention of returning. Such property, if not excluded under another provision, is included in determining countable resources as of the first moment of the first day of the following month.

6. Exceptions to the general rule for property that no longer serves as the principal place of residence

Even if the individual leaves the home with no intention of returning, the property remains an excluded resource for as long as:

- a. a spouse or dependent relative of the individual continues to live there while the individual is institutionalized; or
- b. its sale would cause undue hardship, due to loss of housing for a co-owner of the property; or
- c. an individual leaves their home due to domestic abuse and has not:

- Established a new principal place of residence (for the definition of principal place of residence, see [SI 01130.100A.2.](#)); or
- Taken action to render the home no longer excludable.

EXAMPLE: Due to domestic abuse, on February 9 a recipient leaves the home in which they lived and have shared ownership and moves into their parent's home. They do not intend to return to the home. The recipient submits evidence of domestic abuse to the field office (FO). On October 20, the recipient "closes" on a second home (i.e. a sale is completed and the property is officially transferred into their name). Despite their absence and continued ownership interest in the first home, the first home is an excluded resource through October.

The FO must determine whether the first home is a resource effective November 1 (e.g. whether the recipient has the legal authority to sell without consent of a co-owner and whether a co-owner consents or refuses to sell). If the FO determines the first home is a resource, it is a countable resource, unless excluded under another provision (e.g. undue hardship), effective November 1 because the recipient established a new principal place of residence. The second home meets the definition of a "home" and thus is an excluded resource.

EXAMPLE: Due to domestic abuse, on January 24 a recipient leaves the home in which they lived and has shared ownership. They do not intend to return to the home. The recipient submits evidence of domestic abuse to the FO. On February 5, the recipient's spouse also vacates the home because they are not financially able to maintain the household expenses. Instead of returning to the home, the recipient develops a rental agreement and rents out the home to a couple effective February 15. Despite their absence and continued ownership interest in the home, the home is an excluded resource through February.

The FO must determine whether the home is a resource effective March 1 (e.g., whether the recipient has the legal authority to sell without consent of a co-owner and whether a co-owner consents or refuses to sell). If the FO determines the home is a resource, it is a countable resource effective March 1, unless excluded under another provision (e.g. undue hardship), because the recipient's action (i.e. to rent the residence) renders the home no longer excludable.

For information on the different types of shared ownership, see [SI 01110.510](#). For information on assets that are not resources, see [SI 01110.115](#).

SI 01130.100 The Home Exclusion

C. Procedure for initial claims

4. How to develop equitable ownership

If an individual alleges equitable ownership (e.g., an unwritten ownership interest or right of use for life), follow applicable regional instructions. In the absence of regional instructions, obtain

any pertinent documents and a statement either signed or recorded on a Report of Contact from each of the parties involved regarding any arrangement that has been agreed to. Forward the case to the Assistant Regional Commissioner, Management and Operations Support (ARC MOS), for an opinion from the Regional Counsel.

APPENDIX B

SI 01110.515 Ownership in Fee Simple or Less Than Fee Simple

A. Definitions

2b. Equitable ownership - An equitable ownership interest is a form of ownership that exists without legal title to property. It can exist despite another party's having legal title (or no one's having it). See C. below.

C. POLICY — EQUITABLE OWNERSHIP INTEREST

Basically, existence of an equitable ownership interest is determined by a court of equity. However, under certain circumstances, an adjudicator can conclude that an equitable ownership interest exists and make a resources determination accordingly.

2. Trust

A trust is a right of property established by a trustor or grantor. One party (trustee) holds legal title to trust property which they manage for the benefit of another (beneficiary). The beneficiary does not have legal title but does have an equitable ownership interest.

SI 01120.200 contains instructions concerning the income and resources treatment of trusts in the SSI program.

3. Equitable Home Ownership

An individual may acquire an equitable ownership interest in their home through personal considerations or by performing certain activities such as:

- making mortgage payments or paying property taxes;
- making or paying for additions to a shelter; or
- making improvements to a shelter.

