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302.08 RESOURCES SET ASIDE AS PART OF A PLAN TO ACHIEVE SELF- SUPPORT (PASS)

The Social Security Act authorizes the exclusion of income and resources of an individual who has a disability or is blind (but not aged) when the individual needs the income and resources to fulfill a Plan to Achieve Self-Support (PASS) approved by the Social Security Administration. Resources set aside as part of an approved PASS are excluded.

302.09 RETAINED CASH PAYMENTS

The treatments of retained cash payments are discussed below:

302.09.01 RETROACTIVE SUPPLEMENTAL SECURITY INCOME (SSI) AND RETIREMENT, SURVIVORS AND DISABILITY INSURANCE (RSDI)

The unspent portion of retroactive SSI benefits and RSDI benefits is excluded from resources for nine (9) calendar months following the month in which the individual receives the benefits.

- **Retroactive SSI**

Retroactive SSI benefits are SSI benefits issued in any month after the calendar month for which they are paid. Thus, benefits for January that are issued in February are retroactive.

- **Retroactive Social Security Benefits (RSDI)**

Retroactive RSDI benefits are those issued in any month that is at least two calendar months after the calendar month for which they are paid. Thus, RSDI benefits for January that are issued in February are not retroactive, but RSDI benefits for January that are issued in March are retroactive.

302.09.02 DEDICATED ACCOUNTS FOR PAST-DUE BENEFITS DUE TO INDIVIDUALS UNDER AGE 18 WHO HAVE A REPRESENTATIVE PAYEE

Exclude past due SSI, underpayments, accrued interest or other earnings in a dedicated financial institution account set up for an individual under age 18 who has a representative payee. This exclusion does not apply if funds are co-mingled. If the past due benefits are not deposited into a dedicated account, the exclusion is time-limited and is the lesser of 9 months or until the funds are deposited into the dedicated account.

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302.09.03 CASH OR IN-KIND ITEMS RECEIVED FOR THE REPAIR OR REPLACEMENT OF LOST, DAMAGED OR STOLEN EXCLUDED RESOURCES

Cash receipts or in-kind items from any source for the replacement or repair of lost, damaged or stolen excluded resources are not treated as resources for a certain amount of time.

Procedure – SSI and Liberalized Resource Policy

Exclusion Period

Cash receipts are not considered resources for 9 months from the date of receipt. This may be extended up to 9 more months if the individual verifies good cause for the repair or replacement not being completed within the first 9-month period.

Source of Funds

There are no restrictions on where the cash receipts come from for purposes of this policy, e.g., they may come from an insurance company, a federal or state agency, a public or private organization or an individual.

- **Temporary Housing** - This policy applies to funds received for the purchase of temporary housing.
- **Personal Injury Payments** - This policy does not apply to funds received on account of personal injury.
- **Disaster Assistance Payments** - Refer to Section 302.09.04 for the discussion on Disaster Assistance Payments. These payments must be handled in accordance with income/resource policy applicable to them.

Good Cause

Good cause exists if circumstances beyond the individual's control:

- Prevent the repair or replacement of the lost, damaged or stolen property
- Keep the individual from contracting for such repair or replacement

An individual cannot qualify for an extension of the initial 9-month period unless he intends to use the funds for their designated purpose, i.e., repair or replacement of the excluded resource. The good cause extension will terminate as of the date of any change in intent. The funds then become a resource for the following month.

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Cash or In-Kind Items Received For the Repair or Replacement of Lost, Damaged or Stolen Excluded Resources (Continued)

Procedure – SSI and Liberalized Resource Policy

NOTE: When the damage or loss is the result of a presidentially-declared major disaster, the exclusion may be extended for an additional 12-months. Refer to Section 302.09.05 for further information.

Interest on Funds Not Treated as Resources

Interest earned by funds not treated as a resource under this provision is not treated as income or resources for the period during which the funds themselves are not considered a resource.

Evidence

Obtain a copy of any evidence the individual has. If the individual cannot obtain sufficient evidence to make a determination about exclusion of the funds, obtain the necessary information from the payment source. Do so by telephone, if possible, and record the facts in the case record.

Make sure the evidence documents:

- The source of the items or funds
- The value
- The date(s) received
- The intended purpose of the funds or items received, including
 - Whether any cash received is for a purpose other than replacement or repair of the lost, damaged, or stolen (and excluded) resource.

If good cause is alleged, obtain a statement from the individual describing the circumstances and any corroborating evidence that may be available.

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302.09.04 DISASTER ASSISTANCE

Disaster Assistance includes assistance received from the following sources:

- The Disaster Relief and Emergency Act (PL 100-707)
- Another federal statute because of a presidentially-declared major disaster
- A state or local government's comparable assistance
- A disaster assistance organization

If the disaster assistance funds are excluded from income, the unspent amount is also excluded from resources. Interest earned on funds excluded in this provision is excluded from income and resources.

302.09.05 PRESIDENTIALLY-DECLARED MAJOR DISASTERS

Some catastrophes (such as hurricanes) cause such wide-spread destruction that the President of the United States declares them major disasters. Effective 2/25/96, the exclusion period may be extended for individuals who incurred damage or loss of excluded resources under certain circumstances.

