

Pickle Amendment

In 1989, Steve suffered a stroke and a brain aneurysm. He applied for SSI and began receiving SSI and Medicaid in 1990. When Steve turned 62 in July of 2008, Social Security required him to apply for early retirement benefits (Title II). At that time Steve's SSI check was \$637 per month. In September of 2008, when Steve received his first Title II check of \$670, he lost his SSI and Medicaid eligibility because he was now \$13 over the limit. Without Medicaid, and because he is not yet eligible for Medicare, Steve cannot afford to pay for his medical treatment or prescriptions.

Pickle Amendment

- What is the Pickle Amendment?
- Pickle People: Who does Pickle apply to?
- Why is it important to find Pickle People?
- How do you know a Pickle Person when you see one?
- Some commonly unidentified Pickle Persons
- Problems, Points, and Texas Law Issues

What is the Pickle Amendment?

- The Pickle Amendment is a 1977 amendment to the Social Security Act named after its House sponsor, Claude Pickle
- Restores Medicaid to former SSI recipients who would still be eligible for SSI (or OAP) if not for Social Security COLA (Cost of Living Adjustment) increases

Pickle People: Who does Pickle apply to?

- A Pickle Person is a Social Security (Title II) recipient who is eligible for Medicaid benefits because some of her/his Social Security COLAs are not counted due to the Pickle Amendment

Why Is It Important to Find Pickle Persons?

- Medicaid benefits for the person
 - Prescription costs
 - More extensive mental health benefits
 - Medicare premiums, co-pays, deductibles
- Medicare two-year waiting period
- No one is looking
 - Referral sources and many social service techs do not recognize Pickle persons

The Pickle person pool increases every year!!

How Do You Know a Potential Pickle Person When You See One?

- Current Social Security recipient
- Was both:
 - Entitled to Social Security and
 - Eligible for (and received) SSI in the same month sometime since 1977
 - Often referred to as “dual eligibility”

How Do You Know an Actual Pickle Person When You See One?

- A Potential Pickle person
 - who would now be eligible for SSI or OAP
 - if you did not count their Social Security COLAs from the date dual eligibility ended

Example:

Lisa applied for SSDI and SSI in 1990. Social Security found her disabled and she started receiving Medicaid and \$386 in SSI in May of 1990. That October, she received a retroactive SSDI check and an October SSDI check for \$688. She then lost SSI and Medicaid because her income was over the SSI standard.

Lisa is now 47. Her monthly income is \$1200 in SSDI and she has \$300 in her bank account. Her Medicare won't pay for mental health treatment or Zyprexa.

How Do You Know a Pickle Person When You See One? Example:

- Is Lisa a current Social Security recipient? **Yes.**
- Was she simultaneously entitled to Social Security and entitled to (and received) SSI in some month since 1977 (“dual eligibility”)? **Yes – September 1990.**
- Would she now be eligible for SSI or OAP if Social Security COLAs from the date dual eligibility ended were disregarded? [**How do we determine this?**]

Determining SSI Eligibility

- Disabled (same standard as for SSDI)-**yes**
- Countable resources (bank accounts, cash, etc.) below \$2000-**yes**
- Countable income below SSI standard of need (\$674 in 2009)-**??**

Determining Countable Income

- Social Security income:

- Current Social Security benefit minus COLAs since SSI last ended.

- Approximation from Pickle Eligibility Screen, [$\$1200 \times .573 = \688] or

- Actual SSDI benefit when SSI ended, obtained from SSA [$\$688$]

- Minus \$20 general disregard [$\$688 - \$20 = \mathbf{\$668}$]

Lisa is a Pickle!

- Her countable SSDI is \$668, which is below this year's SSI standard of \$674.
- She does not have countable resources over \$2000
- She has no other income

Some Commonly Unidentified Potential Pickle Persons

- SSDI recipients who received SSI for a few months while awaiting their first SSDI check
- Persons who are getting QMB or SLMB benefits and had SSI in the past

Steve:

- Is he a current Social Security recipient? **Yes.**
- Was he simultaneously entitled to Social Security and entitled to (and received) SSI in some month since 1977 (“dual eligibility”)? **Yes – August of 2008**
- Would he now be eligible for SSI or OAP if Social Security COLAs from the date dual eligibility ended were disregarded? **Yes. $\$709 \times .944 = \$669 - \$20$ disregard = $\$659 < \674**

Problem One

1. Client has current Social Security Disability benefits of \$1000 with no other income. Client is 50 years old, was approved for SSDI in March 1995, and lost SSI the following month. She has \$2300 in her savings account. Is she eligible for Medicaid as a Pickle?

Problem Two

2. Same facts as above (current Social Security Disability benefits of \$1000 with no other income. Client is 50 years old, was approved for SSDI in March 1995, and lost SSI the following month) **except that client has \$1500 in her bank account and no other countable resources.** Is she eligible for Medicaid as a Pickle?

Problem Three

3. Same facts as above, except she has current SSDI benefits of \$1025 per month. Is she eligible for Medicaid as a Pickle?

Would she be eligible next year?

Important Points:

- Reason for losing SSI benefits is irrelevant
 - Loss of SSI eligibility does not have to be caused by increase in COLA's (Lynch v. Rank)
 - Ex. Wild Pickles, Remarriage, Income from employment

Important Points:

- The one-month lag in Title II payments creates dual eligibility for many of our clients
 - SSI benefits are paid in the month of entitlement and Title II benefits are paid in the month following the month of entitlement

Texas Law Issues

- 1 TAC §358.105(7): individuals who were denied SSI benefits for any reason since April 1977. These individuals may be eligible for continued Title XIX coverage under Type Program 03, if they meet all current SSI eligibility criteria except for any Social Security cost-of-living increases received **since they last received both SSI and Social Security benefits in the same month**
- HHSC Medicaid Eligibility Questionnaire to SSA