



## **Should an SSI Recipient Simply Refuse an Inheritance?**

Supplemental Security Income (SSI) beneficiaries must cope with very stringent income and asset rules in order to receive benefits. One of the easiest rules to remember is the resource allowance: a single SSI beneficiary may own only \$2,000 of countable resources. So when an SSI beneficiary finds out that he is going to receive an inheritance, his first reaction may be to refuse to accept it. But this refusal, also known as a disclaimer, might make things even worse for the beneficiary.

The Social Security Administration (SSA) considers an inheritance, even if it is never actually distributed to the beneficiary, as a resource for SSI purposes. So if a beneficiary disclaims her inheritance, the SSA calls the disclaimer a transfer of resources because the beneficiary is giving up control of the resource, even if she never had the money in her bank account. The SSA will penalize the beneficiary for making the transfer by canceling her SSI benefit for a period of up to three years, depending on the size of the disclaimed inheritance.

When confronted with this situation, a common reaction, especially from family members of the beneficiary who might stand to gain from the disclaimer, is to say that the SSA will never find out about the disclaimer because the money isn't passing through the beneficiary's bank account. Unfortunately, this attitude is not only wrong, but it violates a host of federal regulations. An SSI beneficiary has a legal duty to inform the SSA whenever she becomes entitled to an inheritance and to let the agency know if she disclaims it. Failure to inform the SSA of these changes can create additional penalties for the beneficiary and might, in certain circumstances, result in prosecution of the beneficiary or family members who are managing her affairs.

Luckily, an SSI beneficiary doesn't have to lose the benefit of her unexpected inheritance. Instead of disclaiming an inheritance, the beneficiary should accept it and then transfer the funds, perfectly legally, to a first-party special needs trust or a pooled special needs trust. Once the assets are in the trust, the beneficiary will be able to continue to receive SSI benefits, but the trust funds can be used for her benefit. On the other hand, if the beneficiary had disclaimed the inheritance, she would not only lose her SSI benefits but she wouldn't gain from her inheritance either.

If you or your loved one receives an inheritance, do not give it away. Call Attorney D'Onofrio immediately to talk about your other, better options.

For more information about special needs planning in general and special needs trusts in particular, contact Attorney John D'Onofrio today.

**As a member of the Academy of Special Needs Planning, John is constantly reviewing new laws and amendments in this area of law as well as attending seminars and continuing education classes relevant to special needs planning and trusts.**

Call today to schedule a free initial consultation. Call today, get peace of mind today.

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