



# Eligible Couples

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## **Definition of an “Eligible Couple”**

The Social Security Administration defines an eligible couple as two SSI eligible individuals who are legally married under the laws of the state where they have a permanent home or holding themselves out as husband and wife to the community in which they live, living together in the same household, or determined by Social Security to be entitled to either husband’s or wife’s Social Security benefits as the spouse of the other. It’s important to understand that eligible couples only exist when both members of the couple are SSI eligible, not when an eligible individual is married to an ineligible spouse. For this reason, spouse-to-spouse deeming in which income and/or resources from an ineligible spouse are “deemed” available to the eligible individual never applies to eligible couples.

Eligible couples may exist even when neither member is actually in SSI cash payment status. An example of this would be when both members of an eligible couple are working and in 1619(b) status. The term “eligible couple” only applies to SSI recipients, not beneficiaries who only receive Title II disability benefits (SSDI/CDB/DWB). In some instances, an eligible couple may also be a “concurrent” couple. This means that both members are SSI eligible and one or both also receive some type of Title II benefit.

**IMPORTANT New Policy for Same-Sex Couples:** Effective June 20, 2014 Social Security has published new instructions that allow the agency to process more claims in which entitlement or eligibility is affected by a same-sex relationship. These instructions come in response to the Supreme Court decision in *U.S. vs. Windsor*, which found Section 3 of the Defense of Marriage Act unconstitutional.

This latest policy development lets the agency recognize some non-marital legal relationships as marriages for determining entitlement to benefits. These instructions also allow Social Security to begin processing many claims in states that don’t recognize same-sex marriages or non-marital legal relationships. Social Security consulted with the Department of Justice and determined that the Social Security Act requires the agency to follow state law in Social Security cases. The new policy also addresses SSI claims based on same-sex relationships. Two same-sex individuals are married for SSI

purposes if they are legally married under the laws of the state where they make their permanent home. Social Security will **not** recognize that a claimant and a same-sex individual with whom he or she lives are married for SSI purposes because they are:

- Entitled to Title II benefits, based on a marriage or other non-marital legal relationship; or
- Holding themselves out to the community as a married couple.

For more information about same-sex relationships and eligible couple determinations, refer to the POMS citations GN 00210.002 Same-Sex Marriage - Determining Marital Status for Title II and Medicare Benefits and SI 00501.150 - Determining Whether a Marital Relationship Exists.

## **Marital Relationships and SSI**

Two people don't need to actually be legally married in order for Social Security to consider them in a "marital relationship" for the purposes of SSI. The Social Security Act provides that a man and a woman, who are not legally married, yet who live in the same household are in a "marital relationship" for SSI purposes if they hold themselves out as husband and wife to the community in which they live. Social Security refers to this provision as "holding out". It applies even in states that don't recognize common-law or putative marriage. Social Security develops for holding out only in cases involving opposite-sex couples. They don't develop for holding out in cases involving same-sex couples.

Social Security usually accepts a person's allegation about whether a marital relationship exists. However, Social Security personnel will ask a series of questions to decide if a "holding out" relationship exists when circumstances are uncertain. Form SSA-4178, Marital Relationship Questionnaire, is used for this purpose and includes questions listed below:

1. By what names are you known?
2. How do you introduce the other person to friends, relatives, and others?
3. How is mail addressed to you and to the other person?
4. Are there any bills, installments, contracts, tax returns, or other papers showing the two of you as husband and wife?
5. In what name or names are you renting or buying the place where you live?

Development of "holding out" cases can get quite complicated and would be beyond the scope of WIPA personnel. When there is a questionable marital relationship, it's best to refer the

couple directly to Social Security for a determination. For more information, refer to [POMS SI 00501.152 - Determining Whether Two Opposite-Sex Individuals Are Holding Themselves Out as a Married Couple](https://secure.ssa.gov/apps10/poms.nsf/lnx/0500501152) (<https://secure.ssa.gov/apps10/poms.nsf/lnx/0500501152>).