[SI 01130.100C.4.](#), contains instructions on how to determine whether equitable ownership in home property exists.

APPENDIX C

Effective Dates: 05/06/2024 - Present

TN 102 (12-24)

SI 01120.200 Information on Trusts, Including Trusts Established Prior to January 01, 2000, Trusts Established with the Assets of Third Parties, and Trusts Not Subject to Section 1613(e) of the Social Security Act

F. Policy for home ownership and purchase of a home by a trust

1. Home as a resource

If the trust is a resource to the individual, the property at issue is subject to exclusion as a home under [SI 01130.100](#). Even though the trust holds legal title to the property, the individual, as trust beneficiary, still has an (equitable) ownership interest in it. Therefore, whether the property can be excluded as a home under [SI 01130.100](#) likely will depend on whether the property serves as the individual's principal place of residence.

If the trust is not a resource to the individual, then the property also is not a resource to the individual, regardless of whether the property serves as the individual's principal place of residence (that is, regardless of possible exclusion as a home under [SI 01130.100](#)), because the property is part of the trust principal that is not a resource to the individual.

2. Rent-free shelter

An eligible individual does not receive ISM in the form of rent-free shelter while living in a home in which they have an ownership interest. Accordingly, an individual with an "equitable ownership interest in the trust principal" does not receive rent-free shelter (see [SI 01120.200F.1.](#) in this section).

3. Receipt of income from a home purchase

Because the purchase of a home by a trust for the trust beneficiary establishes an equitable ownership interest for the trust beneficiary, the purchase results in the receipt of ISM, in the form

of shelter, in the month of purchase. This ISM is valued at no more than the presumed maximum value (PMV). For ISM to one person, see [SI 00835.400](#).

Even if the trust beneficiary has an ownership interest in the home where they reside and is not receiving ISM in the form of rent-free shelter (see [SI 00835.370B.1.](#)), the purchase of the home or payment of the monthly mortgage by the trust is a disbursement from the trust to a third party that results in the receipt of ISM in the form of shelter (see [SI 01120.200E.1.b.](#) in this section).

a. Outright purchase of a home

If the trust, whose principal is not a resource, purchases the home outright and the trust beneficiary lives in the home in the month of purchase, the home is income in the form of ISM and reduces the trust beneficiary's payment no more than the PMV in the month of purchase only, regardless of the value of the home (see [SI 01120.200E.1.b.](#) in this section).

b. Purchase by mortgage or similar agreement

If the trust, whose principal is not a resource, purchases the home with a mortgage and the trust beneficiary lives in the home in the month of purchase, the home would be ISM in the month of purchase. Each of the subsequent monthly mortgage payments results in the receipt of income in the form of ISM to the trust beneficiary living in the house, each valued at no more than the PMV (see [SI 01120.200E.1.b.](#) in this section).

c. Additional household expenses

If the trust pays for other shelter or household operating expenses, these payments are income in the form of ISM in the month of the trust beneficiary's use. For computations of ISM from outside the household, see [SI 00835.350](#). For countable shelter expenses, see [SI 00835.465D](#).

If the trust pays for repairs, maintenance, improvements, or renovations to the home, such as renovations to the bathroom to make it handicapped accessible, installation of a wheelchair ramp or assistive devices, or replacement of a roof, the trust beneficiary does not receive income. Disbursements from the trust for improvements increase the value of the resource and, unlike household operating expenses, do not provide ISM. For disbursements that are not income, see [SI 01120.200E.1.c.](#) in this section.

