

**SENIOR BULLETIN: SSI/GAU**

**Bank accounts and SSI or Medicaid**

This bulletin explains how the Social Security Administration (for SSI) and the Department of Social and Health Services (for Medicaid) evaluate bank accounts of a person applying for or receiving SSI or SSI-related Medicaid.<sup>1</sup> It uses the expression "bank accounts" to include savings or checking accounts, CDs, Christmas club accounts, and other types of accounts maintained in banks, credit unions, or other types of financial institutions. The bulletin does not discuss trust agreements, even when the trust funds are placed in a bank account.

**1. Do bank accounts affect SSI and SSI-related Medicaid?**

SSA and DSHS usually treat money in bank accounts in the names of applicants or recipients as available to meet their daily needs, and both agencies count that money towards the applicable income and resource limits. When an applicant's or recipient's name is on an account and the individual has a legal right to withdraw funds, eligibility for benefits can be affected, even if the applicant or recipient is not the actual owner of money in the account.<sup>2</sup>

When a person applies for SSI or Medicaid, all bank accounts in the applicant's name must be reported. And for recipients of SSI or Medicaid, there is a continuing responsibility to report any new accounts. For SSI the report is made to the Social Security Administration (SSA). For Medicaid (when an application for Medicaid is made for a person not receiving SSI), the report is made to the Department of Social and Health Services (DSHS).

**2. When is a bank account treated as a *resource*?**

It is often important to know whether funds will be treated as a resource or as income by SSA or DSHS. Sometimes funds will be treated as income and sometimes they will be treated as a resource. But they will never be treated as both during the same month. A resource is anything owned at the first moment of a month that the person also owned in the previous month. For example, money in a bank account at the beginning

of a month that was also in that account in the previous month is treated as a resource. It will count against the countable resource limit for SSI and Medicaid (unless resource exclusions apply because of the source of the money).

### **3. When is money in a bank account treated as income?**

Money received during a month, including money directly deposited in an account during the month and interest paid on an account during the month is income in that month. It will be taken into account in determining eligibility for SSI or Medicaid and in determining the amount of a cash grant. If retained into the following month, the money will be treated as a resource in the following month.

*Example, if \$200 is directly deposited into an SSI recipient's account in February, the \$200 is income during February and will count against a grant (unless income exclusions apply because of the type of money). Any of the \$200 that remains in the account as of March 1 will be a resource.*

### **4. How does a single or individual account affect SSI and Medicaid?**

When making resource determinations, SSA and DSHS presume that funds in a "single" or "individual" account (the typical account a person opens in his or her own name) as of the first moment of a month are the resource of the person whose name is on the account. When and how this presumption can be rebutted is explained in the answer to question 9 below. A similar presumption applies when making income determinations, except that SSA has a special rule for assessing deposits when the SSI recipient-account owner is acting as an agent for another person. Funds received in one's capacity as an agent are not "income" for the recipient.<sup>3</sup>

### **5. What is a joint account?**

A joint bank account is an account with two or more names on the title, and from which all persons named can withdraw money. An account entitled "Tom Smith or Mary Peters," would be an example of a joint account. A joint account may or may not have a right of survivorship, depending upon how the account is established. A bank will allow each party named on a joint account to withdraw money, even if the funds only belong to one person named.<sup>4</sup>

## 6. How do joint accounts affect SSI and Medicaid?

If you are unmarried and your name is on a joint bank account, SSA and DSHS will usually presume that you own all the money in the joint account. They will presume that all deposits made to the account are income to you, unless the other account holder is also an SSI recipient. If all the people named on the account receive SSI, then SSA will presume that each recipient owns an equal portion of the account; deposits made by one named individual will be considered income of the depositor only. (These presumptions can sometimes be rebutted. See Question 9 below.)

### *EXAMPLE:*

*An account in the name of "Mary Peters and Tom Smith" has a balance on March 1 of \$1,500. If Mary Peters receives SSI and Tom Smith does not, then SSA will presume that the \$1,500 is Mary's resource. If both Tom and Mary are on SSI, then SSA will presume that \$750 is Mary's resource and \$750 is Tom's.*

If you are married and a spouse you live with is the other person named on the account, SSA and DSHS will presume that you own the funds together. If you are married and are living separately from your spouse but you still maintain a joint account, then after the first month of separation, SSA and DSHS will treat the account just they would treat an account of two unrelated people, unless the separation is because your spouse is in a nursing home or on COPES.<sup>5</sup>

## 7. What is a payable on death account?

This is a bank account set up by one person (the "depositor") to benefit someone else (the "beneficiary") after the depositor's death. While the depositor is alive, the funds in the account belong to the depositor and not the beneficiary. The depositor, not the beneficiary, has control over the funds during the depositor's lifetime, and can withdraw the funds or change the account.

## 8. How do "payable on death" accounts affect SSI and Medicaid?

During the lifetime of the depositor, the account is treated as the property of the depositor, not the beneficiary. The account counts towards the depositor's income and resources, and not the beneficiary's, for SSI and Medicaid purposes. After the depositor's death, SSA or DSHS will

treat the account balance as belonging to the beneficiary.

