

106 CMR 327.000: ELIGIBILITY REQUIREMENTS FOR SSP

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327.010: Authority for State Supplement Program

The Supplemental Security Income (SSI) program is administered by the Social Security Administration (SSA) to provide financial assistance to eligible aged, disabled and blind individuals. States have the option to provide additional assistance through the State Supplement Program (SSP). Massachusetts has opted to provide this additional assistance.

SSP is authorized under M.G.L. c. 6, § 131 and M.G.L. c. 118A and applicable federal law pertaining to the SSI program and agreements with the Commissioner of Social Security.

106 CMR 327.000 is promulgated and implemented in accordance with M.G.L. c. 30A, and applicable General Laws of Massachusetts.

327.100: Overview of State Supplement Program

SSP provides state-funded financial assistance to individuals who receive SSI or who do not qualify for SSI due to income as provided by 106 CMR 327.120. No other individuals are eligible for SSP.

SSP provides financial assistance to blind individuals through the authority of the Massachusetts Commission for the Blind and to aged and disabled individuals through the authority of the Department of Transitional Assistance.

SSP clients must meet program criteria provided in 106 CMR 327.000. Such criteria are based on and should be interpreted in accordance with applicable Social Security law, regulations and relevant sub-regulatory materials, such as Social Security Rulings (SSRs), Program Operations Manual System (POMS), and Emergency Messages (EMs). In accordance with federal law, payment levels are based on Eligibility Category, State Living Arrangement and whether the client is considered an individual or a member of an eligible couple. *See* 20 CFR 416, Subpart T.

327.110: Definitions

The following words and terms, when used in 106 CMR 327.000, have the following meanings, unless the context otherwise requires.

327.110: continued

Child. For SSP purposes, is one who meets the SSI definition of child.

Countable Income. As defined in 20 CFR 416.1104.

Eligible Individual. An aged, disabled or blind individual who meets all SSI eligibility requirements. *See* 20 CFR 416.120.

Eligible Couple. An eligible individual and his or her eligible spouse who are living in the same household. *See* 20 CFR 416.1801.

Federal Benefit Rate (FBR). As defined in 20 CFR 416.1101.

Public Income Maintenance Payment. A payment from any of the following programs: SSI, TAFDC, Refugee Act of 1980, Disaster Relief Act of 1974, Veterans Administration benefits based on need, or any State or local governmental assistance program based on need.

Representative Payee. As defined in 20 CFR 416.601.

Resources. As defined in 20 CFR 416.1201, *et seq.*

Supplemental Security Income (SSI). As defined in 20 CFR 416.101.

SSP-only. A designation for a client who is ineligible for SSI solely based on his or her income but is eligible to receive SSP benefits.

327.120: Eligibility for State Supplement Program

An application for SSI serves is an application for SSP. There is no separate SSP application. Eligibility for SSP is determined after an eligibility determination for SSI is made by the Social Security Administration (SSA). The Department must accept the SSA determination. Individuals may be eligible for SSP if they are either:

(A) determined eligible for SSI; or

(B) determined not eligible for SSI solely due to income, but their countable income is less than the combined Federal Benefit Rate (FBR) and the appropriate SSP payment.

327.130: Eligibility for Other Programs; Treatment of SSP Benefits in Other Programs

Individuals who receive SSP benefits are not eligible for TAFDC and EAEDC benefits.

All income of an SSP client, including their SSP benefits, is not counted in the eligibility calculation for TAFDC and EAEDC benefits for other household members.

327.140: Fair Hearings and Notices

An applicant or client who receives a Department decision related to his or her SSP benefits has the right to request a fair hearing pursuant to 106 CMR 343.000: *Fair Hearing Rules*. All SSP benefits-related notices shall meet the Adequate Notice requirements as provided by 106 CMR 343.200: *Adequate Notice Requirements*. Decisions and actions of SSA regarding SSI benefits shall be exclusively subject to SSA jurisdiction and shall not be grounds for appeal pursuant to 106 CMR 343.000: *Fair Hearing Rules*.

327.150: Verifications

An SSP client must cooperate in verifying all categorical and financial eligibility requirements. This includes complying with the disability determination process unless good cause exists as provided by 106 CMR 701.380: *Good Cause Criteria*.

327.160: Responsibility for Notification of Changes

SSP-only clients are required to report any changes in their circumstances that may affect their eligibility or the amount of their grant within ten calendar days.

327.200: Categorical Eligibility

An individual must meet SSI categorical requirements as found in 106 CMR 327.210.

