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Issued on August 17, 2023.

**Victor Wicklund,**

*Deputy Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

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## SOCIAL SECURITY ADMINISTRATION

### 20 CFR Part 416

[Docket No. SSA–2023–0010]

RIN 0960–A182

#### Expansion of the Rental Subsidy Policy for Supplemental Security Income (SSI) Applicants and Recipients

**AGENCY:** Social Security Administration.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** We propose to revise our regulations by applying nationwide the In-Kind Support and Maintenance (ISM) rental subsidy exception that is currently in place for SSI applicants and recipients residing in seven States. The exception recognizes that a “business arrangement” exists when the amount of required monthly rent for a property equals or exceeds the presumed maximum value. This proposed rule would improve nationwide program uniformity, and, we expect, improve equality in the application of the rental subsidy policy.

**DATES:** To ensure that your comments are considered, we must receive them no later than October 23, 2023.

**ADDRESSES:** You may submit comments by any one of three methods—internet, fax, or mail. Do not submit the same comments multiple times or by more than one method. Regardless of which method you choose, please state that your comments refer to Docket No. SSA–2023–0010 so that we may associate your comments with the correct regulation.

**Caution:** You should be careful to include in your comments only information that you wish to make publicly available. We strongly urge you not to include in your comments any personal information, such as Social Security numbers or medical information.

1. **Internet:** We strongly recommend that you submit your comments via the internet. Please visit the Federal eRulemaking portal at <https://www.regulations.gov>. Use the “search” function to find docket number SSA–

2023–0010. The system will issue a tracking number to confirm your submission. You will not be able to view your comment immediately because we must post each comment manually. It may take up to one week for your comment to be viewable.

2. **Fax:** Fax comments to 1–833–410–1631.

3. **Mail:** Mail your comments to the Office of Legislation and Congressional Affairs, Regulations and Reports Clearance Staff, Mail Stop 3253 Altmeyer, 6401 Security Blvd., Baltimore, MD 21235.

Comments are available for public viewing on the Federal eRulemaking portal at <https://www.regulations.gov> or in person, during regular business hours, by arranging with the contact person identified below.

**FOR FURTHER INFORMATION CONTACT:**

Tamara Levingston, Office of Income Security Programs, 6401 Security Blvd., Robert M. Ball Building, Suite 2512B, Woodlawn, MD 21235, 410–966–7384.

For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our internet site, Social Security Online, at <https://www.ssa.gov>.

**SUPPLEMENTARY INFORMATION:**

**Background**

We administer the SSI program, which provides monthly payments to: (1) adults and children with a disability or blindness; and (2) adults aged 65 or older. Eligible individuals must meet all the requirements in the Social Security Act (Act), including having resources and income below specified amounts.<sup>1</sup> Since SSI is a needs-based program for persons with limited income and resources, we must consider the amount of income an applicant or recipient has when determining whether that person is eligible to receive SSI payments. If the individual is eligible, their income is also a factor in calculating the amount of their monthly SSI payments.

Specifically, once an individual is determined eligible for SSI, their monthly payment amount is determined by subtracting their countable monthly income from the Federal benefit rate (FBR),<sup>2</sup> which is the monthly maximum Federal SSI payment.<sup>3</sup> The FBR for 2023

<sup>1</sup> See 42 U.S.C. 1382 and 20 CFR 416.202 for a list of the eligibility requirements. See also 20 CFR 416.420 for general information on how we compute the amount of the monthly payment by reducing the benefit rate by the amount of countable income as calculated under the rules in subpart K of 20 part 416.

<sup>2</sup> See 20 CFR 416.1101.

<sup>3</sup> See 20 CFR 416.405 through 416.415. Some States supplement the FBR amount.

is \$914 for an individual and \$1,371 for an eligible individual with an eligible spouse.<sup>4</sup> Generally, the more income an individual has, the less their SSI payment will be.<sup>5</sup> For the purposes of SSI, “income” is defined as anything that an individual receives in cash or in kind that the individual can use to meet their needs for food and shelter.<sup>6</sup> The Act and our regulations<sup>7</sup> define income as “earned,” such as wages from work, and “unearned,” such as gifted cash.<sup>8</sup> Our proposed regulatory change pertains to rental subsidy, which is a type of ISM under the broader umbrella of unearned income.

