

**SOCIAL SECURITY ADMINISTRATION**  
**Office of Disability Adjudication and Review**

**DECISION**

**IN THE CASE OF**

**CLAIM FOR**

\_\_\_\_\_  
(Claimant)

\_\_\_\_\_  
Supplemental Security Income

\_\_\_\_\_  
(Wage Earner)

\_\_\_\_\_  
(Social Security Number)

**JURISDICTION AND PROCEDURAL HISTORY**

The claimant is an individual who filed an application for Supplemental Security Income (SSI) benefits on December 31, 2015. On March 21, 2016, the Social Security Administration issued a notice stating that the claimant was ineligible for SSI benefits because her resources are worth more than \$2,000 from December 2015 forward (Exhibit 7). On May 16, 2016, the claimant filed a request for reconsideration, disputing the facts and the ineligibility for SSI benefits (Exhibit 8). A personal conference was held with the claimant on August 19, 2016, and upon reconsideration on August 20, 2016, the Social Security Administration affirmed its previous determination (Exhibits 10 and 11). Thereafter, the claimant filed a written request for hearing before an ALJ on September 29, 2016 (20 CFR 416.1429 *et seq.*) (Exhibit 12).

The claimant appeared and testified at a hearing held on July 17, 2017, in Worcester, Massachusetts. The claimant testified with the assistance of MaryAnn Kasunick, a Spanish translator. The claimant is represented by Rachel Brown, an attorney.

**ISSUES**

The issue is whether the claimant received income within the meaning of section 1612 of the Social Security Act (Act), or resources under section 1613 of the Act, that would result in a reduction of, or ineligibility for SSI benefits under section 1611 of the Act.

After careful consideration of all the evidence of record, the undersigned concludes that the claimant's resources did not cause ineligibility for SSI benefits at any time pertinent to this decision.

**APPLICABLE LAW**

An individual is eligible for SSI benefits if he or she is an aged, blind, or disabled person who meets certain residency and citizenship requirements, and who has limited income and resources (20 CFR 416.202, 416.1100, 416.1205). If you live with your spouse, or are a child living with your parents, we deem to you the income and resources of your spouse or parent. We use the term deeming to identify the process of considering another person's income to be your own.

When the deeming rules apply, it does not matter whether the income or resources of the other person are actually available to you (20 CFR 416.1160(a), 416.1202, and 416.1204).

If your countable income and/or resources do not exceed the applicable limits, they have no effect on your eligibility for SSI (20 CFR 416.202). However, the amount of your countable income reduces the amount of your SSI benefits (20 CFR 416.1100). We generally do not count the first \$20 of income received in a month (20 CFR 416.1112, 416.1124). We also do not count the first \$65 of earnings and one-half of earnings over \$65 received in a month (20 CFR 416.1112). There is a dollar for dollar reduction for monthly countable unearned income (20 CFR 416.1123). If countable resources exceed the limits, you are not eligible for any payment (20 CFR 416.202, 416.1100, 416.1205).

Resources are cash or other liquid assets or any real or personal property that an individual (or spouse, if any) owns and could convert to cash to be used for his or her support and maintenance, with the exception of the exclusions outlined in 20 CFR, Part 416, Subpart L. Resources may include items such as stocks, bonds, mutual fund shares, promissory notes, mortgages, life insurance policies, financial institution accounts, and similar items (20 CFR 416.1201). However, certain types of items are not counted as resources, including the home, if it is your primary residence (20 CFR 416.1212); household goods and personal effects (20 CFR 416.1216); and an automobile, if used for transportation (20 CFR 416.1218), among other exclusions (*See, generally*, 20 CFR, Part 416, Subpart L).

As of January 1, 1989, the statutory limit for resources is \$2,000 for an individual, and \$3,000 for an individual with an eligible spouse (20 CFR 416.1205). Resource eligibility is a determination made as of the first moment of each calendar month and is applicable for the entire month. Subsequent changes have no effect until the following month's resources determination. Thus, resources eligibility (or ineligibility) exists for an entire month at a time (20 CFR 416.1207).