APPENDIX D

POMS SI 00835.001 Introduction to Living Arrangements and In-Kind Support and Maintenance – EDITED (POMS not yet

revised to account for 09/24 regulatory change)

CITATIONS:

Social Security Act as amended, Section 1612(a)(2)(A) ;
Regulations - [20 CFR 416.1130](#)

A. Policy on living arrangements and in-kind support maintenance

In-kind support and maintenance (ISM) is unearned income in the form of ~~food or shelter, or both~~. The Social Security Act (the Act) considers ISM, along with other forms of unearned income, when determining supplemental security income (SSI) eligibility and payment amounts. We use two rules to determine the value of ISM an individual receives:

1. the Value of the One-Third Reduction (VTR) rule, discussed in [SI 00835.200](#); and
2. the Presumed Maximum Value (PMV) rule, discussed in [SI 00835.300](#).

NOTE:

Based on a change in the SSI regulations, beginning 03/09/2005, we do not count receipt of clothing as ISM. Based on a change in the SSI regulations, beginning September 30, 2024, we do not count the receipt of food as ISM. For policy and procedures pertaining to in-kind support and maintenance to one person, see [SI 00835.400](#).

1. Value of the one-third reduction (VTR) rule

We reduce the applicable Federal benefit rate (FBR) by one-third when an individual or couple:

- Lives throughout a month in another person's household; and
- Receives both food and shelter from others living in that household.

(For a detailed explanation of the VTR, see [SI 00835.200](#)).

2. Presumed Maximum Value (PMV) rule

When a beneficiary or couple is eligible for payment and the VTR does not apply, use the PMV rule to determine the value of ISM received. The amount of the PMV is equal to one-third of the Federal benefit rate for an individual or couple, plus \$20. If the individual or couple successfully rebuts the PMV, value the ISM at the current market value (CMV) or the actual value (AV), whichever is less. (For a detailed explanation of the PMV rule, see [SI 00835.300](#) and for information about rebutting the PMV, see [SI 00835.320](#)).

NOTE: When the VTR rule applies in any one month, the PMV rule cannot apply in the same month.

APPENDIX E

Effective Dates: 05/17/2024 - Present

TN 121 (05-24)

POMS SI 00835.465 ISM and Households - Household Costs

CITATIONS:

Regulations 20 CFR 416.1133(c)

D. Policy — what are household (shelter) costs

1. List of applicable items

When computing household operating expenses for inside ISM or the CMV of household costs for outside ISM, the following 10 items are the only ones used in the applicable computations:

- 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

NOTE: Condominium fees in themselves are not household costs. However, condominium fees may include charges which are household costs (e.g., garbage removal). To the extent that such charges are identifiable, use them in the computation of inside and outside ISM.

D.4 Use of land

The use of land alone is not a household cost. Thus, if an individual receives land or the use of land without charge, this does not result in outside ISM. Similarly, third party vendor payments of real property tax, rent or mortgage on land alone do not cause an individual to receive ISM in the form of shelter.

A trailer space rental fee which is for space alone is not a household operating expense for purposes of determining inside ISM, nor is it outside ISM if someone outside the household pays the fee. However, if the fee is not for use of land alone, that part of the fee which is for water, sewer, etc., is part of the household costs for purposes of determining inside and outside ISM.

EXAMPLE: James Smith, an eligible individual, lives alone in a house trailer they own. The trailer is situated on the property of their sibling, Bill. James pays no rent for the use of the land. Bill provides water and electricity free of charge. The free use of the land results in no ISM to James. However, James is charged with outside ISM based on the CMV of the water and electricity.

NOTE: The use of land without charge may result from the individual holding an easement, a life estate, or a similar arrangement. If so, resource development of the arrangement may be necessary. (See [SI 01140.110](#) and [SI 01130.100](#).)

APPENDIX F

Effective Dates: 02/26/2026 - Present

TN 135 (04-26)

SI 01130.740 Achieving a Better Life Experience (ABLE) Accounts

Citations: [Public Law 113–295](#) The Stephen Beck, Jr., Achieving a Better Life Experience Act (ABLE Act) – Enacted December 19, 2014

A. What is an ABLE account?

An Achieving a Better Life Experience (ABLE) account is:

- a tax-advantaged savings account;
- used by eligible individuals to pay for qualified disability expenses;
- owned by the eligible individual and designated beneficiary of the ABLE account; and

- established by an eligible individual provided the individual is blind or disabled by a condition that began before the individual's 46th birthday.

