

Social Security Administration

§ 416.1250

§ 416.1247 Exclusion of a dedicated account in a financial institution.

(a) *General.* In determining the resources of an individual (or spouse, if any), the funds in a dedicated account in a financial institution established and maintained in accordance with § 416.640(e) will be excluded from resources. This exclusion applies only to benefits which must or may be deposited in such an account, as specified in § 416.546, and accrued interest or other earnings on these benefits. If these funds are commingled with any other funds (other than accumulated earnings or interest) this exclusion will not apply to any portion of the funds in the dedicated account.

(b) *Exclusion during a period of suspension or termination—(1) Suspension.* The exclusion of funds in a dedicated account and interest and other earnings thereon continues to apply during a period of suspension due to ineligibility as described in § 416.1320, administrative suspension, or a period of eligibility for which no payment is due, so long as the individual's eligibility has not been terminated as described in §§ 416.1331 through 416.1335.

(2) *Termination.* Once an individual's eligibility has been terminated, any funds previously excluded under paragraph (a) of this section may not be excluded if the individual establishes a subsequent period of eligibility by filing a new application.

[61 FR 67207, Dec. 20, 1996]

§ 416.1248 Exclusion of gifts to children with life-threatening conditions.

In determining the resources of an individual who has not attained 18 years of age and who has a life-threatening condition, we will exclude any gifts from an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 which is exempt from taxation under section 501(a) of such Code. We will exclude any in-kind gift that is not converted to cash and cash gifts to the extent that the total gifts excluded pursuant to this paragraph do not exceed \$2000 in any calendar year. In-kind gifts converted to cash are con-

sidered under income counting rules in the month of conversion.

[70 FR 41139, July 18, 2005]

§ 416.1249 Exclusion of payments received as restitution for misuse of benefits by a representative payee.

In determining the resources of an individual (and spouse, if any), the unspent portion of any payment received by the individual as restitution for title II, title VIII or title XVI benefits misused by a representative payee under § 404.2041, § 408.641 or § 416.641, respectively, is excluded for 9 months following the month of receipt.

[70 FR 41139, July 18, 2005]

§ 416.1250 How we count grants, scholarships, fellowships or gifts.

(a) When we determine your resources (or your spouse's, if any), we will exclude for 9 months any portion of any grant, scholarship, fellowship, or gift that you use or set aside to pay the cost of tuition, fees, or other necessary educational expenses at any educational institution, including vocational or technical institutions. The 9 months begin the month after the month you receive the educational assistance.

(b)(1) We will count as a resource any portion of a grant, scholarship, fellowship, or gift you (or your spouse, if any) did not use or set aside to pay tuition, fees, or other necessary educational expenses. We will count such portion of a grant, scholarship, fellowship or gift as a resource in the month following the month of receipt.

(2) If you use any of the funds that were set aside for tuition, fees, or other necessary educational expenses for another purpose within the 9-month exclusion period, we will count such portion of the funds used for another purpose as income in the month you use them.

(3) If any portion of the funds are no longer set aside for paying tuition, fees, or other necessary educational expenses within the 9-month exclusion period, we will count the portion of the funds no longer set aside as income in the month when they are no longer set aside for paying tuition, fees, or other necessary educational expenses. We