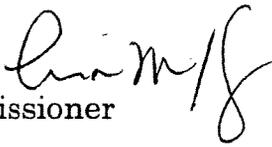




STATE OF NEW YORK
OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

MEMORANDUM

TO: Executive Directors – OMRDD Voluntary-Operated
Residential Programs
Provider Associations
DDSO Directors

FROM: Lisa M. Kagan 
Associate Commissioner

DATE: March 17, 2004

SUBJECT: REVISED: Use of Special Needs Trust Monies for SSI Recipient
Vacation Expenses

The purpose of this memorandum is to share Social Security Administration (SSA) Region II clarification on use of a Supplemental Security Income (SSI) recipient's Special Needs Trust (SNT) funds for vacation expenses.

Background

The Office of Mental Retardation and Developmental Disabilities (OMRDD) learned that some Social Security Administration (SSA) field offices have penalized Supplemental Security Income (SSI) recipients residing in OMRDD certified residences where the resident's SNT was used to pay vacation expenses. The SSA field offices were "counting" vacation hotel and restaurant expenditures as income. This resulted in a reduction in the consumer's monthly SSI check. To address this issue, OMRDD asked for a policy clarification from SSA Region II, which oversees the various SSA field offices.

SSA Region II Clarification

SSA Region II clarified that where an individual residing in an OMRDD certified residence is temporarily absent from the residence for a vacation, SNT expenditures for hotels and restaurants do not constitute "In-kind Support and Maintenance" and are therefore not considered income. Consequently, there should not be a reduction in the resident's SSI monthly check. SSA Region II's clarification is based on the vacationing resident's continued responsibility to pay for room and board at the certified residence during this period of "temporary absence."

It should be noted that when an individual temporarily leaves the certified residence to visit family or friends, the provision of food and shelter by the family or friends also should not result in a reduction in the monthly SSI benefit.

SSA Requirements

To use SNT funds for vacation expenses, including hotel, restaurant and out-of-pocket expenses for staff who accompany the resident, there are SSA requirements, which must be met. These requirements are as follows:

- The individual must meet SSA requirements for "temporary absence" from the residence. Per the SSA Program Operations Manual System (Section SI 00835.040), the individual must have been in his permanent living arrangement for at least one full calendar month prior to the "temporary absence." Further, the person must intend to and actually return to the permanent living arrangement he leaves in the same calendar month or in the next.
- Money taken from the trust may not be given directly to the individual to pay for vacation expenses. Rather, the SNT trustee must directly pay hotel and restaurant charges, etc.
- Lastly, the resident can use a credit card for the vacation expenses, so long as the SNT trustee pays the credit card bill.

Social Security Administration Prior Approval Requirement

In March 11, 2002 and April 1, 2003 memoranda sent to executive directors of voluntary agencies operating OMRDD certified residences, we notified you that SSA must prior approve use of SSI monies to pay for out-of-pocket expenses of voluntary provider staff accompanying a resident on a vacation. Please be aware that this prior approval process does not apply where all the funds used for this purpose come from the SNT.

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Any questions concerning this memorandum or the SSA prior approval process may be addressed to Deirdre Dugan via e-mail (Deirdre.Dugan@omr.state.ny.us) or via telephone at (518) 402-4339. Your local OMRDD Revenue Support Field Office (RSFO) can also answer these questions. If you need the telephone number of your RSFO, the information is available on the Internet (address noted below) or you may contact Ms. Dugan for this information.

http://www.omr.state.ny.us/document/medicaid/hp_rsfo.jsp

km

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