

§ 416.2030

20 CFR Ch. III (4-1-01 Edition)

(4) If the remaining countable income exceeds the amount of the Federal benefit rate, the State supplementary payment will be reduced by the amount of such excess.

(Secs. 1102, 1614(f), 1616(a), 1631, Social Security Act, as amended, 49 Stat. 647, as amended, 86 Stat. 1473, 1474(a), and 1475 (42 U.S.C. 1302, 1382c(f), 1382e(a), 1383))

[40 FR 7640, Feb. 21, 1975, as amended at 43 FR 39570, Sept. 6, 1978; 53 FR 25151, July 5, 1988]

§ 416.2030 Optional supplementation: Variations in payments.

(a) *Payment level.* The level of State supplementary payments may vary for each category the State elects to include in its federally administered supplement. These categorical variations of payment levels must be specified in the agreement between the Commissioner and the State. If any State has in effect for July 1974 an agreement which provides for variations in addition to those specified in this section, the State may, at its option, continue such variations but only for periods ending before July 1, 1976.

(1) *Geographical variations.* A State may elect to include two different geographical variations. A third may be elected if adequate justification, e.g., substantial differences in living costs, can be demonstrated. All such variations must be readily identifiable by county or ZIP code or other readily identifiable factor.

(2) *Living arrangements.* In addition, a State may elect up to six variations in recognition of the different needs which result from various living arrangements. If a State elects six payment level variations based on differences in living arrangements, one of these six variations must apply only to individuals in Medicaid facilities, that is, facilities receiving title XIX payments with respect to such persons for the cost of their care (see § 416.211(b)(1)). In any event, States are limited to one payment level variation for residents of Medicaid facilities. Types of other living arrangements for which payment variations may be allowed include arrangements such as:

- (i) Living alone;
- (ii) Living with an ineligible spouse;
- (iii) Personal care facility; or,

(iv) Domiciliary or congregate care facility.

(b) *Relationship to actual cost differences.* Under the agreement, variations in State supplementary payment levels will be permitted for each living arrangement the State elects. These differences must be based on rational distinctions between both the types of living arrangements and the costs of those arrangements.

(c) *Effective month of State supplementary payment category.* The State supplementary payment category which applies in the current month will be used to determine the State payment level in that month. This rule applies even if the countable income in a prior month is used to determine the amount of State supplementary payment.

[40 FR 7640, Feb. 21, 1975, as amended at 50 FR 48579, Nov. 26, 1985; 56 FR 41455, Aug. 21, 1991; 62 FR 38455, July 18, 1997]

§ 416.2035 Optional supplementation: Additional State options.

(a) *Residency requirement.* A State or political subdivision may impose, as a condition of eligibility, a residency requirement which excludes from eligibility for State supplementary payment any individual who has resided in such State (or political subdivision thereof) for less than a minimum period prescribed by the State. Any such residency requirement will be specified in the agreement.

(b) *Lien and relative responsibility.* A State which elects Federal administration of its supplementary payments may place a lien upon property of an individual as a consequence of the receipt of such payments or may require that a relative of the individual contribute to a reasonable extent to the support of the individual, providing it is stated in the agreement that:

(1) The Commissioner has determined that the specific State laws and their enforcement are consistent with the supplemental security income program purpose of providing unencumbered cash payments to recipients; and

(2) The Federal Government is not involved in the administration of such laws and will not vary the State supplementary payment amount it makes to comply with such laws; and