Social Security considers two people no longer married for SSI purposes as of the date that:

1. Either member of the couple dies;
2. An annulment or divorce is finalized;
3. Either member of the couple begins living with another person as that person's spouse;
4. Social Security decides that either person isn't a spouse of the other for purposes of husband's or wife's Social Security benefits, if Social Security considered the persons married because of that entitlement; or
5. The members of a couple who Social Security determined to be holding themselves out as husband and wife begin living in separate households (with some exceptions).

If members of a couple report to Social Security that their holding out relationship has ended, but they remain in the same household for financial reasons, Social Security will request information from the couple supporting the fact the relationship has ended and efforts are being made to live in separate households.

## **Differences in the Way Social Security Treats Eligible Couples and Eligible Individuals**

There are some significant differences in the way Social Security treats these two distinct groups when determining both SSI eligibility and the cash benefit amount. Social Security basically treats two members of an eligible couple as if they were one person. The couple's combined income (earned and unearned) is considered when calculating the benefit amount for the couple. In addition, the \$20 general income exclusion (GIE) and the \$65 earned income exclusion (EIE) are applied only ONCE to a couple even when both members have income. Social Security also combines the eligible couple's work incentives and deducts them where appropriate. Finally, Social Security subtracts the total countable income of the couple from the couple Federal Benefit Rate (FBR) (as opposed to the individual FBR) and gives half of the adjusted check to each member of the couple. These rules are referred to as "couple computation rules". An [SSI calculation sheet for eligible couples](https://vku-ntdc.org/resources/viewContent.cfm?contentID=3) is available on the NTDC web site (<https://vku-ntdc.org/resources/viewContent.cfm?contentID=3>).

Social Security also applies different resource limits to eligible couples and eligible individuals when determining SSI eligibility. Resources include cash as well as other things an individual or

couple owns that can be converted into cash. Currently, countable resources must not be worth more than \$2,000 for an individual or \$3,000 for an eligible couple. Social Security establishes the value of a couple's **combined resources** (both money and property), subtracts all allowable exclusions and then compares that amount to the \$3,000 couple resource limit when making eligibility determinations. Social Security makes these determinations at the beginning of each month and are applicable for the entire month. Because of this rule, subsequent changes in resources have no effect until the following month's resource determination.

For the most part, Social Security applies the resource exclusions to eligible couples in the same way they are applied to individuals. However, Social Security tends to treat an eligible couple as if they were one person in certain instances. For example, an eligible couple would only have one home excluded, even though two people are involved. In addition, Social Security will only exclude one automobile per couple.

## **When Couple Computation and Resource Rules Begin and End**

The timing of when two individuals become an "eligible couple" (or cease being one) for SSI purposes can be confusing. When an eligible couple forms or dissolves, the change is effective for benefit computation purposes with the first day of the month following the month in which the change occurs. The benefit month is the same month for both members of the couple when couple status exists. In general, for an eligible couple to form, the following three criteria must be met:

- Each member of the couple is eligible for SSI benefits,
- The members are legally married or in a marital relationship, and
- Both members are living in the same household (with a few exceptions).

Some of the many situations that could occur include:

### **1. Two SSI eligible individuals marry one another.**

Social Security will consider the two individuals to be an eligible couple effective with the first day of the month after the marriage or the start of the marital relationship. Starting with this month, Social Security will apply the couple's resource limit, the couple FBR and utilize the couple computation rules to determine countable income.

**NOTE:** Due to Retrospective Monthly Accounting (RMA) practices used in the SSI program, different rules may apply if either or both members of the couple were not

eligible for SSI two months prior to the month in which they become an eligible couple. For more information about this process, see POMS SI 02005.030.

**2. An SSI eligible individual marries an ineligible individual who later establishes eligibility for SSI by filing an application.**

Effective August 22, 1996, when only one member of a couple is receiving SSI benefits and the other member files for SSI, couple computation rules begin to apply as of the first day of the month following the date the application is filed **AND** all couple eligibility criteria are met.