**ISM**

As noted above, income that affects an individual’s monthly SSI payment can also be provided in kind.<sup>9</sup> Generally, we value in-kind items at their current market value and apply the various exclusions for both earned and unearned income; however, we have special rules for valuing food or shelter that is received as unearned income (ISM).<sup>10</sup> Under our current regulations, ISM means any food or shelter that is given to an individual or that the individual receives because someone else pays for it.<sup>11</sup> Shelter includes room, rent, mortgage payments, real property taxes, heating fuel, gas, electricity, water, sewerage, and garbage collection services.<sup>12</sup> For example, if an SSI recipient’s brother lets the recipient live rent-free in his home throughout a calendar month, we would consider the shelter the brother provides as ISM to the recipient. We have two rules for valuing the ISM that we must count: (1) currently, the one-third reduction rule (VTR) applies if the individual is living in the household of a person, throughout a month, who provides the individual with both food and shelter, and (2) the presumed maximum value rule (PMV) applies in all other situations in which the individual is

<sup>4</sup> 87 FR 64296, 64298 (2022) A table of the monthly maximum Federal SSI payment amounts for an eligible individual, and for an eligible individual with an eligible spouse, is available at <https://www.ssa.gov/oact/cola/SSIAMts.html>. When the FBR is adjusted for the cost of living, the amount of the potential ISM reduction adjusts accordingly.

<sup>5</sup> See 20 CFR 416.1100.

<sup>6</sup> See 20 CFR 416.1102.

<sup>7</sup> See 42 U.S.C. 1382a; and 20 CFR 416.1102–1124.

<sup>8</sup> See 20 CFR 416.1104.

<sup>9</sup> See 20 CFR 416.1102.

<sup>10</sup> See 20 CFR 416.1130(a).

<sup>11</sup> See 20 CFR 416.1130(b). We recently published a proposed rule to remove food from the calculation of ISM. See 88 FR 9779 *Omitting Food From In-Kind Support and Maintenance Calculations*, published February 15, 2023.

<sup>12</sup> See 20 CFR 416.1130(b).

receiving countable ISM.<sup>13</sup> For example, a recipient lives with a sibling. The recipient receives SNAP to pay for their own food, but does not pay shelter expenses. The sibling pays all the shelter expenses. Based on the recipient paying for their own food, SSI is calculated under the PMV rule. The VTR cannot apply, because the recipient is not receiving both food and shelter from the household.

The VTR rule is governed by legislation and requires SSA to reduce the applicable federal benefit rate by one-third when the recipient receives both food and shelter, throughout a month, from the household in which they reside.<sup>14</sup> The PMV rule, which is one-third the federal benefit rate plus \$20, only applies if the recipient receives food or shelter from within the household. In addition, the PMV rule allows recipients to rebut the maximum amount of ISM being charged, by providing the actual value of the ISM being received. Rebuttal is not an option under the VTR rule.

**Rental Subsidy**

Our current regulation further clarifies that an individual is not receiving ISM in the form of room or rent if they are paying the required monthly rent charged under a “business arrangement.”<sup>15</sup> Under the current general definition, a “business arrangement” exists when the amount of monthly rent required to be paid equals the current monthly rental value (CMRV)—that is, the price of the rent on the open market in the individual’s

locality.<sup>16</sup> For example, if the owner of an apartment would rent that property to any potential tenant for \$800 per month, then the CMRV is \$800. Consequently, in this example, if an SSI recipient agrees to pay the landlord rent in the amount of \$800 per month, a “business arrangement” would exist and the SSI recipient would not be receiving ISM in the form of room or rent. Conversely, under our current general definition of a “business arrangement,” if the SSI recipient rented the same property but paid only \$400 per month, a “business arrangement” would not exist because \$400 is less than the CMRV.<sup>17</sup>

When we develop possible rental subsidy, we first determine whether the required monthly rent is equal to the CMRV. In practice, our technicians must contact the landlord for information on the required monthly rent or reach out to an appropriate source for information about the CMRV for that property and locality. This source can be the landlord or another knowledgeable source (e.g., a real estate firm or rental management agency). With this information in hand, we then compare the rent the individual is paying to the CMRV and document the reason for any reduced monthly rent. If the required monthly rent is less than the CMRV, we count the difference between the required monthly rent and the CMRV as ISM to the SSI applicant or recipient.<sup>18</sup> We use the presumed maximum value (PMV) rule to value this type of ISM. In valuing shelter under the PMV rule, instead of

determining the actual dollar value of the shelter, we presume that the shelter is worth one-third of the FBR plus the amount of the \$20 general income exclusion.<sup>19</sup> SSI applicants and recipients may rebut this presumption by showing that the value of the ISM they are receiving is less than the PMV.<sup>20</sup> Thus, under this current general policy, the amount of ISM counted is capped at the PMV. Conversely, if the rent equals or exceeds the CMRV, we determine that there is no rental subsidy.

