



GOVERNMENT BENEFITS PLANNING: WHAT CLAIMANTS NEED TO KNOW



Government Benefits Hotline: 800-683-4872



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"My family relies on Medicaid and Supplemental Security Income to meet our needs. How will a settlement award affect us?"

"Should I accept my settlement award in the form of a lump sum, or is there a better option for me?"

"My husband is disabled. How can I make sure the settlement will help cover the cost of his medical care?"

"I'm on Medicare. Will my settlement award affect my eligibility?"

Claimants receiving settlement awards often have many questions. It is important to get answers to your questions before receiving your settlement award. If you are on needs-based government benefits, accepting a lump sum settlement could jeopardize your eligibility for these benefits. **Due to rapidly changing regulations, it is always best practice to first speak with your caseworker or local government benefit agency regarding reporting requirements and income thresholds.**

This brochure provides a general overview of both entitlement benefits and needs-based government benefits, along with some basic ways to protect your eligibility for these important programs. Armed with this information, you will be better prepared to make informed decisions about your settlement. If you have additional questions after reviewing this guide, please contact us.

Disclaimer

The Settlement Alliance does not render legal advice with regard to continued eligibility for needs-based government benefits. All information contained herein is based upon published, readily available agency guidelines. The Settlement Alliance aims to provide claimants with the most accurate, up-to-date information in order to facilitate informed decision making with regards to settlement and benefits planning. The Settlement Alliance, through its work and/or client relationship, makes no guarantee of a client's continuing or future eligibility for government benefits.

GOVERNMENT BENEFITS

IF YOU RECEIVE, OR ANTICIPATE RECEIVING IN THE FUTURE, ANY CASH OR MEDICAL ASSISTANCE FROM SOCIAL SECURITY, MEDICARE, MEDICAID, SECTION 8 HOUSING, FOOD STAMPS, OR ANY OTHER GOVERNMENT AGENCY, PLEASE READ THE FOLLOWING INFORMATION THOROUGHLY.

Many public assistance programs that provide monthly income or payments for medical services and/or medical equipment have strict eligibility limits. In determining eligibility, needs-based programs consider your monthly income and the value of the assets that you own. Without careful planning, your settlement award could trigger a reduction in your benefits for a period of time, or in some cases, cause you to lose eligibility entirely. It is important that you consider the specific type of needs-based assistance you are receiving now, or could receive in the future.

Entitlement Benefits

Certain types of benefits are considered “entitlement benefits”. **Eligibility for these types of programs is not determined by income or asset tests, and as such, they should not be interrupted as a result of your settlement.** They include:

- 1. Social Security Disability Insurance (SSDI):** Delivers Social Security benefits to the recipient based on two factors: 1) the number of years of employment during which the individual contributed to Social Security via FICA tax and 2) Social Security’s determination that the person is disabled.
- 2. Social Security Retirement Income:** Provides Social Security retirement benefits for a United States taxpayer who was covered under Social Security and received credits for their previous employment record.
- 3. Medicare:** A federally administered health insurance program for people 65 years of age and older, some disabled people under the age of 65 and individuals who meet certain other criteria. Individuals who receive SSDI benefits are eligible for Medicare after receiving SSDI benefits for 24 months.



REMEMBER: BEFORE MAKING ANY DECISIONS, CONSULT YOUR CASE WORKER AND/OR THE LOCAL AGENCY PROVIDING YOUR BENEFITS.

Needs-Based Benefits

Many retired and disabled individuals who receive entitlement benefits also receive needs-based benefits. **These types of programs do have income and/or asset tests, and could be interrupted as a result of your settlement.** They include:

1. **Supplemental Security Income (SSI):** This is a federal supplemental income program designed to help disabled, blind, and aged individuals who have little or no income. This benefit provides cash to meet basic needs such as food, clothing, and shelter.
2. **Medicaid:** This program is administered by the states, but jointly funded by the federal government and the states. It provides medical coverage for low income individuals and families. In many states, disabled individuals who qualify for SSI automatically become eligible for Medicaid.
3. **Supplemental Nutrition Assistance Program (SNAP):** This is a state program, formerly known as Food Stamps, that helps low income individuals and families purchase food. Each state and/or county may have its own income and asset eligibility requirements for food assistance.
4. **Temporary Assistance for Needy Families (TANF):** This is a state program that provides temporary financial and medical assistance to families in need. Eligibility is based on family size and income.
5. **Subsidized Housing:** This program assists with the cost of housing and rent. It is often called HUD and/or Section 8 housing.
6. **Children's Health Insurance Program (CHIP):** This program, administered by the states, provides medical coverage for children whose families' incomes are too high to qualify for Medicaid, but too low to afford private healthcare coverage.