For example, let's say that Mrs. Johnson is receiving SSI benefits. Her husband, Mr. Johnson is receiving SSDI benefits of \$855 per month and has no other form of income. When Mr. and Mrs. Johnson first reported their marriage to Social Security, the Claims Representative suggested that Mr. Johnson file an application for SSI. Mr. Johnson was not eligible for SSI as an individual before he got married because his countable SSDI benefit was higher than the individual FBR in 2020 (\$783). Since they are now married, Social Security bases Mr. Johnson's SSI eligibility on the eligible couple criteria. Social Security approved Mr. Johnson's SSI application. He and his wife established eligibility as an SSI eligible couple starting with the month after Mr. Johnson applied for SSI. As a couple, they now have countable unearned income of \$835 (\$855 - \$20 general income exclusion). When Social Security subtracts the countable unearned income for the couple from the couple FBR of \$1,175 for 2020, the total amount of SSI payable to the couple is \$340. Social Security divides this equally among Mr. and Mrs. Johnson so each receives an SSI payment of \$170 per month. By marrying his SSI eligible wife and becoming a member of an SSI eligible couple, Mr. Johnson was able to establish eligibility for SSI and Medicaid.

**3. A formerly eligible couple requests reinstatement of SSI benefits after an eligibility suspension for both members.**

Remember that an eligible couple has a combined countable resource limit of \$3,000 instead of the individual limit of \$2,000. If one member of the couple exceeds this limit, both members of the couple will be ineligible for SSI benefits. Social security may consider them an eligible couple again if they are able to reduce their resources below the allowable limit of \$3,000. As long as all other SSI eligibility criteria are met, SSI benefits may be reinstated without filing a new application if resources fall below the statutory limit within 12 months following the effective date of the suspension. If the suspension period goes beyond 12 consecutive months, the couple will need to file a new application for SSI benefits.

For example, Mr. and Mrs. Morgan were members of an eligible couple for 7 months (July 2019 – January 2020). On February 1, 2020 their combined resources exceeded the eligible couple amount of \$3,000. Their SSI benefits were suspended effective February 2020. In April of 2020, they request reinstatement of benefits and show that their resources dropped below the limit on March 15, 2020. Social Security will determine the Morgan's to be an eligible couple and couple computation rules will apply for April since they are below the resource limit on April 1, 2020 and otherwise eligible for SSI.

**4. Members of a couple submit separate SSI applications or reinstatement requests in a month.**

If in a month, members of a couple file separate SSI applications, couple computation rules apply as of the first day of the month following the month the separate applications are filed **AND** all 3 of the eligible couple criteria are met. For example, Mr. and Mrs. Smith go to the local Social Security field office to file for aged SSI on January 15, 2020. Mrs. Smith was 65 years of age on December 11, 2019 and Mr. Smith will be 65 on April 3, 2020. Social Security will determine Mrs. Smith to be an eligible individual for aged SSI with an ineligible spouse beginning February 1, 2020. Beginning May 1, 2020, Social Security will determine Mr. and Mrs. Smith to be an eligible couple and couple computation rules will apply. (May 1 is the first day of the month following the month in which Mr. Smith meets all eligibility factors).

Eligibility as a couple begins when both members meet the eligible couple rules again, regardless of whether they retain eligibility by reinstatement after a suspension, or by filing a new application.

**5. One member of an SSI eligible couple becomes ineligible.**

When Social Security suspends or terminates benefits for both members of a couple because of ineligibility, no benefits will be due to either person for that month. However, when benefits are suspended or terminated for one member of a couple because of ineligibility for that month, the member who remains eligible assumes the status of an eligible individual for that month and the FBR for an eligible individual is applied. Suspension or termination of current benefits of one member of an eligible couple may be due, but isn't limited to one or more of the following events:

- Absence from the U.S. for 30 consecutive days.
- Loss of U.S. citizenship or alien status.

- Residence in a public or penal institution throughout a month.
- Failure to apply for all other benefits for which the individual may be eligible.
- Cessation of blindness or disability (medical improvement).
- Voluntary termination.