NOTE: Prior to 1/1/2026, individuals with blindness or a disability were eligible only if their condition began before age 26.

An ABLE program can be established by a State (or State agency or instrumentality of a State). An eligible individual can open an ABLE account through the ABLE program in any State, if the State permits it.

You may see different types of arrangements between States administering ABLE programs. Some States:

- formed partnerships to improve access for eligible individuals to enroll in ABLE programs;
- formed a consortium where the States have their own ABLE program, but join together to provide lower administrative costs and better investment options than they could on their own;
- established their own ABLE program, but contract with private companies to manage their ABLE program for them;
- established their own ABLE program, but contract with other States to manage their ABLE program for them;
- do not operate their own ABLE program, but partner with another State to offer the other State's ABLE program to their residents.

1. One ABLE account

A designated beneficiary is limited to one ABLE account, which a qualified ABLE program administers. Except in the case of a rollover or program-to-program transfer, if a designated beneficiary has an additional account, it generally will not be treated as an ABLE account, and will be subject to normal resource counting rules.

EXCEPTION: If an additional account closes within 90 days from the account open date, the account is not a countable resource for any period the additional account was open.

2. Medicaid reimbursement

Upon the death of the designated beneficiary, funds remaining in the ABLE account, after payment of all outstanding qualified disability expenses, must be used to reimburse the State(s) for Medical Assistance (Medicaid) benefits received by the designated beneficiary, if the State(s) files(s) a claim for reimbursement.

B. Definition of ABLE terms

1. ABLE program

An ABLE program is established and maintained by a State (or State agency or instrumentality thereof) through which eligible individuals can open ABLE accounts.

2. Contributions to ABLE account

- Contributions are payments of funds into an ABLE account
- Contributions must be in cash and may be made in the form of cash or a check, money order, credit card, electronic transfer, Gift of Independence card, or a similar method.
- Contributions may be made by any person. (“Person,” as defined by the Internal Revenue Code (IRC), includes an individual, trust, estate, partnership, association, company, or corporation.)
- Following is a chart listing the annual contribution limit by calendar year:

Calendar Year	Annual Contribution Limit
2014	\$14,000
2015	\$14,000
2016	\$14,000
2017	\$14,000
2018	\$15,000
2019	\$15,000
2020	\$15,000
2021	\$15,000
2022	\$16,000
2023	\$17,000
2024	\$18,000
2025	\$19,000
2026	\$20,000

3. Designated beneficiary

The designated beneficiary is the individual who:

- owns the ABLE account;
- was an eligible individual when the account was established; or

- succeeded the former designated beneficiary in that capacity.

To be an eligible individual, they must be:

1. receiving Supplemental Security Income (SSI) based on blindness or disability that began before age 46; or
2. in SSI suspense due solely to excess income or resources, but otherwise eligible for SSI based on blindness or disability that began before age 46; or
3. receiving disability insurance benefits (DIB), childhood disability benefits (CDB), or disabled widow's or widower's benefits (DWB) based on blindness or disability that began before age 46; or
4. the subject of a disability certification.
 - a disability certification, to be signed by the individual or someone else establishing the ABLE account for the individual:
 - certifies that the individual is blind or has a physical or mental impairment that results in marked and severe functional limitation and that such blindness or disability began before age 46.
 - includes a certification that the individual has a copy of the diagnosis relating to their relevant impairment(s), signed by a physician.
 - conditions on SSA's "List of Compassionate Allowances Conditions" are deemed to meet the requirements for filing a disability certification if the condition was present and produced marked and severe functional limitations before the individual attained age 46.

NOTE: Do not draw an inference regarding disability under the Social Security Act from a disability certification. Prior to 1/1/2026, individuals with blindness or a disability were eligible only if their condition began before age 26.

