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Social Security Administration
Office of Legislation and Congressional Affairs
Regulations and Reports Clearance Staff
Mail Stop 3253 Altemeyer
6401 Security Blvd.
Baltimore, MD 21235

**Re: Notice of Proposed Rulemaking: Docket No. SSA-2023-0010
Expansion of Rental Subsidy Policy for SSI**

[Submitted via www.regulations.gov]

Dear Acting Commissioner Kijakazi:

The National Women's Law Center (the "Center") takes this opportunity to comment in support of the Social Security Administration (SSA) proposed rule to expand the Rental Subsidy Policy for Supplemental Security Income (SSI) Applicants and Recipients, which would implement the exception to the current SSI Rental Subsidy Policy that seven states receive to all 50 states.

The Center fights for gender justice—in the courts, in public policy, and in our society—working across the issues that are central to the lives of women and girls. The Center uses the law in all its forms to change culture and drive solutions to the gender inequity that shapes our society and to break down the barriers that harm all of us—especially women of color, LGBTQI+ people, and low-income women and families. For over 50 years, the Center has been on the leading edge of every major legal and policy victory for women.

SSI is an important anti-poverty support for women, especially women of color and disabled women.¹ Due to systemic discrimination in the United States, women are more likely than men to live below the federal poverty line—with women of color and disabled women experiencing even higher rates of poverty than women overall.² Discrimination

¹ Courtney Anderson and Shengwei Sun, *SSI Supports Older and Disabled Women with Very Low Incomes. Improving SSI Would Advance Gender, Racial, and Disability Justice*, NAT'L WOMEN'S L. CTR. (Aug. 2022), <https://nwlc.org/resource/ssi-supports-older-and-disabled-women-with-very-low-incomes-improving-ssi-would-advance-gender-racial-and-disability-justice/>.

² *Id.*

in housing and other economic systems also means that many women of color and disabled women face housing insecurity.³

The current SSI Rental Subsidy Policy has a detrimental impact of in-kind support and maintenance (ISM) reductions for many SSI recipients.

Under current policy, the maximum an individual can receive in SSI benefits is called the Federal benefit rate (FBR), which is \$914 in 2023. If an SSI recipient receives income, whether it be earned or unearned, their SSI benefits are reduced. In-kind support and maintenance (ISM) is considered unearned income for the purposes of SSI. However, there are special rules for food or shelter that is received as ISM.⁴

The existing Rental Subsidy Policy has two rules for valuing ISM: the value of one-third reduction (VTR) rule and the presumed maximum value (PMV) rule. The VTR rule applies if an SSI recipient is living in the household of another who provides them with both food and shelter at no cost; under this rule, SSA will reduce the federal benefit rate (FBR) by one-third. The PMV rule applies in all other situations, such as when someone helps an SSI recipient with paying for housing but not food. Under this rule, a recipient would have their SSI benefits reduced by one third plus \$20.⁵

An individual is not considered to be receiving ISM in the form of shelter if their rent payments equal the current monthly rental value (CMRV), which is the price of the rent on the open market. This is known as a “business arrangement.” Under the current rules, however, if the rent being paid is less than the CMRV, then SSA counts the difference between the rental amount that the recipient pays and the CMRV as ISM. SSA effectively applies the PMV rule by presuming that the housing is worth one-third of the FBR plus \$20.⁶

Court decisions required SSA to provide an exception to the Rental Subsidy Policy in seven states—Connecticut, New York, Vermont, Illinois, Indiana, Wisconsin, and Texas. In these seven 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.”⁷ This means that the business arrangement may have a lower threshold in these seven states, because the PMV is often lower than the CMRV. The proposed rule applies this exception to all 50 states.⁸

The Center supports the proposed rule’s expansion of the Rental Subsidy Policy nationwide because it simplifies the SSI program, advances equity, protects SSI

³ Sammi Aibinder, Andrea Flynn, Richelle Gernan, Sarah Hassmer, & Rakeen Mabud, *The Roots of Discriminatory Housing Policy: Moving Toward Gender Justice In Our Economy*, NAT’L WOMEN’S L. CTR, INSIGHT CTR, AND GROUNDWORK COLLABORATIVE (Aug. 2022), <https://nwlc.org/resource/the-roots-of-discriminatory-housing-policy-moving-towards-gender-justice-in-our-economy/>.

⁴ Expansion of Rental Subsidy Policy for Supplemental Security Income (SSI) Applicants and Recipients, 88 Fed. Reg. 57910 (Aug. 24, 2023) (to be codified at 20 CFR pt 416).

⁵ *Id.* at 57911.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at 58912.

beneficiaries from reductions to their already-modest benefits, and promotes uniform treatment of rental assistance.

This change will make the SSI program simpler and more equitable as well as reduce the detrimental impact of ISM reductions for many SSI recipients. While SSI is important in providing a basic income floor to people who are the most economically disadvantaged, it is not enough to lift someone above the poverty line—the 2023 FBR for an individual is about 75 percent of the federal poverty threshold.⁹ The seven states that have already expanded their rental subsidy policies have learned first-hand that this helps many SSI recipients to keep their full SSI benefits, which means they are better able to meet more of their basic needs. SSA’s national implementation of this expansion will enable SSI recipients across the United States to benefit.

Many SSI recipients struggle to afford housing, in particular. SSI recipients cannot afford fair market rents anywhere in the country on just their SSI benefits.¹⁰ The 2023 FBR for an individual is \$914 per month, while the national housing wage—an estimate of the hourly wage that a full-time worker must make to afford a rental home at fair market rent without spending more than 30 percent of their income on housing costs—in 2023 is \$23.67 per hour for a modest one-bedroom rental home.¹¹ That means that the FBR is approximately one-fourth of the national housing wage for a one-bedroom unit.

Thus, in order to access housing, many SSI recipients must rely on federal housing assistance, double up in shared living situations, or rely on family or other private assistance to pay some portion of their rent directly. However, SSI recipients who receive federal housing assistance receive their full amount of SSI benefits (even though they do not pay the full market value for rent), while those who rely on private assistance experience reductions in their SSI benefits under SSA’s current ISM policy. Reducing SSI benefits for recipients who receive help with housing costs from family or other private sources is especially inequitable because only 1 in 4 eligible households receive federal housing assistance.¹² The proposed rule would lessen this longstanding inequity.

SSA’s proposed rule to expand the Rental Subsidy Policy will allow more SSI beneficiaries to receive the full amount of their extremely modest benefits. Because women, especially women of color and disabled women, are more likely to live in poverty, the proposed rule is a step in the right direction to ensure SSI can provide a basic living standard for the most economically disadvantaged, and would advance gender, racial, and disability justice.

⁹ Anderson and Sun, *supra* note 1.

¹⁰ *Id.* at 3.

¹¹ Andrew Aurand, Mackenzie Pish, Ikra Rafi, and Diane Yentel, *Out of Reach, The High Cost of Housing*, NAT’L LOW INCOME HOUSING COALITION (2023), <https://nlihc.org/oor>.

¹² Sonya Acosta and Erik Gartland, *Families Wait Years for Housing Vouchers Due to Inadequate Funding*, CTR. ON BUDGET AND POLICY PRIORITIES (July 22, 2021), <https://www.cbpp.org/research/housing/families-wait-years-for-housing-vouchers-due-to-inadequate-funding>.

Thank you for this opportunity to comment on this proposed rule. Please do not hesitate to contact Talia Grossman at tgrossman@nwlc.org to provide further information.

Sincerely,



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National Women's Law Center



Talia Grossman
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