For example, Mr. and Mrs. Miller are members of an SSI eligible couple when Mr. Miller begins serving a prison term in January of 2020. Since confinement in a penal institution throughout a month precludes eligibility for SSI for that month, Social Security would suspend Mr. Miller’s SSI benefits as of February of 2020 and no SSI check would be due to him starting with that month. Mrs. Miller would continue to receive SSI (assuming she met all eligibility criteria) as an eligible individual effective February of 2020. All individual computation and resource rules would apply to her at this point.

**6. An eligible couple separates, divorces, or one member dies.**

A member of an eligible couple becomes an eligible individual (without a spouse) as of the first of the month following the month of:

- Separation (effective October 1, 1990); or
- Divorce, or end of a “holding out” relationship, or
- Death of one member of the eligible couple.

**7. One member of an SSI eligible couple becomes an ineligible spouse while the other member remains an eligible individual.**

This situation is quite common. For example, if one member of an eligible couple medically improved, that person’s eligibility for SSI would terminate and benefits would cease. Social Security would now consider this person to be an ineligible spouse and they would consider the other member to be an eligible individual. From this point forward, Social Security would apply the spouse-to-spouse deeming rules to determine SSI eligibility and payment amount for the eligible individual in the couple.

## **How Social Security Values In-kind Support and Maintenance for an Eligible Couple**

In-kind support and maintenance (ISM) is food or shelter provided to an SSI recipient or eligible couple by another person. Social Security treats ISM as unearned income for the purposes of determining SSI payment amount. If both members of a couple live in another person’s

household, receive BOTH food and shelter from that person, Social Security applies a one-third reduction in benefit payment to the couple. Social Security refers to this as the value of the one-third reduction (VTR) rule. Eligible couples subject to the VTR will have the couple FBR reduced by a full one-third during SSI eligibility determinations and when calculating the SSI payment amount. Social Security applies the VTR rule to eligible couples in exactly the same manner as to individuals. The only difference is that Social Security uses the couple FBR to determine the amount of the one-third reduction, rather than the individual FBR.

The couple VTR rate can continue to apply to both members of an eligible couple in the month that they separate. This may occur when an eligible couple subject to the VTR separates, and the member who leaves the household moves into the household of another and makes no contribution toward the household operating expenses. In the month following the separation month, Social Security considers them to be eligible individuals for ISM purposes.

When the VTR doesn't apply, the value of any ISM received is determined using the Presumed Maximum Value (PMV) rule. Under this rule, Social Security presumes that the maximum value of the ISM received is one-third of the current FBR plus the \$20 general income exclusion. Social Security counts in-kind support and maintenance valued under the PMV as unearned income. Again, Social Security applies the PMV rules for eligible couples in the same manner as they are to individuals. The only difference being that Social Security uses the couple FBR instead of the individual FBR when determining the dollar value of the ISM.

## **Eligible Couples and Federal Living Arrangements (LA)**

Keep in mind that living arrangement is critical in making ISM determinations and when Social Security decides whether to apply the VTR or PMV rules in ISM cases. For eligible couples, these living arrangement assessments can get very complicated since two people are involved. Generally, part of the definition of an eligible couple is that they reside in the same household. However, it's possible for Social Security to consider members of a married couple who are not physically living together to be determined living together for SSI purposes due to temporary absence rules. For example, if one member of an eligible couple is living in a Medicaid facility (like a hospital or a nursing home), Social Security may still consider the individual to be living with the eligible spouse at home if the individual is temporarily absent as defined in POMS SI 00835.043. Furthermore, if both members of an eligible couple are in a Medicaid facility, but both are temporarily absent as defined by Social Security, they will also be considered to be living together in a household (i.e., not separated). Thus, Social Security may still consider them to be an eligible couple for SSI purposes and would be subject to the couple computation rules using the couple FBR, combined income, and the couple resource limit.

Keep in mind that the Federal SSI benefit is limited to a maximum of \$30 for an eligible individual (or \$60 for certain couple situations as described below), minus any countable

income, when the individual is a resident in a public or private medical treatment facility throughout a month and Medicaid pays or is expected to pay over 50 percent of the cost of care for that month. For any full month that both members of an eligible couple reside in a Medicaid facility, the couple's Federal SSI payment may be limited to \$60 minus the sum of the countable income from the benefit month.