4. Distributions

A distribution is any payment from an ABLE account. A program-to-program transfer is not a distribution. The designated beneficiary or person with signature authority determines when a distribution is made. Distributions (other than rollovers and returns of contributions) may be made only to or for the benefit of the designated beneficiary.

5. Member of the family

A member of the designated beneficiary's family means a sibling by blood, marriage, or adoption, and including a brother, sister, stepbrother, stepsister, half-brother, and half-sister.

6. Person with signature authority

A person with signature authority can establish and administer an ABLÉ account for a designated beneficiary who is a minor child or is otherwise incapable of managing the account. Signature authority is not the equivalent of ownership. The person with signature authority may be the eligible individual's agent under a power of attorney or, if none, a conservator or legal guardian, spouse, parent, sibling, grandparent of the eligible individual, or a representative payee appointed for the eligible individual by SSA, in that order. Always consider the designated beneficiary to be the owner of the ABLÉ account, regardless of whether someone else has signature authority over it.

NOTE: In some instances, the representative payee appointed by SSA may not be the same person who has signature authority over the beneficiary's ABLÉ account. For example, a legal guardian may have signature authority for a beneficiary who has an organizational representative payee. If a payee does not have the signature authority over the ABLÉ account, they cannot deposit SSA benefits to the ABLÉ account because they do not control the account.

7. Program-to-program transfer

A program-to-program transfer means the direct transfer of:

- the entire balance of an ABLÉ account into an ABLÉ account of the same designated beneficiary in which the first ABLÉ account is closed upon the transfer of the funds; or
- part or all of the balance to an ABLÉ account of an eligible individual who is a member of the family of the designated beneficiary.

8. Qualified disability expenses

Qualified disability expenses (QDEs) are related to the blindness or disability of the designated beneficiary and for the benefit of the designated beneficiary. In general, a QDE includes, but is not limited to, an expense for:

- Education;
- Housing;
- Transportation;
- Employment training and support;
- Assistive technology and related services;
- Personal support services;
- Health;

- Prevention and wellness;
- Financial management and administrative services;
- Legal fees;
- Expenses for ABLE account oversight and monitoring;
- Funeral and burial; and,
- Basic living expenses.

9. Housing expenses

Housing expenses for purposes of an ABLE account are similar to household costs for in-kind support and maintenance purposes. However, for ABLE purposes, food is considered a qualified disability expense (basic living expense), but not a housing expense. Housing expenses include expenses for:

- Mortgage (including property insurance required by the mortgage holder);
- Real property taxes;
- Rent;
- Heating fuel;
- Gas;
- Electricity;
- Water;
- Sewer; and
- Garbage removal.

10. Rollover

A rollover is the contribution to an ABLE account of a designated beneficiary (or a family member of the designated beneficiary), of all or a portion of an amount withdrawn from the designated beneficiary's ABLE account, provided that:

- the contribution is made within 60 days of the date of the withdrawal; and

- no rollover has been made into an ABLE account of the designated beneficiary within the prior 12 months.

C. When to exclude ABLE account contributions, balances, earnings, and distributions

1. Exclude contributions as income

A payment made into an ABLE account constitutes a contribution. Consider the contribution made by the person to whom the funds belong or are due. Exclude contributions to an ABLE account from the income of the designated beneficiary. Excluded contributions include:

- Rollovers from a family member's ABLE account to the SSI applicant, recipient, or deemor's ABLE account;
- Rollovers in limited amounts from a qualified tuition plan (also called a 529 plan) to the SSI applicant, recipient, or deemor's ABLE account. The ABLE account must be for the same beneficiary as the 529 account or for a member of the same family as the 529 account holder; and
- Contributions in excess of the annual limit if the designated beneficiary worked and did not contribute for the taxable year to any of the following types of retirement plans:
 - defined contribution plan (within the meaning of section 414(i) of the IRC) with respect to which the requirements of section 401(a) or 403(a) of the IRC are met;
 - annuity contract under section 403(b) of the IRC; or
 - eligible deferred compensation plan under section 457(b) of the IRC.