The 18-month period (9-month initial period plus the 9-month good cause extension) may be extended up to an additional 12 months. Such an extension may be granted if:

- The excluded resource is located within the geographical area of the disaster area (this area is defined in the presidential order)
- The individual intends to repair or replace the excluded resource
- The individual presents evidence of good cause

302.09.06 NETHERLAND WUV PAYMENTS TO VICTIMS OF PERSECUTION

The Netherlands Act on Benefits for Victims of Persecution 1940 – 1945, WUV (Wet Uitkering Vervlgingsslachtoffers) provides payments to individuals who were victims of persecution during World War I during German and Japanese occupation of the Netherlands and the Netherlands East Indies (now the Republic of Indonesia). The unspent WUV payments made by the Dutch government are excluded from resources and the interest earned on unspent WUV payments is excluded from income.

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302.09.07 GERMAN REPARATIONS PAYMENTS

German reparations payments are made to:

- Certain survivors of the Holocaust under the Federal Republic of Germany's laws for compensation of National Socialist Persecution (German Restitution Act) or the German Reunification Act of 1990

These payments may be made periodically or in a lump sum. Unspent German reparations payments are excluded from income and resources. Interest earned on unspent payments is excluded from income.

302.09.08 AUSTRIAN SOCIAL INSURANCE PAYMENTS

The nationwide class action law suit, Bondy v. Sullivan, involved Austrian social insurance payments that were based on wage credits granted under Paragraphs 500-506 of the Austrian General Social Insurance Act. These paragraphs grant credits to individuals who suffered a loss; that is, were imprisoned, unemployed or forced to flee Austria, during the period of March 1933 to May 1945 for political, religious or ethnic reasons.

Unspent Austrian social insurance payments based, in whole or in part, on wage credits granted under Paragraphs 500-506 of the Austrian General Social Insurance Act are excluded from resources and the interest earned on unspent Austrian social insurance payments is excluded from income. Austrian social insurance payments not based on wage credits granted under these paragraphs are not excluded from resources under this provision.

302.09.09 BENEFITS EXCLUDED FROM BOTH INCOME AND RESOURCES BY A FEDERAL STATUTE OTHER THAN TITLE XVI

Federal statutes other than Title XVI specify many income and resources exclusions. Examples of these are discussed below:

302.09.09A AGENT ORANGE SETTLEMENT PAYMENTS

There is no limit to the length of time unspent Agent Orange settlement funds are excluded from resources. Interest earned on conserved payments is excluded as income.

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302.09.09B VICTIMS COMPENSATION

Some states establish funds to assist victims of crimes. Unspent payments received from such a fund are excluded for 9 months if received for expenses incurred or losses suffered because of crime, e.g., lost wages, medical expenses incurred due to injuries, etc. Interest earned on unspent victims' compensation payments is not excluded from income or resources.

302.09.09C RELOCATON ASSISTANCE PAYMENTS

Relocation assistance is sometimes provided to persons displaced by projects which acquire real property. Relocation assistance may be provided under local, state or federal programs. Such payments may be excluded for certain lengths of time. The length of the exclusion depends on the source:

- **State and Local Program Assistance** – unspent funds are excluded from resources for 9 months
- **Federal Assistance** – There is no time limit on the exclusion for assistance provided under the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970

Interest earned on unspent payments is not excluded from income or resources.

302.09.09D TAX ADVANCES AND REFUNDS RELATED TO EARNED INCOME TAX CREDITS (EITC) AND CHILD TAX CREDITS (CTC)

Unspent federal tax refunds or payments related to the Earned Income Tax Credits (EITC) or Child Tax Credits (CTC) are excluded from resources for twelve (12) calendar months following the month the refund or payment is received. Interest earned on any unspent tax funds related to EITC or CTC is not excluded as income or a resource.

302.09.09E RADIATION EXPOSURE COMPENSATON TRUST FUND PAYMENTS

The Radiation Exposure Compensation Trust Fund (RECTF) authorized the Department of Justice to make compensation payments to individuals (or their survivors) that were found to have contracted certain diseases after exposure. The payments will be made as a one-time lump sum. Unspent payments are excluded from resources. Interest earned on unspent payments is excluded income.

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302.09.09F GIFTS OF DOMESTIC AIRLINE TICKETS

The value of a ticket for domestic travel received by an individual (or spouse) is not a resource if the ticket is:

- Received as a gift
- Not converted to cash, i.e., cashed in, sold, etc.
- Excluded from income

302.09.10 IDENTIFYING EXCLUDED FUNDS THAT HAVE BEEN CO-MINGLED WITH NON-EXCLUDED FUNDS

Otherwise excludable funds must be identifiable in order to be excluded. This does not require them to be separate from other funds (such as in a separate bank account).

When withdrawals are made from co-mingled funds, always assume non-excludable funds are withdrawn first, leaving as much of the excluded funds in the account as possible.

If excluded funds are withdrawn, the excluded funds left in the account can only be added to by:

- Deposits of subsequent funds excluded under the same provision
- Excluded interest

One-Time Receipt and Deposit of Excluded Funds

Example: An individual deposits an \$800 retroactive RSDI check in a checking account. The account already contains \$300 in non-excluded funds.

- Of the new \$1,100 balance, \$800 is an excluded retroactive RSDI payment
- The individual withdraws \$300. The remaining \$800 is still excluded
- The individual withdraws another \$300, leaving the \$500 balance excluded
- The individual deposits \$500, creating a new \$1000 balance. Only \$500 of the new balance is excluded.