Federal Living Arrangement (LA) determinations for SSI recipients are complex. When in doubt, always refer the matter to Social Security personnel for a formal determination.

## **Eligible Couples and 1619(b) Extended Medicaid Protections**

Eligibility for continued Medicaid under section 1619(b) results when an eligible individual has countable earned income (alone or in combination with unearned income) that exceeds the current FBR and the individual also meets the Medicaid use and threshold tests.

CWICs must be aware that there are some critical issues related to 1619(b) eligibility for members of an eligible couple. If both members of the eligible couple have earned income, and meet all other criteria, they may both receive 1619(b) extended Medicaid coverage, assuming they both meet all eligibility criteria for this provision. It doesn't matter how much either person is contributing to the total earned income; one person may even be contributing less than the \$65 earned income exclusion. As long as BOTH members of the couple have earned income at some level, then both get 1619(b). Unfortunately, if only one member of the couple has earned income, ONLY the person who has the earned income receives 1619(b) - the spouse who is NOT working does not. Since 1619(b) is a work incentive, it's only available to persons who are working.

## **Couple Computations**

CWICs can access a [special Eligible Couple Calculation Chart at the VCU NTDC website](https://vcu-ntdc.org/resources/viewContent.cfm?contentID=3) to use when helping couples understand the effect of earned income on cash and medical benefits (<https://vcu-ntdc.org/resources/viewContent.cfm?contentID=3>).

The steps involved in making couple computations are all included in this chart in the correct order. While performing couple computations, keep the following issues in mind:

1. Income (both earned and unearned) must be combined for BOTH members of the couple before entering the figure into the calculation chart.
2. Only ONE general income exclusion (GIE) and earned income exclusion (EIE) is deducted from the combined income of an eligible couple. This may seem unfair since two people are involved, but it is how Social Security performs the calculation. Social Security treats the eligible couple as if it were a single person.

3. Social Security adds together the work incentives for both members of the couple and applies them where appropriate. If both members have impairment-related work expenses (IRWEs) in a month, Social Security adds the amounts together and enters the total expense into the calculation chart. This also applies to income excluded under a PASS and blind work expenses (BWE).
4. Social security subtracts the total countable income for the couple from the current couple FBR – NOT the FBR for individuals. Keep in mind that ISM in the form of VTR may also apply to an eligible couple.
5. Once the total adjusted SSI benefit amount is determined for the couple, Social Security gives HALF of this amount to each member of the couple. The two members of an eligible couple generally get the same amount of SSI each month.

## **Eligible Couples and PASS**

PASS works fundamentally the same for eligible couples as it does for individuals with a few notable exceptions. First, either member may set aside any or all of the earned or unearned income generated by the couple in the PASS. It is NOT the case that the wife may only set aside that income which she contributes with the husband setting aside the income he contributes. The total income for the couple may be divided among the two PASS plans in any way that makes sense for achieving the goals of the respective plans. If only one member of the couple initiates a PASS, this individual may set aside any or all of the combined income the couple has. To calculate the adjusted SSI payment when one or both members has a PASS, simply total up the approved PASS expenses for the month and enter them into the Eligible Couple Calculation Chart on the line indicated. Keep in mind that Social Security will continue to apply the couple FBR and whatever the total adjusted SSI payment is will be split equally among the two members of the couple.

## **Conducting Independent Research**

[SI 00502.145 -- Development of Marital Relationships](https://secure.ssa.gov/apps10/poms.nsf/lnx/0500502145)

(<https://secure.ssa.gov/apps10/poms.nsf/lnx/0500502145>)

[SI 00501.150 -- Determining Whether a Marital Relationship Exists](https://secure.ssa.gov/apps10/poms.nsf/lnx/0500501150)

(<https://secure.ssa.gov/apps10/poms.nsf/lnx/0500501150>)

[SI 00501.154 -- Determining When Couple Computation Rules Apply](https://secure.ssa.gov/apps10/poms.nsf/lnx/0500501154)

(<https://secure.ssa.gov/apps10/poms.nsf/lnx/0500501154>)

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