Take the example of an SSI recipient living with their ineligible spouse and child who is renting a single-family home owned by the recipient’s mother. The mother-landlord alleges the property has a CMRV of \$1,500 per month, but she is requiring the SSI household to pay only \$350 in rent per month. To calculate the rental subsidy under the current general policy, we would subtract the required monthly rent from the CMRV (\$1,500 – \$350 = \$1,150), in which case the rental subsidy would be \$1,150. We would divide the total rental subsidy by the number of people in the household (\$1,150/3 = \$383.33).<sup>21</sup> Per regulation, the maximum amount of ISM that can be charged is \$324.66 a month for 2023. Therefore, the recipient’s SSI payment is \$589.34 (\$914 (FBR 2023)—\$324.66 (PMV for 2023)). This is with the understanding that the recipient has no other income.<sup>22</sup>

The following chart illustrates the above example:

EXAMPLE 1— CURRENT GENERAL RENTAL SUBSIDY POLICY

Equation	Application of the example
CMRV – Required Monthly Rent = Household ISM .....	\$1,500 – \$350 = \$1,150.
Household ISM/Number of people in household = ISM/Rental Subsidy to the SSI Recipient.	\$1,150/3 people in household = \$383.33.
ISM is capped at the PMV .....	\$383.33 > \$324.66.
SSI payment = FBR – PMV .....	SSI payment = \$914 – \$324.66 = \$589.34.

**Exception**

Following court cases that challenged how we applied ISM rules for rental subsidy, we provided an exception for residents living in jurisdictions covered

by the Court of Appeals for the Seventh Circuit (in our regulations),<sup>23</sup> residents in the Second Circuit (in an Acquiescence Ruling),<sup>24</sup> and residents of Texas (in the Program Operations Manual System).<sup>25</sup> For residents of these

seven excepted States (Connecticut, New York, Vermont, Illinois, Indiana, Wisconsin, and Texas), a “business arrangement” exists when the required monthly rent the SSI recipient is required to pay equals or exceeds the

<sup>13</sup> 20 CFR 416.1130(c).  
<sup>14</sup> Social Security Act § 1612(a)(2)(A).  
<sup>15</sup> 20 CFR 416.1130(b).  
<sup>16</sup> Id. See also 20 CFR 416.1101.  
<sup>17</sup> In this instance, we would apply ISM’s PMV rule, as the individual is receiving some level of support from the landlord by paying less than the CMRV of the shelter.  
<sup>18</sup> See Program Operations Manual System (POMS) SI 00835.380E.  
<sup>19</sup> See 20 CFR 416.1140(a).

<sup>20</sup> See 20 CFR 416.1140(a)(2).  
<sup>21</sup> The method for calculating the rental subsidy is described in POMS SI 00835.380(E)(1) *Procedure for valuing the actual value (AV) of the rental subsidy*. This methodology reflects our ISM regulatory policy’s approach of examining rental subsidy from the perspective of the household (see e.g., 20 CFR 416.1130).  
<sup>22</sup> See 20 CFR 416.1140(a).  
<sup>23</sup> See 20 CFR 416.1130(b); *Jackson v. Schweiker*, 683 F.2d 1076 (7th Cir. 1982).

<sup>24</sup> See Acquiescence Ruling (AR) 90–2(2); *Ruppert v. Bowen*, 871 F.2d 1172 (2d Cir. 1989)—*Evaluation of a Rental Subsidy as In-Kind Income for Supplemental Security Income (SSI) Benefit Calculation Purposes—Title XVI of the Social Security Act*. If we finalize this proposed rule, we will rescind AR 90–2(2) as obsolete, in accordance with 20 CFR 416.1485(e)(4).  
<sup>25</sup> See *Diaz v. Chater*, No. 3:95–cv–01817–X (N.D. Tex. Apr. 17, 1996); POMS SIDAL 00835.380.