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

After careful consideration of the entire record, the undersigned makes the following findings:

- 1. The claimant is an individual who filed an application for SSI benefits on December 31, 2015. On March 21, 2016, SSA issued a notice stating that the claimant was ineligible for SSI benefits because her resources are worth more than \$2,000 from December 2015 forward (Exhibit 7).**
- 2. During the period of eligibility, the claimant had countable resources. However, the claimant's resources did not make her ineligible for SSI benefits (20 CFR 416.202, 416.1100, and 416.1205).**

This is an SSI excess resources case. The claimant co-owns a home in Puerto Rico with her ex-husband. The alleged value of the property is \$30,000. Since the house is co-owned, half of the value is excludable to the claimant. The claimant is a victim of domestic violence perpetrated by her ex-husband. She stated to the Field Office that she is terrified of her ex-husband and wants

[REDACTED]

nothing to do with the house. The house is in disrepair but is on the market with the claimant's name and telephone number as the owner. The claimant and [REDACTED] divorced in 2009.

In a Brief dated May 16, 2017 (Exhibit 23), the claimant's attorney argued that the claimant would have to enter into litigation with her ex-husband in order to sell the home. The representative presented pictures that show the state the home is in as well as a copy of the listing for the property in question (copy of the listing in CFRMS is not legible). The undersigned has carefully considered the Affidavits of the claimant's children, [REDACTED] (Exhibit 25), [REDACTED] (Exhibit 26), and [REDACTED] (Exhibit 27).

At the hearing, the claimant testified that she has three children, and they loaned her money to buy a house. She stated that she borrowed money from her sister, but she passed away. The claimant indicated that she lives with her son. She testified that she has lived in Massachusetts more than three years, and she lived in Rhode Island before Massachusetts. The claimant stated that she lived in Puerto Rico four years ago. The claimant testified that she purchased a house with her ex-husband [REDACTED], and they are divorced. She indicated that the deed says that \$45,000 was the purchase price. The claimant explained that she and her children left the house due to mistreatment. She described that she has four children, and all the children lived in the house with the claimant and her ex-husband. The claimant stated that her ex-husband went to jail. She described that she last saw the house about four years ago, and it was "destroyed" and abandoned. The claimant added that the roof leaked. She explained that attempts were made to sell the house, including putting a sign up and a newspaper ad, but her ex-husband will not help. The claimant stated that the house has three bedrooms and one bath. She testified that she has a spine condition, hypertension, diabetes, depression, and trouble with her memory.

The undersigned finds the claimant's testimony to be consistent with her allegations and the evidence of record. The undersigned agrees with Attorney Brown's arguments in the brief dated May 16, 2017 (Exhibit 23).

**3. The asset cannot be easily liquidated easily. The asset is in poor condition. Under the divorce decree, the property shall be divided by area laws (Exhibit 3). The claimant has no contact with her ex-husband. There are no documents. The deed has both names, and she would need to file a lawsuit. Social Security Rules do not require the claimants to engage in litigation.**

**4. The claimant is unable to commence litigation due to fear of domestic violence and travel issues.**

**5. The claimant owes money to her children for purchase of the house, so even if she could sell it, there is not much equity left.**

**6. The claimant's ex-husband is not reachable (Exhibit 23).**

**7. The resource is inaccessible and did not affect her eligibility for SSI benefits at any time pertinent to this decision (20 CFR 416.410, 416.412, and 416.1205).**

DECISION

Based on the hearing request regarding the determination that the claimant had resources that affect the eligibility for SSI benefits, the undersigned finds that the claimant's resources did not affect her eligibility for SSI benefits at any time pertinent to this decision, pursuant to section 1611 of the Social Security Act.

*Michael P. Breton*

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Michael P. Breton  
Administrative Law Judge

August 17, 2017

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Date