

## §416.1101

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not count all of your income to determine your eligibility and benefit amount. We explain in the following sections how we treat your income for the SSI program. These rules apply to the Federal benefit and to any optional State supplement paid by us on behalf of a State (§416.2025) except as noted in subpart T and in the Federal-State agreements with individual States. While this subpart explains how we count income, subpart D of these regulations explains how we determine your benefits, including the provision that we generally use countable income in a prior month to determine how much your benefit amount will be for a month in which you are eligible (§416.420).

[50 FR 48573, Nov. 26, 1985]

### §416.1101 Definition of terms.

As used in this subpart—

*Calendar quarter* means a period of three full calendar months beginning with January, April, July, or October.

*Child* means someone who is not married, is not the head of a household, and is either under age 18 or is under age 22 and a student. (See §416.1856)

*Couple* means an eligible individual and his or her eligible spouse.

*Current market value* means the price of an item on the open market in your locality.

*Federal benefit rate* means the monthly payment rate for an eligible individual or couple. It is the figure from which we subtract countable income to find out how much your Federal SSI benefit should be. The Federal benefit rate does not include the rate for any State supplement paid by us on behalf of a State.

*Institution* means an establishment which makes available some treatment or services beyond food and shelter to four or more persons who are not related to the proprietor. (See §416.201)

*Spouse* means someone who lives with another person as that person's husband or wife. (See §416.1806)

*We, Us, or Our* means the Social Security Administration.

*You or Your* means a person who is applying for, or already receiving, SSI benefits.

[45 FR 65547, Oct. 3, 1980, as amended at 50 FR 48573, Nov. 26, 1985; 51 FR 10616, Mar. 28, 1986; 60 FR 16375, Mar. 30, 1995]

### §416.1102 What is income.

Income is anything you receive in cash or in kind that you can use to meet your needs for food, clothing, and shelter. Sometimes income also includes more or less than you actually receive (see §416.1110 and §416.1123(b)). In-kind income is not cash, but is actually food, clothing, or shelter, or something you can use to get one of these.

[56 FR 3212, Jan. 29, 1991]

### §416.1103 What is not income.

Some things you receive are not income because you cannot use them as food, clothing, or shelter, or use them to obtain food, clothing, or shelter. In addition, what you receive from the sale or exchange of your own property is not income; it remains a resource. The following are some items that are not income:

(a) *Medical care and services.* Medical care and services are not income if they are any of the following:

(1) Given to you free of charge or paid for directly to the provider by someone else;

(2) Room and board you receive during a medical confinement;

(3) Assistance provided in cash or in kind (including food, clothing, or shelter) under a Federal, State, or local government program, whose purpose is to provide medical care or services (including vocational rehabilitation);

(4) In-kind assistance (except food, clothing, or shelter) provided under a nongovernmental program whose purpose is to provide medical care or medical services;

(5) Cash provided by any nongovernmental medical care or medical services program or under a health insurance policy (except cash to cover food, clothing, or shelter) if the cash is either:

(i) Repayment for program-approved services you have already paid for; or

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(ii) A payment restricted to the future purchase of a program-approved service.

*Example:* If you have paid for prescription drugs and get the money back from your health insurance, the money is not income.

(6) Direct payment of your medical insurance premiums by anyone on your behalf.

(7) Payments from the Department of Veterans Affairs resulting from unusual medical expenses.

(b) *Social services.* Social services are not income if they are any of the following:

(1) Assistance provided in cash or in kind (but not received in return for a service you perform) under any Federal, State, or local government program whose purpose is to provide social services including vocational rehabilitation (Example: Cash given you by the Department of Veterans Affairs to purchase aid and attendance);

(2) In-kind assistance (except food, clothing, or shelter) provided under a nongovernmental program whose purpose is to provide social services; or

(3) Cash provided by a nongovernmental social services program (except cash to cover food, clothing, or shelter) if the cash is either:

(i) Repayment for program-approved services you already have paid for; or

(ii) A payment restricted to the future purchase of a program-approved service.

*Example:* If you are unable to do your own household chores and a private social services agency provides you with cash to pay a homemaker the cash is not income.

(c) *Receipts from the sale, exchange, or replacement of a resource.* Receipts from the sale, exchange, or replacement of a resource are not income but are resources that have changed their form. This includes any cash or in-kind item that is provided to replace or repair a resource (see subpart L) that has been lost, damaged, or stolen. Sections 416.1150 and 416.1151 discuss treatment of receipts to replace or repair a resource following a major disaster or following some other event causing damage or loss of a resource.

*Example:* If you sell your automobile, the money you receive is not income; it is another form of a resource.

(d) *Income tax refunds.* Any amount refunded on income taxes you have already paid is not income.