PMV.<sup>26</sup> In these States, if the required amount of rent is less than the PMV, then the value of the rental subsidy is the difference between the required monthly rent and the PMV or the CMRV, whichever is less. This means there may be a lower threshold for what qualifies as a “business arrangement” for applicants and recipients in these

excepted States because, in many cases, the PMV is lower than the CMRV. Application of this exception tends to reduce the amount of ISM counted towards an individual’s SSI payment, which generally results in a higher SSI payment amount. For example, an SSI recipient whose living arrangement is identical to that discussed in the prior

example, but who resides in one of the seven States in which the exception applies, would not be charged ISM because the required monthly rent exceeds the PMV (\$350 > \$324.66). Consequently, the SSI recipient would continue to receive the FBR (provided they did not receive any other income countable for SSI purposes).

EXAMPLE 2—RENTAL SUBSIDY EXCEPTION POLICY PROPOSED TO BE EXTENDED

PMV < CMRV .....	\$324.66 < \$1,500.
Required Monthly Rent > PMV .....	\$350 > \$324.66.
Therefore, no ISM to the SSI Recipient .....	= SSI Payment = \$914.

As illustrated by these examples, our current application of the ISM rules is not uniform nationwide, and the exception is an advantage only for those SSI applicants and recipients living in the seven excepted States.

**Rationale for Regulatory Action**

We propose to change the rental subsidy policy in our regulations by applying nationally the definition of “business arrangement” that currently applies in only seven States because of the court decisions noted above. The rationale of the courts that resulted in the situation currently in place in seven states, in particular in the Seventh Circuit decision in *Jackson* and the Second Circuit decision in *Ruppert*, also supports extending this policy to the other states, as outlined in our proposed rule. In *Jackson*, the Seventh Circuit reasoned that it is not enough for a claimant to be provided shelter at a rate below market value for that difference to be counted as “income” for SSI purposes; rather, to be counted as “income,” the difference between the market value and the actual rental payment must result in increased purchasing power to meet the claimant’s basic needs.<sup>27</sup> The Seventh Circuit explained that “purchasing power grows if in-kind contributions of shelter either make cash available to purchase necessities of life other than shelter or if, and to the extent, the quality of shelter itself is enhanced to meet basic needs.”<sup>28</sup> Similarly, in *Ruppert*, the Second Circuit found that the difference between the CMRV and the required monthly rent does not always constitute

an actual economic benefit which should be counted as “income” for SSI purposes.<sup>29</sup> To implement *Ruppert*, for residents of the Second Circuit, we announced that an applicant or recipient does not receive an “actual economic benefit” from a rental subsidy when the amount of required monthly rent equals or exceeds the PMV.<sup>30</sup>

Applying nationally the definition of “business arrangement” based on the PMV rather than the CMRV, and thus focusing on the SSI recipient’s purchasing power or the actual economic benefit they receive, would also ensure that all SSI applicants and recipients, regardless of where they reside, would have the same policy applied to them regarding the definition of a business arrangement. This uniform definition of business arrangement means that no recipient’s SSI payment amount would be lower simply because they reside in a State where the exception policy described above does not currently apply. This proposed policy change therefore supports our goal of enhancing equality in the programs we administer for all applicants and recipients.

This proposal will also foster efficiency in our administration of the SSI program, because we no longer would have to apply different policies on the definition of a business arrangement depending on the SSI applicant or recipient’s State of residence. In any program as large as ours, “the need for efficiency is self-evident.”<sup>31</sup> As well, we expect that the proposal would improve customer service by reducing the amount of time

we need to calculate SSI payment amounts in States in which the current exception does not apply. Because the exception is currently in place in some States, we already have a well-established procedure for applying the exception, and we are confident that such a change can be applied nationwide with minimal operational or systems impact.

We are also proposing this rule in response to specific requests from the public. Recently, we adopted the *Social Security Administration’s Agency Strategic Plan for Fiscal Years 2022–2026 (Strategic Plan)*,<sup>32</sup> which defines our long-term goals and objectives over the next four years to further our overall mission. Among the stated goals, we resolve to optimize the experience of our customers by adopting policies aimed at serving individuals and communities. Our *Strategic Plan* further commits to engage the public and external stakeholders to better inform our regulatory activities.<sup>33</sup>

In support of these goals, we have been in communication since October 2022 with advocate groups representing a wide variety of claimants and beneficiaries from diverse backgrounds. In response, we received numerous suggestions for ways to improve access to our programs, particularly to our SSI program. Among the recommendations we received were suggestions to update and streamline the SSI program’s rules on ISM.