*EXAMPLE: In an account titled "Mary Peters, P.O.D. Tom Smith", SSA and DSHS will presume the balance of the account is a resource to Mary Peters during her lifetime; it will not be counted as a resource to Tom Smith during Mary's lifetime. So, during Mary's lifetime, the "P.O.D." account will affect Mary's benefits but not Tom's. At Mary's death, SSA and DSHS will count the balance as a resource to Tom Smith.*

### **9. What can be done if SSA or DSHS counts the money in an account but the applicant or recipient does not really own it, or owns only part of it?**

SSA and DSHS presume that all the funds belong to an applicant or recipient whose name is on the account (or half the funds if two account holders are recipients). However, the applicant or recipient may be able to rebut the presumption – to show that the funds do not belong to him or her, and to appeal an unfavorable decision. However, SSA will *not* allow the presumption to be rebutted where there is an individual account and the individual can lawfully use the funds for his or her own support. DSHS does not have a similar blanket exception.

One way to rebut the presumption is by showing that the applicant or recipient's access to the account is legally restricted as to access or as to ability to use for support and maintenance.<sup>6</sup>

If access to the account is not legally restricted, a person still has the right to prove that he or she does not actually own the money in the account. To rebut the presumption of ownership, SSA or DSHS will ask that the following information be produced:

- ? A statement from the applicant or recipient saying who owns the funds, why the account was established, who makes the deposits and withdrawals, and how the money is spent
- ? A similar statement from the other account holder (or representative if that person is incapacitated)
- ? Bank records regarding the account

They may also require that the account be renamed.

If the information produced is consistent with the explanation as to use and ownership of the account, then SSA or DSHS may conclude that the presumption does not apply. In that case, SSA/DSHS will not count the money as belonging to the applicant or recipient.

**10. If I am the guardian or representative payee of someone on SSI or Medicaid, how should I title the bank account I use to manage the recipient's money?**

The account should show that you are acting as an agent and that you do not own the money yourself. So, if Mary Peters is the SSI recipient, and Tom Smith is her guardian, the account containing the SSI recipient's funds could be entitled "Mary Peters, by Tom Smith, Guardian". The account should contain Mary Peters' money and not Tom Smith's.

**11. If I have a power of attorney for someone who is on SSI or Medicaid, how should the account be titled?**

The account should show that you are an agent and that you do not own the money yourself. So the account should remain in the name of the owner of the funds, but your power of attorney should be on file at the financial institution and in your possession any time you intend to use it.

**12. If I am not the guardian or representative payee and do not have a power of attorney, but help someone with banking, how can I do this without compromising SSI or Medicaid eligibility?**

- ? Remember that if you deposit your own money into the account, it will be treated as income or a resource to the SSI or Medicaid recipient. Do not treat the account as a place to deposit your own money or from which to pay your own expenses.
- ? Help make sure SSA or DSHS receives accurate reports they require
- ? Do not allow the account (including accrued interest), when combined with other countable resources, to exceed program limits.
- ? If you later become the guardian or representative payee, or obtain a power of attorney, have the account reflect this status.
- ? If you also receive SSI or Medicaid, remember that SSA or DSHS will treat some or all of the money in an account in your name as yours, affecting your benefits, so avoid the use of joint accounts and "in trust for" accounts
- ? If you are the recipient's spouse or the parent of a minor child recipient, special account titling rules may apply to you; talk to SSA or DSHS about titling of the account.

## Endnotes:

<sup>1</sup> SSI related Medicaid is Medicaid for low income people who are over 65 or who meet the blindness or disability standards of the federal SSI program, and who are not living in an institution. This brochure does not cover other Medicaid programs. For married individuals who reside in nursing homes or receive services under the COPES program, there are some additional requirements not discussed in this bulletin.

<sup>2</sup> It is often important to distinguish between *ownership* of funds in an account and *access* to the funds, or the right to withdraw the funds. A person who has access to funds in an account does not necessarily own the funds. For example, say that I put the name of my daughter on my bank account, so that she can pay my bills if I get sick. We both understand that I am not giving her the funds in the account. But I am giving her access to the account: the bank will honor her checks in the same way it honors mine. While the analogy is not exact, putting her name on my account is like giving her a key to my house for the purpose of allowing her to water my plants while I'm away. With the key, she has access to my house; but she doesn't own the house.

<sup>3</sup> See POMS SI 00810.120. Note that the POMS – the SSA's Program Operations Manual System – are available on line on the SSA web site at the following address: <http://policy.ssa.gov/poms.nsf>.

<sup>4</sup> For a discussion of ownership of funds, as distinguished from access to them, see footnote 2 above.

<sup>5</sup> If one spouse is in a nursing home or on COPES, special rules allow the non-recipient spouse to have higher resources than the recipient spouse. Significantly, they require that funds in both names that are in excess of the amount the recipient spouse is permitted to have must be transferred out of that spouse's name before the first scheduled eligibility review (one year after initial eligibility is determined). WAC 388-513-1350(9).

<sup>6</sup> Existing SSA policy does require a recipient to petition the court for release of funds in a blocked account (if litigation is pending, such as a guardianship or a personal injury settlement), but it does not usually require a person to initiate litigation. POMS SI 01120.010.