Additional excluded contributions by an employed beneficiary are limited per year to the lesser of:

- The poverty level for a one-person household, as determined for the calendar year preceding the calendar year in which the taxable year begins as found in [HI 03001.020](#); or
- The amount of the designated beneficiary's earnings and other compensation (as defined by Section 219(f)(1) of the IRC).

The designated beneficiary is potentially eligible for a tax credit for contributions that they make to their ABLE account.

NOTE: The fact that a person uses their income to contribute to an ABLE account does not mean that their income is not countable for SSI purposes as it normally would be. Income received by the designated beneficiary and deposited into their ABLE account is income to the designated beneficiary. For example, an applicant, recipient, or deemor can have contributions automatically

deducted from their paycheck and deposited into an ABLE account. In this case, include the income used to make the ABLE account contribution in the applicant, recipient or deemor's gross wages.

a. First party contributions

A contribution made by the designated beneficiary into their ABLE account is not income to the designated beneficiary. However, income received by the designated beneficiary and deposited into their ABLE account is income to the designated beneficiary.

An individual cannot use direct deposit to avoid income counting.

When a payment belonging to or due to the designated beneficiary is direct deposited into their ABLE account:

- consider the payment received by the designated beneficiary;
- count the payment as income to the designated beneficiary as it otherwise would be counted;
- consider the designated beneficiary the contributor for ABLE purposes; and
- do not consider the ABLE contribution as income to the designated beneficiary.

Examples of payments that might be direct-deposited into an ABLE account, but still are counted as income as they otherwise would be, include:

- Wages;
- Benefit payments (Title II, Veterans Administration, pensions, etc.); and
- Mandatory Support payments (child support or alimony).

NOTE: Social Security and SSI monthly benefit payments can be directly deposited into ABLE accounts because they are considered acceptable types of financial accounts. For more information see [GN 02402.030B.1.](#)

b. Third party contributions

Third party contributions:

- are not income to the designated beneficiary;
- are contributions made by persons other than the designated beneficiary;
- are made with funds that do not otherwise belong, or are not otherwise due, to the designated beneficiary;

- are made with the third party's funds; and
- are treated as a completed gift when made by a person other than the designated beneficiary

NOTE: "Completed gift" refers to the IRS definition for gift-tax rules, not the definition of a gift in [SI 00830.520](#). For ABLE, we exclude third party contributions, regardless of their status as a gift for SSI purposes.

2. Exclude ABLE account earnings

The funds in an ABLE account can accrue interest, earn dividends, and otherwise appreciate in value. Earnings increase the account's balance. Exclude these earnings from the income of the designated beneficiary.

3. Exclude up to and including \$100,000 of balance

Exclude up to and including \$100,000 of the balance of funds in an ABLE account from the resources of the designated beneficiary.

4. Do not count ABLE account distributions as income

A distribution from an ABLE account is not income but is a conversion of a resource from one form to another, see [SI 01110.600B.4](#).

Do not count distributions from an ABLE account as income of the designated beneficiary, regardless of whether the distributions are for a QDE that is not related to housing, for a housing expense, or for a non-qualified expense.

5. Exclude retained distributions for a QDE not related to housing

a. Distribution for a QDE not related to housing

Exclude a distribution for a QDE not related to housing from the designated beneficiary's countable resources if they retain it beyond the month received.

This exclusion applies while:

- The designated beneficiary maintains, makes contributions to, or receives distributions from the ABLE account;
- The distribution is unspent;

- The distribution is identifiable. NOTE: Identify excludable funds commingled with non-excludable funds, see [SI 01130.700A](#); and
- The individual intends to use the distribution for a QDE not related to housing.

Apply normal SSI resource counting rules and exclusions to assets or other items purchased with funds from an ABLE account.

