

Keep your benefits after a financial windfall

Author

Northwest Justice Project

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What to do with one-time payments that make you ineligible for cash assistance, food stamps, or Medicaid. Depending on which assistance program you're on, you could buy certain things, or you could save the money in a special account or trust.

1. Why windfalls matter

Public benefits, such as cash assistance, food stamps, SSI, or Medicaid, are for people who can't afford to pay for their basic needs. If you can pay for your basic needs with what you already have, you may not need public assistance right now.

Getting money from a lawsuit, inheritance, gift, or other way might make you ineligible for public benefits. It depends on what benefits you get, how much money you've gotten, and whether it's a one-time (lump sum) payment.

If a lump sum payment puts you just a little over the limit to qualify for benefits, you might be able to spend it down by buying things or paying debts. If the amount is a lot, you might have to set up a special trust or special account to hold the money for you if you want to stay eligible for public benefits.

If you get public benefits like SSI

(<https://www.ssa.gov/ssi?msclkid=d37fb2a434851c1b7096d5fbb4f57352>)

, food stamps (<https://www.dshs.wa.gov/esa/community-services-offices/basic-food>), or TANF, and you've gotten legal financial obligations (LFOs) refunded by the Court, you **may** need to follow "spend down requirements" to keep getting benefits. **You should tell DSHS about this refund as soon as possible.** If you have questions, try to get legal help.

2. DSHS benefits

To get food stamps, or cash benefits like TANF or ABD, you can only have a certain amount of money of your own to remain eligible for those benefits. If you receive a large lump sum payment, DSHS could count it as a resource you could use, or as income to you. Either way, you could end up getting less or even no cash assistance or food stamps.

A one-time settlement payment in a divorce doesn't count as a lump sum settlement.

You must report to DSHS any lump sum payment you get, such as:

- Money paid to you, for example from a court case settlement, for wrongful death, personal injury, damage, or loss of property
- Insurance claim
- Back payment of benefits you're owed (such as from Social Security or L&I)
- Inheritance

Your deadline for reporting the payment is by the 10th day of the next month.

Example: You get a \$10,000 settlement on May 20. You must report it to DSHS by June 10.

If you get cash assistance and you get a lump sum to replace lost, stolen, or damaged property or pay medical bills, DSHS won't count those funds at all for 60 days. The 60-day period starts the month **after** you get the payment. This should give you time to spend the money to avoid DSHS counting your lump sum payment against you at all.

Example: Trae gets TANF benefits. Trae recently received a \$25,000 settlement from a court case over a car accident. Trae doesn't currently own a car and needs one to get to work.

You can have up to \$12,000 in liquid resources (money you can easily use, such as in a checking or savings account) and keep your

cash benefits. And DSHS won't count (DSHS excludes) the entire value of one vehicle. Trae could open a savings account of up to \$12,000 and use what's left over from the settlement to buy a car and keep getting TANF.

3. SSI or Medicaid

To get SSI or Medicaid, you can only have a certain amount of resources in money or property of your own. Not all resources are the same when talking about benefits.

In most situations, the **resource limit** for SSI and Medicaid is \$2,000 for one person or \$3,000 for a couple. A resource is anything you own that you can sell or use for support. Cash or money in the bank is a resource. Income not spent turns into a resource the next month.

- Not all resources count toward this overall resource limit. Some money and types of property don't count (they're **exempt**). For example, the things you need for everyday life, like the house you live in, a car, clothing, and household goods, aren't counted as part of the resource limit. If you own allotted Indian land but can't get rid of it without permission, Social Security won't count it as a resource.
- Cash and bank accounts **do** count towards the resource limit. Physical property can also count if it's not your home, and you can easily sell it.

Being even just a little over the limit could cause you to lose benefits. For example, you might have \$2,000 in a bank account. This meets the limit. If that

bank account earns just 50 cents in interest, it could make you ineligible for benefits. And for each month that you're over the resource limit, you stay ineligible for SSI.

If you somehow keep getting benefits while over the resource limit, you'll have an overpayment. This means that you got benefits when you shouldn't have, and you may have to pay those benefits back (<https://www.ssa.gov/ssi/text-overpay-ussi.htm>). If you're over the resource limit for months before you or the Social Security Administration (Social Security) discovers this, you could have a large overpayment for all those months that you may have to pay back.

If you're over the resource limit, generally, you can do any combination of these 3 options:

- You can spend or use the resources.
- You can temporarily stop getting SSI or Medicaid.
- You can find another way to hold the resources and stay on SSI and/or Medicaid.

If you're just a little over the \$2,000 limit, you can probably spend that money down by buying things in the same month you get it without losing your benefits. Or you can place up to \$16,000 each year into an ABL Account if you're eligible for that option.

If you get a gift, settlement, inheritance, or other payment that's too large to spend quickly, you might need to consider having a court set up a Special Needs Trust for you.