As discussed above, the current lack of uniformity in our business arrangement definition can disadvantage affected SSI applicants

<sup>26</sup> See POMS SI 00835.380.B.7.

<sup>27</sup> *Jackson*, 683 F.2d at 1082–87; In *Jackson*, the Seventh Circuit addressed a situation where “a very large percentage” of an individual’s income was already committed to shelter costs before the agency considered any unearned income from a rental subsidy. Under those circumstances, the additional value of the rental subsidy did not increase the individual’s ability to pay for their other basic needs. See also *Supplemental Security Income for*

*the Aged, Blind, and Disabled; Subpart K—Income*, 51 FR 13487, 13488 (Apr. 21, 1986).

<sup>28</sup> *Jackson*, 683 F.2d at 1084.

<sup>29</sup> *Ruppert*, 871 F.2d at 1179–81; *Social Security Acquiescence Ruling (AR) 90–2(2)*, 55 FR 28947, 28949 (July 16, 1990).

<sup>30</sup> AR 90–2(2), 55 FR at 28949.

<sup>31</sup> See *Barnhart v. Thomas*, 540 U.S. 20, 29 (2003); *Heckler v. Campbell*, 461 U.S. 458, 461, n.2 (1983).

<sup>32</sup> *Social Security Administration, Agency Strategic Plan: Fiscal Years 2022–2026*, page 9, Strategic Goal 1: Optimize the Experience of SSA Customers and Strategic Objective 1.1—Identify and Address Barriers to Accessing Services. available at: <https://www.ssa.gov/agency/asp/>.

<sup>33</sup> *Id.*

and recipients who do not live in States where the rental subsidy exception applies. The differing application of the business arrangement definition was noted by the external parties, who recommended that we apply the current rental subsidy exception nationwide as one way to streamline the SSI program and make it more equitable. We agree with this recommendation. The proposed rules, if finalized, would benefit SSI applicants and recipients, no matter the State they live in, and make the SSI program easier to administer. The proposed change would also make the SSI program more equitable by applying the rental subsidy policy uniformly to all affected SSI applicants and recipients, regardless of where they live.

Moreover, as explained in the study *Simplifying the Supplemental Security Income Program: Options for Eliminating the Counting of In-kind Support and Maintenance*, “[a]lthough SSI eligibility was intended to be determined on the basis of objective information on income and resources, development of ISM is often based on estimates of food and shelter expenses provided by the applicant or recipient and verified by other household members.”<sup>34</sup> By applying the rental subsidy exception nationwide, the rent paid by the SSI applicant or recipient will be compared to a standard dollar amount—the PMV. Our technicians anticipate sending out fewer living arrangement development forms (form SSA–L5061, OMB 0960–0454) by instead confirming the limited necessary information with the landlord orally, namely: that the required rent amount is equal to or greater than the PMV.<sup>35</sup> The more detailed estimates currently provided by the landlord or other household members under our

existing regulations are therefore less likely to be needed or used in administering the SSI program. This reduced need to contact landlords or other third parties for information regarding the CMRV also increases the efficiency of the SSI program by reducing the number of instances in which we have to seek out that information (We note that we would need to contact someone other than the landlord only if we cannot verify information with the landlord directly.). In summary, then, this new policy will result in greater efficiency and time savings for our employees, and a reduction in the reporting burden for the public (see Paperwork Reduction Act section of the preamble).

### Proposed Change

As discussed above, we propose to apply nationwide the rental subsidy exception currently in place in seven States. Accordingly, our nationwide policy would be that a “business arrangement” exists when the amount of monthly rent required to be paid equals or exceeds the PMV. If the required amount of rent is less than the PMV, we would impute as ISM the difference between the required amount of rent and either the PMV or the CMRV, whichever is less. For example, if the required household rent is \$300, and the CMRV amount is greater than the PMV, then the amount of household ISM would be \$24.66 divided by the number of household members. However, this charge may be offset by other exclusions.