(e) *Payments by credit life or credit disability insurance.* Payments made under a credit life or credit disability insurance policy on your behalf are not income.

*Example:* If a credit disability policy pays off the mortgage on your home after you become disabled in an accident, we do not consider either the payment or your increased equity in the home to be income.

(f) *Proceeds of a loan.* Money you borrow or money you receive as repayment of a loan is not income. However, interest you receive on money you have lent is income. Buying on credit is treated as though you were borrowing money and what you purchase this way is not income.

(g) *Bills paid for you.* Payment of your bills by someone else directly to the supplier is not income. However, we count the value of anything you receive because of the payment if it is in-kind income as defined in §416.1102.

*Examples:* If your daughter uses her own money to pay the grocer to provide you with food, the payment itself is not your income because you do not receive it. However, because of your daughter's payment, the grocer provides you with food; the food is in-kind income to you. Similarly, if you buy clothing on credit and your son later pays the bill, the payment to the store is not income to you but the clothing is in-kind income to you. In this example, if your son pays for the clothing in a quarter after the quarter of purchase, we will count the in-kind income to you in the quarter in which he pays the bill. On the other hand, if your brother pays a lawn service to mow your grass, the payment is not income to you because the mowing cannot be used to meet your needs for food, clothing, or shelter. Therefore, it is not in-kind income as defined in §416.1102.

(h) *Replacement of income you have already received.* If income is lost, destroyed, or stolen and you receive a replacement, the replacement is not income.

*Example:* If your paycheck is stolen and you get a replacement check, we count the first check as income. The replacement check is not income.

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(i) *Weatherization assistance.* Weatherization assistance (Examples: Insulation, storm doors and windows) is not income.

(j) *Receipt of certain noncash items.* Any item you receive (except shelter as defined in §416.1130, food, or clothing) which would be an excluded nonliquid resource (as described in subpart L of this part) if you kept it, is not income.

*Example 1:* A community takes up a collection to buy you a specially equipped van which is your only vehicle. The value of this gift is *not* income because the van does not provide you with food, clothing, or shelter and will become an excluded nonliquid resource under §416.1218 in the month following the month of receipt.

*Example 2:* You inherit a house which is your principal place of residence. The value of this inheritance is income because the house provides you with shelter and shelter is income. However, we value the house under the rule in §416.1140.

[45 FR 65547, Oct. 3, 1980, as amended at 49 FR 48038, Dec. 10, 1984; 57 FR 53850, Nov. 13, 1992; 59 FR 33907, July 1, 1994]

### §416.1104 Income we count.

We have described generally what income is and is not for SSI purposes (§416.1103). There are different types of income, earned and unearned, and we have rules for counting each. The earned income rules are described in §§416.1110 through 416.1112 and the unearned income rules are described in §§416.1120 through 416.1124. One type of unearned income is in-kind support and maintenance (food, clothing, or shelter). The way we value it depends on your living arrangement. These rules are described in §§416.1130 through 416.1148 of this part. In some situations we must consider the income of certain people with whom you live as available to you and part of your income. These rules are described in §§416.1160 through 416.1169. We use all of these rules to determine the amount of your countable income—the amount that is left after we subtract what is not income or is not counted.

[45 FR 65547, Oct. 3, 1980, as amended at 65 FR 16815, Mar. 30, 2000]

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### EARNED INCOME

#### §416.1110 What is earned income.

Earned income may be in cash or in kind. We may include more of your earned income than you actually receive. We include more than you actually receive if amounts are withheld from earned income because of a garnishment or to pay a debt or other legal obligation, or to make any other payments. Earned income consists of the following types of payments:

(a) *Wages.* Wages are what you receive (before any deductions) for working as someone else's employee. Wages are the same for SSI purposes as for the earnings test in the social security retirement program. (See §404.429(c) of this chapter.) Wages include salaries, commissions, bonuses, severance pay, and any other special payments received because of your employment. They may also include the value of food, clothing, or shelter, or other items provided instead of cash. We refer to this as in-kind earned income. However, if you are a domestic or agricultural worker, the law requires us to treat your in-kind pay as unearned income.

(b) *Net earnings from self-employment.* Net earnings from self-employment are your gross income from any trade or business that you operate, less allowable deductions for that trade or business. Net earnings also include your share of profit or loss in any partnership to which you belong. These are the same net earnings that we would count under the social security retirement insurance program and that you would report on your Federal income tax return. (See §404.1080 of this chapter.)

(c) *Refunds of Federal income taxes and advance payments by employers made in accordance with the earned income credit provisions of the Internal Revenue Code.* Refunds on account of earned income credits are payments made to you under the provisions of section 43 of the Internal Revenue Code of 1954, as amended. These *refunds* may be greater than taxes you have paid. You may receive earned income tax credit payments along with any other Federal income tax refund you receive because of