EXAMPLE: Elizabeth takes a distribution of \$500 from their ABLE account in May to pay for a health-related QDE that they expect to pay in September. They deposit the distribution into their checking account in May and withdraw it in September to pay the health-related QDE. Exclude the \$500 from Elizabeth's countable resources from June through September. Starting in June, document the deposit on the Financial Institution Account page. Input \$500 as the “excluded amount.” Select “Other” as the exclusion reason and input “ABLE QDE distribution” as the “other reason.”

b. Previously excluded distribution used for non-qualified expenses or housing expenses

If a designated beneficiary uses a distribution previously excluded for a non-qualified expense or a housing expense, or the individual’s intent to use it for a qualified disability expense (not related to housing) changes, see [SI 01130.740D.3](#), in this section.

c. Example of an excluded distribution

Eric takes a distribution of \$500 from their ABLE account in June to pay for a health-related QDE. Their health-related expense is not due until September, and Eric deposits the distribution into their checking account in June. The distribution is not income in June. Eric’s distribution is both unspent and identifiable until Eric pays their health-related expense in September. Exclude the \$500 from Eric's countable resources in July, August, and September. For instructions to identify commingled, excluded, and non-excluded funds, see [SI 01130.700](#).

d. Example of an excluded QDE purchase

Fred takes a distribution of \$1,500 from their ABLE account in September to buy a health-related item that is a QDE. The item is an excluded resource in October and continuing, because it is the individual’s personal property required for a medical condition. For instructions on household goods, personal effects, and other personal property, see [SI 01130.430](#).

D. When to count ABLE account balances and distributions

1. Count ABLE account balance amounts over \$100,000

Count the amount by which an ABLE account balance exceeds \$100,000 as a resource of the designated beneficiary.

a. Ineligibility for other reasons

If an individual is ineligible for any reason other than excess resources in an ABLE account, suspend the individual's SSI eligibility using normal procedures.

EXAMPLE: Ineligibility for a reason other than excess resources in an ABLE account

In April, Sam's ABLE account balance is \$102,500 as of the first of the month. However, Sam also has excess deemed income in April and is N01. They are not eligible for Medicaid. Before the end of April, Sam leaves the U.S. and does not return until July 1. Sam is N03 for May, June, and July. If Sam still has excess resources in their ABLE account effective August 1 and is otherwise SSI eligible, place them in the resource suspension status. They are eligible for Medicaid effective August 1.

b. Ineligibility due to excess resources other than the ABLE account balance

The suspension does not apply when:

- The balance of an SSI recipient's ABLE account exceeds \$100,000 by an amount that causes the recipient to exceed the SSI resource limit; but
- The value of resources other than the ABLE account alone make the individual ineligible for SSI due to excess resources.

When this situation happens:

- Suspend the recipient's SSI benefits using the payment status code N04. While in N04, the recipient loses eligibility for Medical Assistance (Medicaid) and the individual's SSI eligibility terminates 12 months later if the suspension continues throughout this period.
- Reinstate the recipient's regular SSI eligibility and Medicaid benefits for all months in which the individual's resources, including the ABLE account, no longer cause the recipient to exceed the resource limit.

EXAMPLE: Combination of resources — recipient loses SSI eligibility

Christine is the designated beneficiary of an ABLE account with a first of the month balance of \$101,000. Christine's only other countable resource is a checking account with a balance of \$3,000. Christine's countable resources are \$4,000 and therefore exceed the SSI resource limit.

However, because their ABLE account balance is not the cause of their excess resources (i.e., their countable resources other than the ABLE account are more than \$2,000), the suspension rule does not apply, and Christine is not eligible for SSI because of excess resources. Suspend Christine's SSI benefits using payment status N04. Their Medicaid benefits stop.

c. Rule for indefinite benefit suspension and continuing eligibility for Medicaid during periods of excess resources attributable to an ABLE account

Suspension applies when the balance of an SSI recipient's ABLE account exceeds \$100,000 by an amount that causes the recipient to exceed the SSI resource limit--whether alone or with other resources. When this situation happens:

- We suspend the recipient's SSI benefits without time limit (as long as they remain otherwise eligible);
- The recipient is SSI eligible for Medical Assistance (Medicaid); and
- The individual's eligibility does not terminate after 12 continuous months of suspension.