### Rulemaking Analyses and Notices

We will consider all comments we receive on or before the close of business on the comment closing date indicated above. The comments will be available for examination in the rulemaking docket for these rules at the above address. We will file comments received after the comment closing date in the docket and may consider those comments to the extent practicable. However, we will not respond specifically to untimely comments. We may publish a final rule at any time after close of the comment period.

### Clarity of This Rule

Executive Order 12866, as supplemented by Executive Order 13563 and Executive Order 14094, requires each agency to write all rules in plain language. In addition to your substantive comments on this proposed rule, we invite your comments on how to make the rule easier to understand.

For example:

- Would more, but shorter, sections be better?
- Are the requirements in the rule clearly stated?
- Have we organized the material to suit your needs?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?
- Does the rule contain technical language or jargon that is not clear?
- Would a different format make the rule easier to understand, e.g., grouping and order of sections, use of headings, paragraphing?

### When will we start to use this rule?

We will not use this rule until we evaluate public comments and publish a final rule in the **Federal Register**. All final rules include an effective date. We will continue to use our current rules until that date. If we publish a final rule, we will include a summary of those relevant comments we received along with responses and an explanation of how we will apply the new rule.

### Regulatory Procedures

*Executive Order 12866, as Supplemented by Executive Order 13563 and Executive Order 14094*

We consulted with the Office of Management and Budget (OMB) and determined that this rule meets the criteria for a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563 and Executive Order 14094. Therefore, OMB reviewed it.

### Anticipated Transfers to Our Program

Our Office of the Chief Actuary estimates that implementation of this proposed rule would result in a total increase in Federal SSI payments of \$971 million over fiscal years 2024 through 2033, assuming implementation of this rule on April 29, 2024. These transfers reflect an estimation that approximately 41,000 individuals who would be eligible under our current rules will have their Federal SSI payment increased by an average of \$128 per month attributable to implementation of this rule. There would also be an additional 14,000 individuals who are not eligible under current rules who would be newly eligible and would apply for benefits under the proposed rule.

### Anticipated Net Administrative Cost Savings to the Social Security Administration

The Office of Budget, Finance, and Management estimates that this proposal will result in net

<sup>34</sup> See Balkus, Richard; Sears, James; Wilschke, Susan; and Wixon, Bernard. *Simplifying the Supplemental Security Income Program: Options for Eliminating the Counting of In-kind Support and Maintenance*. Social Security Bulletin, vol. 68, no. 4, 2008, [www.ssa.gov/policy/docs/ssb/v68n4/v68n4p15.html](http://www.ssa.gov/policy/docs/ssb/v68n4/v68n4p15.html).

<sup>35</sup> Claimants may provide certain types of evidence (e.g., a rental agreement or lease) to support their allegation of rent amount, and in these circumstances an SSA technician does not need to reach out to the landlord to further develop the allegation. However, SSA finds that in many circumstances claimants do not provide SSA with the necessary evidence. In these cases, SSA will attempt to contact the landlord by phone to orally confirm the rent amount. If the landlord is not successfully reached, SSA may still be required to send the form SSA–L5061. SSA seeks comment on additional procedural considerations and/or acceptable forms of evidence (e.g., proof of electronic transfer of funds in the alleged amount to the named landlord) that a claimant might provide that would be minimally burdensome while satisfactorily demonstrating proof of rent amount.

administrative savings of \$10 million for the 10-year period from FY 2024 to FY 2033. The net administrative savings is mainly a result of unit time savings as field office employees will not have to spend time developing CMRV for all rental subsidy calculations during initial claims, pre-effectuations reviews, redeterminations, and post-eligibility actions. The savings are offset by costs to update our systems, costs to send notices to inform current recipients of the policy changes, costs to address inquiries from the notices, and costs because of more individuals' being eligible for SSI benefits, which increases claims, reconsiderations, appeals, redeterminations, and post-eligibility actions.

**Anticipated Time-Savings and Qualitative Benefits to the Public**

We anticipate the following qualitative benefits generated from this proposed policy:

- Saving time and effort for claimants and third parties who may have evidence related to a claimant's application because they would need to submit less information. SSA estimates at a minimum this will result in more than 7,000 hours of time saved in annual reduced paperwork burden, representing an opportunity cost of \$1,140,526 (see the Paperwork Reduction Act section of the preamble below for specifics).
- Potentially get faster determinations or decisions regarding SSI eligibility or

payment amount, or both, which would have both quantitative effects financially and, qualitatively, may alleviate stress for applicants and recipients associated with the length of time it may take to obtain SSI.

