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**Working with SSA Part II:
Updates, Practice Tips, and More****Neal A. Winston**

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Working With SSA Part II: Updates, Practice Tips, and More

SSI SNT Policy Creation and Administration

The Social Security Administration (SSA) has about 60,000 employees, down about 10% in the last several years with further cuts threatened¹. It is headed by a Commissioner appointed by the President for a 6 year term. Former Deputy Commissioner of Operations, Nancy A. Berryhill, is serving as Acting Commissioner subject to nomination of a new Commissioner expected later this year by the new President. The SSA central office is located in Baltimore. There are 10 regional offices located in Boston, New York, Philadelphia, Atlanta, Chicago, Dallas, Kansas City, Denver, San Francisco, and Seattle. There are 1,230 field offices directly serving beneficiaries and recipients, with 8 processing centers around the country providing support for the various Social Security administered programs.

The Supplemental Security Income (SSI) program has about 8.3 million recipients, as compared to about 60.86 million beneficiaries receiving Social Security Retirement, Disability, Survivors, and Dependents Insurance Benefits (RSDI), although some individuals receive benefits from both programs. The SSI program is administered under the SSA Deputy Commissioner of Retirement and Disability Policy by the Office of Income and Security Programs (OISP). Specific SSI policy is formulated in a division of the OISP.

Uniform SSI policy is passed down from the OISP to the regional and local offices. Other "stakeholders", both inside and outside the agency have policy input and influence, ranging from the Executive Office of Management and Budget, to Congressional budgetary oversight, to the Centers for Medicare and Medicaid Services (CMS), and to the SSA offices of the General Counsel and Operations, to name a few. The policy is then applied by the local offices for administration of specific cases. The contact point for recipients and representatives is always initially the local office, although letters and directives are sometimes issued directly to a recipient from a processing center or the central office in Baltimore.

¹ SSA public affairs blog issued 1/9/17: Dear Colleague: Due to serious budget constraints, we are suspending mailings of paper Social Security Statements to workers under the age of 60. We will continue mailing Statements to those 60 and over who do not have a my Social Security online account and are not receiving Social Security benefits. In addition, we have enacted a hiring freeze and dramatically reduced overtime hours that help us process work after assisting customers in our offices and on the phone. You can read more about these changes and the current budget situation here on the Social Security Matters blog. Please share this information with your members and networks. Thank you for helping Social Security continue securing today and tomorrow as we rise to this challenge! Sincerely, J. Jioni Palmer Associate Commissioner for External Affairs (T) 410-965-1804. See also @SSAOutreach<http://blog.socialsecurity.gov/finding-value-and-my-social-security-in-light-of-budget-cuts/>

Sources of Written SSI SNT Policy

Until 2000, the SSI program only considered a trust, whether created by the recipient or a third-party, as a form of resource or source of income that was processed like any other resource or income. Beginning January 1, 2000, federal law created under the Foster Care Independence Act of 1999² (FCIA) applied the Medicaid self settled trust requirements of the Omnibus Reconciliation Act of 1993³ (OBRA '93) to the SSI program. The federal statutes covering application of self settled trust policy to this program is principally found at 42 USC §1396p (d)(4)(A) and (d)(4)(C), and thus we commonly call SSI compliant self settled trusts by an individual as "D4A" trusts, and pooled trusts as "D4C" trusts. Policy for third-party created trusts remained the same as previously applied prior to the FCIA.

The SSI regulations are located at 20 CFR 416, but do not specifically discuss or recognize the application of OBRA '93 or any other SSA trust policy. The SSA has a very detailed employee operating manual called the Program Operating Manual System (POMS). Over 50,000 pages, it is printed online, and the agency and public versions are updated constantly. The public version home page is found at <https://secure.ssa.gov/poms.nsf/homelreadform> , and the portion that describes trust creation and administration as applied to the SSI program is located at SI 01120.195-227. Special needs trust advocates principally refer to sections .200 through .203 for guidance.

There are no public notice requirements for changes to the POMS, and changes are freely made at the sole discretion of the agency. The agency maintains a prior three-month list of "Recent Changes" found with a button on the POMS home page⁴.

The home page also has a "Help" button describing how the manual can be accessed. To access the trust sections most often used by advocates, go to the homepage and click on "Table of Contents", then "SI - Supplemental Security Income", and then "SI - O11: Resources". Scroll down to the trust sections beginning at SI 01120.200. Note that there are numerous following sections beginning with "SI **BOS**01120...", "SI **DAL**01120...", and so on (bold emphasis added). These are known as "Regional POMS" and are typically added by a regional office to handle regional and state specific applications of the POMS for creation or administration of a trust. For an example of a regional POMS for Region VI (the Dallas region) interpreting state law involving the irrevocability of a trust, see SI DAL01120.200 Trust Property.

² P.L. 106-169

³ P.L 103-66

⁴ <https://secure.ssa.gov/appsIO/public/reference.nsf/instructiontypecode!openview&restricttcategory=POMT>

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