

398-1.1: Scope and purpose

- Such benefit issuances are intended to support current and ongoing needs and are not intended to otherwise retroactively redress any claimed need for support with regard to past periods of SSI eligibility where such individual or couple is no longer eligible for such benefit issuance.
- SSP benefits may not be issued to, or assigned on behalf of, deceased individuals, their payees, relatives, heirs, estates or on behalf of any debt, including any debt owed to a congregate care facility where such individual may have been provided care, room and board, or any other private or public entities to whom the deceased SSP recipient may owe any debt or legal obligation.

§ 398-2.1: Definitions

- Retroactive benefits. Retroactive benefits are SSP benefits, or SSPNA, issued for specific past period(s) of eligibility for which the recipient received SSI benefits between the month of initial federal SSI eligibility and *active receipt* of SSI as defined in section 398-2.1 of this Part or for any period in which the SSP or SSPNA benefit is reinstated after a period of suspension or termination.
 - May only be issued to an individual or couple currently eligible for SSP benefits or SSPNA.
 - Retroactive benefits may not be issued to, or assigned on behalf of, deceased individuals, their payees, relatives, heirs, estates, or on behalf of any debt, including any debt owed to a congregate care facility where such individual may have been provided room and board, or any other private or public entities to whom the deceased SSP recipient may owe any debt or legal obligation.
- Living arrangements. Living Arrangements are categories of community living situations or congregate care settings which are criteria used to establish SSP eligibility and the SSP benefit level of individuals or couples. Where an SSP recipient receives both SSP and Supplemental Nutrition Assistance Program (SNAP) benefits and there is an observed discrepancy between the living arrangement information reported to SSP by the SSP recipient and the SNAP case record, the information as regards household composition contained in the SNAP record shall be determinative for SSP purposes.
- State Supplement Program benefit. The SSP benefit is provided in accordance with NYS law and rules to individuals or couples, for whom SSA has established with an eligible federal SSI payment status code as defined in this Part, and who are in *active receipt* of federal SSI benefits or who would be in active receipt of federal SSI benefits except for countable income, and who meet all other State eligibility criteria for receipt of prospective SSP benefits as of the time the SSA electronic data file containing such individual or couple's SSI eligibility determination is transmitted to NYS via the SDX with federal payment status codes as defined in section 398-2.1 of this Part.
- Timely reporting. Timely reporting means the reporting of change in circumstances and/or any factors which effect eligibility and benefit amount, as listed in section 398-5.2 of this Part, to the Office by SSP or SSPNA recipients, or their designated representatives, payees, or other parties authorized to provide such information in a time period not to exceed 10 days after the change occurred.

- Underpayment. An underpayment is the difference between the amount of benefits that the recipient was eligible to receive while in active pay status for SSP or SSPNA and the lesser amount of benefits which were actually issued to or on behalf of the recipient. Restored SSP benefits on account of underpayments 14 may only be issued to eligible individuals in active receipt of SSP benefits. **SSP underpayments may not be issued to, or assigned on behalf of, deceased individuals, their payees, relatives, heirs, estates or on behalf of any debt,** including any debt owing to a congregate care facility where such individual may have been provided room and board, or any other private or public entities to whom the deceased recipient may owe a debt or legal obligation.

§ 398-4.2: Eligibility requirements for SSP benefits

- To be eligible for SSP benefits, an individual or couple must be in “*active receipt*” of federal Supplemental Security Income (SSI) benefits or otherwise be in active receipt of SSI benefits at the time the relevant federal Social Security Administration (SSA) electronic data file is transmitted to New York State (NYS) via the State Data Exchange (SDX).
 - “Active Receipt of SSI” is defined on page 4 as: an individual or couple for whom SSA has established an eligible federal SSI payment status code as defined in this Part, who is in current pay status for federal SSI benefits, or who would be in current pay status for federal SSI benefits except for countable income. Such individual or couple must also meet all other State eligibility criteria for current ongoing SSP benefit issuances as of the time that the federal SSA electronic data file containing such individual’s or couple’s relevant SSI eligibility determination is transmitted to NYS via the SDX with federal payment status codes as defined in section 398-2.1 of this Part.

§ 398-4.5: New York State living arrangements

- If there is discrepancy between the living arrangement information reported to SSP by the SSP participant and the Supplemental Nutrition Assistance Program (SNAP) record, the information on household composition in the SNAP record will take precedence. (p. 19)

§ 398-5.2 Responsibility for furnishing information

- SSP recipients who receive both SSI and SSP benefits must comply with requests from the Office to provide information on factors which affect eligibility and the amount of SSP benefits, including but not limited to factors affecting the NYS living arrangement. Such information must be provided in a “*timely manner*” as defined in section 398-2 of this Part.
 - Timely reporting. Timely reporting means the reporting of change in circumstances and/or any factors which effect eligibility and benefit amount, as listed in section 398-5.2 of this Part, to the Office by SSP or SSPNA recipients, or their designated representatives, payees, or other parties authorized to provide such information in a time period **not to exceed 10 days after the change occurred.**

§ 398-6.2: Documentation

- Amends the response time to requests for information and/or documentation made by OTDA from 30 calendar days to 10 days from the date of the request.

- “SSP recipients must respond to requests for information and/or documentation made by the [office] Office within [30 calendar] 10 days from the date of the request.”

Amend § 398-11.1: Adjustments or recoveries

- Clarifies that no SSP retroactive benefits or underpayment adjustments will be paid to individuals who are not in active receipt of SSI benefits.
 - “Whenever the Office finds that more or less than the correct amount of benefits has been paid to an individual or couple actively receiving SSP benefits or SSPNA, proper adjustment or recovery will be made. Proper adjustments will be made consistent with sections 398-11.2 and 398-11.3 of this Part to those individuals in active receipt of SSP as defined in section 398-2.1 of this Part.”

Amend § 398-11.3: Underpayments

- Repeals existing regulatory language and replace it with a formula for calculating an underpayment and to clarify that corrective action will be taken if an underpayment occurs and that underpayments may only be issued to currently active SSP recipients.
 - “An underpayment is the difference between the amount of SSP benefits that a SSP recipient was eligible to receive while currently receiving SSP benefits and in active pay status for federal SSI benefits as defined in section 398-2.1 of this Part, with an eligible federal payment status code as defined in section 398-2.1 of this Part as of such time that the federal SSA electronic data file, containing such individual’s or couple’s relevant SSI eligibility determination is transmitted to NYS via the SDX and the lesser amount of SSP benefits actually issued to or on behalf of the SSP or SSPNA recipient. When the Office determines that an underpayment has occurred, appropriate corrective action will be taken.”
 - “Underpayments may only be issued to currently active SSP recipients. Underpayments will be limited to the month the change was reported and three prior consecutive months when due to untimely reporting, by a recipient, as defined in section 398-2.1 of this Part. SSP underpayments may not be issued to, or assigned on behalf of, deceased individuals, their payees, relatives, heirs, estates or on behalf of any debt, including any debt owing to a congregate care facility where such individual may have been provided room and board, or any other private or public entities to whom the deceased SSP recipients may owe payment.”