- Administratively easier to apply the same policy nationwide.

**Anticipated Qualitative Costs**

We do not anticipate more than *de minimis* costs associated with this rulemaking. We do not anticipate that this proposal would affect labor market participation in any significant way, in part because of the limited understanding of the current policy in the beneficiary community.

**Executive Order 13132 (Federalism)**

We analyzed this proposed rule in accordance with the principles and criteria established by Executive Order 13132 and determined that the proposed rule will not have sufficient Federalism implications to warrant the preparation of a Federalism assessment. We also determined that this proposed rule will not preempt any State law or State regulation or affect the States' abilities to discharge traditional State governmental functions.

**Regulatory Flexibility Act**

We certify that this proposed rule will not have a significant economic impact on a substantial number of small entities because it affects individuals only. Therefore, a regulatory flexibility

analysis is not required under the Regulatory Flexibility Act, as amended.

**Paperwork Reduction Act**

This rule does not anticipate any new collections or require revisions to existing collections. However, the application of the revisions to these rules may cause a burden change to our currently approved information collections under the following information collection requests: 0960-0174, the SSA-8006, Statement of Living Arrangements, In-Kind Support and Maintenance; and 0960-0454, the SSA-L5061, Letter to Landlord Requesting Rental Information. Based on our current management information data from the seven states currently implementing these changes, we anticipate these changes will allow for verbal responses from landlords in place of the current form in some situations, thus reducing the overall burden as SSA will not require those respondents to complete the entirety of Form SSA-L51061. In addition, we note that for those who use the paper form, we will send a revised version with question #5 removed. We also anticipate a slight burden reduction to Form SSA-8006, as the respondents may not need to provide as much detail pertaining to their rental subsidy agreement due to the proposed rule.

The following chart shows the time burden information associated with the proposed rule:

OMB No.; form No.; CFR citations	Number of respondents	Frequency of response	Current average burden per response (minutes)	Current estimated total burden (hours)	Anticipated new burden per response under regulation (minutes)	Anticipated estimated total burden under regulation (hours)	Estimated burden savings (hours)
0960-0174 SSA-8006 (Paper Form) .....	12,160	1	7	1,419	6	1,216	203
0960-0174 SSA-8006 (SSI Claims System) .....	109,436	1	7	12,768	6	10,944	1,824
0960-0454 SSA-L5061 (Paper Form) .....	35,640	1	10	5,940	8	4,752	1,188
0960-0454 SSA-L5061 (Phone Call) .....	35,640	1	10	5,940	3	1,782	4,158
<b>Totals</b> .....	<b>192,876</b>	.....	.....	<b>26,067</b>	.....	<b>18,694</b>	<b>7,373</b>

The following chart shows the theoretical cost burdens associated with the proposed rule:

OMB No.; form No.; CFR citations	Number of respondents	Anticipated estimated total burden under regulation from chart above (hours)	Average theoretical hourly cost amount (dollars) *	Average combined wait time in field office and/or teleservice centers (minutes)**	Total annual opportunity cost (dollars) ***
0960-0174 SSA-8006 (Paper Form) .....	12,160	1,216	*\$12.81	** 19	***\$77,885
0960-0174 SSA-8006 (SSI Claims System) .....	109,436	10,944	* 12.81	** 24	*** 443,931
0960-0454 SSA-L5061 (Paper Form) .....	35,640	4,752	* 29.76	** 24	*** 565,678
0960-0454 SSA-L5061 (Phone Call) .....	35,640	1,782	* 29.76	.....	*** 53,032

OMB No.; form No.; CFR citations	Number of respondents	Anticipated estimated total burden under regulation from chart above (hours)	Average theoretical hourly cost amount (dollars) *	Average combined wait time in field office and/or teleservice centers (minutes)**	Total annual opportunity cost (dollars) ***
Totals .....	192,876	19,882	.....	.....	*** 1,140,526

\* We based this figure on the average DI payments based on SSA's current FY 2023 data (<https://www.ssa.gov/legislation/2023factsheet.pdf>); on the average U.S. citizen's hourly salary, as reported by Bureau of Labor Statistics data ([https://www.bls.gov/oes/current/oes\\_nat.htm](https://www.bls.gov/oes/current/oes_nat.htm)).