327.210: Eligibility Categories

An individual must be in one of the following SSI categories to be eligible for SSP. If an individual is eligible under more than one category, the category which provides the highest payment level shall be used:

- (A) Aged. 65 years of age or older;
- (B) Disabled. Disabled in accordance with 20 CFR Part 416, Subpart I. If disability has not been determined by SSA, disability will be determined by the agency or organization under agreement with the Department to provide disability evaluation services; or
- (C) Blind. Determined to be blind in accordance with 20 CFR Part 416, Subpart I. If blindness has not been determined by SSA, blindness will be determined by the agency or organization under agreement with the Department to provide disability evaluation services.

327.220: State Living Arrangements

An individual's SSP benefit amount is determined by their living arrangement.

(A) State Living Arrangement A: Full Cost of Living.

(1) State Living Arrangement A includes an individual who is in Federal Living Arrangement A and is:

- (a) Living Alone included in those who live alone, are individuals who rent a room in a commercial rooming house which does not provide board or who live in a hotel. Also, individuals who rent only a room in a private residence are considered living alone if they do not use the residential kitchen facilities for preparation of his or her meals.
- (b) Living only with his or her SSI or SSP eligible spouse.
- (c) Living only with his or her SSI or SSP eligible spouse and his or her SSI or SSP ineligible children, none of whom receive public income maintenance payments. *See* 106 CMR 327.110(E).
- (d) Living only with his or her SSI or SSP ineligible spouse and/or his or her SSI or SSP ineligible children, none of whom receive public income maintenance payments.

For the purposes of 106 CMR 327.220(A)(1)(a) through (d), foster children placed with anyone other than their parents are not considered to be living with the foster parent.

(2) State Living Arrangement A includes an individual who is in Federal Living Arrangement C, if none of the people with whom he or she is living receives public income maintenance payments.

(3) State Living Arrangement A includes an individual who does not meet the definitions in 106 CMR 327.220(A)(1) or (2), if he or she (or he or she and his or her spouse) are paying at least  $\frac{2}{3}$  of the household's expenses. Public income maintenance payments that are received by the SSP client's spouse who is not eligible for SSI or SSP cannot be used to determine the contribution to the household's expenses.

(4) State Living Arrangement A includes an individual living in a public congregate housing development funded through M.G.L. c. 121B, §§ 38 through 41A, or §§ 42 through 44A (originally known as St. 1954, c. 667 and St. 1966, c. 707) and as provided by Massachusetts in a list to be updated as necessary, of such public congregate housing developments.

327.220 : continued

(B) State Living Arrangement B: Shared Living Expenses.

- (1) State Living Arrangement B includes an individual not found to be living in the household of another under Federal rules and not meeting the criteria for State living arrangements A, E or G.
- (2) State Living Arrangement B includes those living in group-care facilities where Medicaid is paying 50% or less of the cost of care, foster homes, commercial boarding homes or other facilities which do not meet the criteria for living arrangement E or congregate housing defined in Living Arrangement A in 106 CMR 327.220(A)(4).
- (3) State Living Arrangement B includes transient individuals, homeless individuals, and residents of public emergency shelters.
- (4) State Living Arrangement B includes those living in a commercial boarding house, foster home or halfway house.

(C) State Living Arrangement C: Living in the Household of Another.

State Living Arrangement C includes an individual or couple living in the household of another and determined by the Social Security Administration to be receiving sufficient support to necessitate a reduction of  $\frac{1}{3}$  in the Federal SSI benefit rate.

(D) State living Arrangement E: Domiciliary Care.

State Living Arrangement E includes an individual living in a licensed rest home where he or she pays a fixed rate as established by the Massachusetts Executive Office of Health and Human Services. The total payment, combined SSI and SSP, includes an allowance for personal needs. Specifically excluded from this category are persons institutionalized in Title XIX facilities or in a public institution when the individual is not being charged for his or her care.

(E) State Living Arrangement F: Medicaid Facilities.

State Living Arrangement F includes an individual living in a medical facility where Medicaid pays more than 50% of the cost of care.

State Living Arrangement G: Assisted Living.

State Living Arrangement G includes individuals certified by Massachusetts to be residing in an assisted living residence (ALR) served by a certified Group Adult Foster Care (GAFC) provider who is not receiving assistance under any other federal or state rental assistance program and who pays a fixed, non-separable fee for rent and supportive services, other than medically necessary services reimbursed by Medicaid.