Reinstate the recipient's regular SSI eligibility for all months in which the individual's ABLE account balance no longer causes the recipient to exceed the resource limit and is otherwise eligible.

NOTE: "SSI eligible for Medicaid purposes" means that the individual is eligible for Medicaid in States where Medicaid eligibility is based on SSI eligibility. For SSA determinations of Medicaid Eligibility in 1634 States see [SI 01730.000](#).

If an individual reaches the \$100,000 account balance limit, please contact your regional office so that they can alert the central office.

EXAMPLE: Excess resources — recipient is suspended but retains eligibility for Medicaid

Paul is the designated beneficiary of an ABLE account with a balance of \$101,000 on the first of the month. Paul's only other countable resource is a checking account with a balance of \$1,500. Paul's countable resources are \$2,500 and therefore exceed the SSI resource limit. However, since Paul's ABLE account balance causes them to exceed the resource limit (i.e., their countable resources other than the ABLE account are less than \$2,000), suspend Paul's SSI eligibility and stop their cash benefits, but retain their eligibility for Medicaid in their State.

2. Count retained distributions for housing expenses or expenses that are not QDEs as a resource

A distribution from an ABLE account is not income, but is a conversion of a resource from one form to another, see [SI 01110.600B.4](#).

Count a distribution for a housing expense or for an expense that is not a QDE as a resource, if the designated beneficiary retains the distribution into the month following the month of receipt. If the designated beneficiary spends the distribution within the month of receipt, there is no effect on eligibility. Apply normal SSI resource counting rules and exclusions to items purchased with funds from an ABLE account.

EXAMPLE: Retained distribution intended for housing expenses is a resource

Amy takes a distribution of \$500 from their ABLE account in May to pay a housing expense for June. They deposit the \$500 into their checking account in May, withdraws \$500 in cash on June 3, and pay their landlord. This distribution is a housing expense and part of their checking account balance as of June 1, which makes it a countable resource for the month of June.

3. Count previously excluded distributions used for a non-qualified purpose or housing expense

- Count the amount of funds used for a non-qualified expense or housing expense as a resource as of the first moment of the month in which the funds were spent if the designated beneficiary uses the distribution (that was previously excluded) for a non-qualified purpose or a housing expense.
- Count the retained funds as a resource as of the first of the following month if an individual's intent to use the funds for a QDE changes at any other time, but they have not spent the funds.

a. EXAMPLE: Previously excluded distribution used for a non-QDE

Sam takes a distribution of \$25,000 from their ABLE account in May for an assistive technology and related service. They pay a \$10,000 deposit. While waiting for the service to be completed, Sam takes a trip to a local casino in July where they lose \$1,000 of their ABLE distribution gambling. The \$1,000 they lost gambling is a countable resource in July. The other \$14,000 Sam retains is an excluded resource while it meets the requirements in this section.

b. EXAMPLE: Previously excluded distribution used for a housing expense

In June, Jennifer takes a \$7,000 distribution from their ABLE account to pay an educational expense that is a QDE. Their educational expense is due in September. However, they have to make a \$750 advance rent payment to their landlord for their college apartment in August. They use some of the distribution they took in June to make the rent payment – a housing expense. The \$750 is a countable resource in August. Exclude the remaining \$6,250 of the retained distribution while it continues to meet the requirements in this section.

c. EXAMPLE: Change of intent on the use of a distribution

In June, Jennifer takes a \$7,000 distribution from their ABLE account to pay an educational expense that is a QDE. Their educational expense is due in September. In August, Jennifer gets a job offer and decides not to return to school. The \$7,000 becomes a countable resource in September because they no longer intend to use it for an educational expense that is a QDE, unless Jennifer re-designates it for another QDE or returns the funds to their ABLE account prior to September.

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