\*\* We based this figure on the average FY 2023 wait times for field offices and hearings office, as well as by averaging both the average FY 2023 wait times for field offices and teleservice centers, based on SSA's current management information data.

\*\*\* This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

SSA submitted a single new Information Collection Request which encompasses the revisions to both information collections (currently under OMB Numbers 0960-0174, and 0960-0454) to OMB for the approval of the changes due to the proposed rule. After approval at the final rule stage, we will adjust the figures associated with the current OMB numbers for these forms to reflect the new burden. We are soliciting comments on the burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize the burden on respondents, including the use of automated techniques or other forms of information technology. In addition, we are specifically seeking comment on whether you have any questions or suggestions for edits to the forms referenced above in the context of this proposed regulatory change. Questions to consider might include (but are not limited to):

(1) Are there other SSA information collections we have not noted that you believe we should modify as a result of this proposed policy change?

(2) Do our new estimated time burdens accurately represent the time burden associated with these forms? The burden estimate should include both the time needed to answer the form's questions and activities such as the time spent gathering records and documentation if necessary, or travel time associated with developing and submitting the collection. If you believe our reported estimate is inaccurate (when considering that we anticipate a burden reduction associated with the rulemaking), please explain why.

(3) Are there modifications to the forms or the information collection processes associated with developing information about a recipient's potential rental subsidy that the agency should consider in developing this final rule (keeping in mind that there may be policy or operational limitations on our

ability to implement some types of new information collection processes)?

If you would like to submit comments, please send them to the following locations:

Office of Management and Budget, Attn: Desk Officer for SSA, Fax Number: 202-395-6974, Email address: [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov)

Social Security Administration, OLCA, Attn: Reports Clearance Director, Mail Stop 3253 Altmeier, 6401 Security Blvd., Baltimore MD 21235, Fax: 410-966-2830, Email address: [OR.Reports.Clearance@ssa.gov](mailto:OR.Reports.Clearance@ssa.gov)

You can submit comments until October 23, 2023, which is 60 days after the publication of this notice. However, your comments will be most useful if you send them to SSA by October 23, 2023, which is 60 days after publication. To receive a copy of the OMB clearance package, contact the SSA Reports Clearance Officer using any of the above contact methods. We prefer to receive comments by email or fax.

(Catalog of Federal Domestic Assistance Programs No 96.006 Supplemental Security Income)

**List of Subjects in 20 CFR Part 416**

Administrative practice and procedure, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

The Acting Commissioner of Social Security, Kilolo Kijakazi, Ph.D., M.S.W., having reviewed and approved this document, is delegating the authority to electronically sign this document to Faye I. Lipsky, who is the primary Federal Register Liaison for SSA, for purposes of publication in the **Federal Register**.

**Faye I. Lipsky**,  
*Federal Register Liaison, Office of Legislation and Congressional Affairs, Social Security Administration.*

For the reasons stated in the preamble, we propose to amend 20 CFR chapter III, part 416, as set forth below:

**PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED**

**Subpart K—Income**

■ 1. The authority citation for subpart K of part 416 is revised to read as follows:

**Authority:** 42 U.S.C. 902(a)(5), 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, 1383, and 1383b; sec. 211, Pub. L. 93-66, 87 Stat. 154 (42 U.S.C. 1382 note).

■ 2. In § 416.1130 revise paragraph (b) to read as follows:

**§ 416.1130 Introduction**

\* \* \* \* \*

(b) *How we define in-kind support and maintenance.* In-kind support and maintenance means any food or shelter that is given to you or that you receive because someone else pays for it. Shelter includes room, rent, mortgage payments, real property taxes, heating fuel, gas, electricity, water, sewerage, and garbage collection services. You are not receiving in-kind support and maintenance in the form of room or rent if you are paying the amount charged under a business arrangement. A business arrangement exists when the amount of monthly rent required to be paid equals or exceeds the presumed maximum value described in § 416.1140(a)(1). If the required amount of rent is less than the presumed maximum value, we will impute as in-kind support and maintenance the difference between the required amount of rent and either the presumed maximum value or the current market rental value (see § 416.1101), whichever is less. In addition, cash payments to uniformed service members as allowances for on-base housing or privatized military housing are in-kind support and maintenance.

\* \* \* \* \*

[FR Doc. 2023-18213 Filed 8-23-23; 8:45 am]

**BILLING CODE 4191-02-P**