If you accept a lump sum payment, you will likely lose your needs-based benefits unless you follow spend-down rules to reduce your available cash to meet household asset thresholds. Oftentimes, a cash asset of as little as \$2,000 is enough to jeopardize benefits eligibility. Additionally, giving away any portion of your settlement to a family member or friend can result in a temporary (possibly permanent) loss of benefits or in the government seeking reimbursement for past benefits distributed on your behalf.

To better understand your ability to preserve any government benefits, make sure you explore your options **BEFORE** receiving settlement funds.



REMEMBER: It is your responsibility to report your receipt of a settlement award to your caseworker or the local government benefit agency.

PROTECTING YOUR GOVERNMENT BENEFITS

There are a number of different steps you can take to protect your government benefits. Contact our team at The Settlement Alliance to discuss your options.

SPENDING DOWN & EXEMPTION PLANNING

When determining Medicaid and/or SSI eligibility, certain assets are considered exempt (i.e. these assets are not considered when determining eligibility). These types of assets can vary from state-to-state, but typically include the beneficiary's house, certain household goods, an automobile, and personal items such as clothing, shoes, etc. However, Medicaid does consider assets such as checking accounts, savings accounts, and money market accounts when determining eligibility.

If you are currently receiving needs-based benefits, you might consider "spending down" your award after consulting with your caseworker or agency representative. You must report your settlement award by the 10th day of the month following physical receipt of the funds (some state Medicaid agencies may have earlier reporting requirements). While in some states, certain benefits might be suspended for the month in which you accept your award, if the spend-down is handled properly, you can typically re-qualify for benefits the following month.

Proper spend-downs have a number of stipulations. Some important items to note are:

- » Goods and services must be purchased within same calendar month that the lump sum settlement is received.
- » Funds should only be spent on exempt goods and services purchased for the sole benefit of the beneficiary; therefore, funds cannot be given away nor can the money be used to purchase items or pay for services for others without risking program penalties or a loss of benefits.
- » Allowable expenses can include, but are not limited to: home repairs to accommodate the beneficiary's disability, estate planning costs, funeral and burial arrangements, automobile purchases, clothing, entertainment, travel, furniture and home furnishings, eye glasses, fitness equipment, non-food grocery items, and certain other goods and services not otherwise covered by Medicaid/Medicare, including medical expenses, dental work, and over-the-counter medications.
- » Be sure to keep any relevant receipts and records to demonstrate that you have followed the spend-down rules.
- » Again, it is imperative that you speak with your caseworker or local agency about your individual situation. These representatives will be best equipped to provide the exact guidelines that exist within your state or jurisdiction.



REMEMBER: Timing is critical. You must have a plan for spending down BEFORE receiving your settlement proceeds.

SPECIAL NEEDS TRUSTS

If you are currently receiving needs-based benefits such as SSI and Medicaid and deemed disabled, you may want to consider a Special Needs Trust or a Pooled Special Needs Trust to preserve your benefits [as stated in 42 U.S.C. §1396p (d)(4)(A) & (d)(4)(C)]. Even if you are over 65 and deemed disabled, some state Medicaid programs will allow you to utilize a Pooled Special Needs Trust to maintain benefits without penalty. **If you are currently receiving needs-based benefits, please contact The Settlement Alliance at (800) 683-4872 to learn more about your options.**

Placing settlement proceeds into a Special Needs Trust allows you to access your settlement without jeopardizing your eligibility for needs-based benefits such as Supplemental Security Income (SSI), Medicaid, food stamps, and/or subsidized housing programs.

There are federal and state guidelines that determine how a Trustee of your Special Needs Trust can distribute funds in the trust for your benefit. Generally, the trust fund can be used to purchase goods and services to supplement your needs-based benefits. Special Needs Trusts can greatly improve a disabled person's quality of life by providing resources that are not currently available through their governmental programs.

Examples of goods and services eligible for distributions are:

- » Purchasing a home; paying off a mortgage on a home; modifying a home to accommodate an individual's disabilities; home repairs, remodeling, or deferred maintenance expenses
- » Purchasing an automobile and/or paying for registration and insurance
- » Purchasing home furnishings or appliances
- » Medical expenses and/or bills not covered by Medicaid or Medicare (e.g. higher quality wheelchair than what is authorized by Medicaid/Medicare)
- » Dental expenses, eye glasses, physical therapy, support services not covered by any benefit program
- » Education expenses (including computer, software, books, etc.)
- » Entertainment/recreation expenses
- » Paying off debts (e.g. existing credit card debt, loans with supporting paperwork)
- » Personal hygiene (e.g. haircuts, manicures)

Upon the disabled person's death, the Trustee for the Special Needs Trust must reimburse the state up to the amount of medical assistance provided by Medicaid, should any funds remain. All other remaining funds after reimbursement of Medicaid may be eligible for distribution to beneficiaries and/or heirs.



REMEMBER: You must create or join a Special Needs Trust BEFORE accepting your settlement proceeds. The terms of the trust cannot be changed once it is funded.

**Questions about how your settlement will affect your government benefits?
Contact us today.**



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