327.230: Residence

An SSP client must be living in Massachusetts, with the intention of making his or her home in Massachusetts, but is not required to maintain a permanent residence or fixed address.

327.300: Financial Requirements

An eligible SSP client must meet all financial requirements found at 106 CMR 327.310.

327.310: Income

The amount of income an individual has is a factor in determining eligibility for SSP. How and which types of income are counted is determined in accordance with 20 CFR 416, Subpart K.

327.320: Resources

Resource limitations and which resources are countable are determined by SSA in accordance with 20 CFR 416, Subpart L.

327.330: Payment Standards

Payment amounts are based on Eligibility Category, State Living Arrangement, whether the client is eligible as an individual or as a member of an eligible couple and the amount of countable income.

If countable income exceeds the Federal Benefit Rate (FBR), the amount exceeding the FBR is deducted from the SSP payment standard.

Payment standards are available online at [www.mass.gov/dta](http://www.mass.gov/dta) under the heading Key Resources/Program Eligibility Charts and Tables/SSI Program Payment Charts. Paper copies are available upon request.

327.340: Date Benefits Begin

SSP benefit payments will begin as of the date SSI payments begin. For SSP-only eligible clients, SSP benefit payments will begin as of the first day of the month following the date of the SSI application.

327.350: Timing and Method of SSP Benefit Payments

SSP benefits are paid once a month. The Department shall determine the method of payment.

327.360: Minimum Monthly Payment

The minimum monthly payment for the SSP is \$1.00. If the payment amount is greater than zero but less than \$1.00, a payment of \$1.00 will be issued.

327.370: Designated Payees and SSA Representative Payees

(A) A Designated Payee is a third-party appointed by the Department to receive the SSP benefit payments when the client is unable to manage or direct the management of benefit payments in his or her own interest.

(B) SSP benefits of a client whose SSI benefits are paid to an SSA Representative Payee will also be paid to the SSA Representative Payee. For SSP purposes, this SSA Representative Payee will be known as a Designated Payee.

(C) SSP benefits for a child younger than 18 years old must be paid to a Designated Payee.

327.380: Determination of Continuing Eligibility

An eligibility review is a periodic review of a client's circumstances in relation to the SSI and SSP eligibility requirements. An eligibility review is necessary to establish that a client remains eligible to receive assistance. The focus of the eligibility review process is on those factors of eligibility that are potentially subject to change. The Department shall determine when a client's eligibility will be reviewed.

327.390: Special Benefits - Aged and Disabled

(A) Special Benefits. The Department may authorize payment for clients for moving expenses within Massachusetts and may replace specific items when the loss of these items is the result of: a natural disaster or a fire in the client's dwelling which is beyond the control of the client. All available resources, such as insurance, SNAP benefits and funds from relief agencies (*e.g.*, the Federal Emergency Management Agency and the Red Cross) must be used to replace the unsalvageable items before the Department can authorize a special benefit payment.

(B) Funeral and Final Disposition Expenses. The Department may authorize payment for funeral and final disposition expenses for clients as provided in 106 CMR 705.700: *Eligibility for Funeral and Final Disposition Expenses*.

327.400: Overpayments

An overpayment of SSP benefits exists when an SSP client receives assistance for which he or she is not eligible or the assistance exceeds the amount for which he or she was eligible. An overpayment of SSP benefits may result from Department error, payment of assistance pending implementation of a fair hearing decision upholding the Department's proposed action, client error, or misrepresentation or withholding of information. *See* 106 CMR 706.220.

327.410: Recovery of Overpayments

(A) The Department shall act promptly to recover all overpayments from current and former clients.

(B) When recovering SSP overpayments, the Department shall follow the procedures and rules contained in 106 CMR 706.250 through 706.296 regarding recovery of cash assistance overpayments with the following exceptions:

- (1) If through recoupment the monthly grant amount would be reduced to zero, the client shall still be considered receiving benefits and the case shall remain active.
- (2) For overpayments that are caused by Department error or unintentional client error, the amount recovered on a monthly basis shall be equal to 10% of the appropriate SSP monthly payment amount or \$10, whichever is greater. However, upon agreement with the client, the recovery amount can be greater.
- (3) For overpayments that are intentional client error, or misrepresentation or withholding of information, the amount recovered on a monthly basis shall be equal to 20% of the appropriate SSP monthly payment amount or \$20, whichever is greater. However, upon agreement with the client, the recovery amount can be greater.

REGULATORY AUTHORITY

106 CMR 327.000: M.G.L. c. 18, § 10.