4. Buy to stay eligible

If you currently have too much money to qualify for SSI or Medicaid, you can spend money on the items listed here to reduce your money and make yourself eligible.

- A home (Social Security may reduce your SSI income for the month you got the home)
- Furniture or appliances for your home
- Medical expenses or bills not covered by Medicaid or Medicare
- Dental expenses, eyeglasses, physical therapy, and so on
- Education expenses (including computer, software, books, and so on)
- Entertainment or recreation expenses
- Vacation travel
- Pay a lawyer to do estate planning and/or Medicaid planning
- Pay off debts
- Pre-pay burial arrangements
- Personal hygiene (haircuts, manicures)
- A vehicle, pay for registration and insurance
- Clothing
- Set aside up to \$2,000 for a single person, or up to \$3,000 for a married couple, in non-exempt resources, such as in savings or checking

You can't just give away or let someone have the money or property for less than its fair market value. "Fair market value" means the usual price for or value of something.

5. ABLÉ accounts

ABLE accounts (<https://www.washingtonstateable.com/>) are only for people who have had a “life-long disability.” A lifelong disability is a disability recognized by Social Security that you were diagnosed with before you turned 26 years old.

()You can open an ABLE account for yourself, or someone else can do it for you. Opening an ABLE account usually only takes a few minutes. You need to make a deposit of at least \$10 to open the account. There’s a \$35 annual fee. There may also be other fees.

There’s a limit to how much you can save in an ABLE account. You can deposit up to \$19,000 a year, or more if you’re earning money from work. The most you can save in an ABLE account is \$500,000. But if you want to keep your SSI, you can only save up to \$100,000.

An ABLE account belongs to you. You can access and use the money in it for “qualified disability expenses.” These include any costs related to education, housing, transportation, employment, health and more.

6. Special Needs Trusts

Special Needs Trusts can be set up for someone diagnosed with a disability. But certain kinds of trusts must be created before you turn 65 to avoid

problems with SSI and Medicaid.

Opening a Special Needs Trust isn't as simple as opening an ABLE account. You may want to talk to a lawyer. You may be able to find one who practices in the areas of elder law or special needs law through the Washington Academy of Elder Law Attorneys (<https://waela.org/>). Click "Find a Lawyer" to get to a directory.

Someone else will control a Special Needs Trust for you. That person will make decisions about how you can use the money in the trust and might charge you fees for managing the trust. You can't access the money on your own. Usually, the trustee will pay vendors directly for the things you want.

- **Example:** if you need furniture, you'll pick out the furniture and tell the trustee. The trustee will pay the furniture store directly. They won't give the money to you.

There's no limit to how much you can save in a Special Needs Trust. But you can't use money from a Special Needs Trust for your food or shelter. Your SSI is meant to pay for those things.

There are different types of special needs trusts.

A **self-settled trust** is available only if you're disabled and under age 65 when the trust is created. You, your power of attorney, or another person, like a friend, relative, or legal guardian can create this type of trust.

A friend, relative or professional will manage your trust. They're called the "trustee." The trustee can charge you a fee for managing the trust. They're supposed to act in your best interest. The trustee will decide whether to pay

for the things you want from the trust based on the law and the rules of the trust.

A **Pooled-Asset Trust** is a different special needs trust. Your funds are held in an account with other people's funds and is managed by a nonprofit organization. The nonprofit keeps track of how much money each person has in the account.

A pooled-asset trust usually works better for people who have less money. The nonprofit is providing the same service to lots of people together. This makes it less expensive than a self-settled trust. The trustee fees aren't as high.

Several organizations set up and manage pooled-asset trusts. These include:

- Developmental Disabilities Endowment Trust Fund (<http://ddetf.wa.gov/>)
(managed by the Arc of Washington)
- Lifetime Advocacy Plus (<http://www.laplus.org/>)
- Brain Northwest (PACT Trust) (<http://www.biawa.org/>)
- Intrustment Northwest (<https://intrustmentnw.com/>)

7. Comparing options

Should I Use a Special Needs Trust or an ABLE Account?
(https://futureplanning.thearc.org/assets/ABLE_Account-462041957edcd42d881b1fff17f429494a76ba6fc2ca5dc06c27be6469c28289.pdf)
, by Arc Center for Future Planning (<https://futureplanning.thearc.org/>), has more details.

ABLE account: Your disability must have started before age 26. You can save up to \$18,000/year in an ABLE account. You can be any age at the time of creation of this account. You can use this account for rent, food, and other basic needs.

Self-Settled Special Needs Trust (First Party, "D4A"): There's no disability age requirement. You simply must be disabled as of date of trust's establishment. There's no limit to the amount you can save. You must be under age 65 at the time of creation of this account. You can use this account only for things that SSI or Medicaid don't cover.

Pooled Asset Special Needs Trust: There's no disability age requirement. You must simply be disabled as of the date of trust's establishment. There's no limit to the amount you can save. You must be under 65 at the time of creation of the trust. There's no transfer penalty. You can use this trust only for things that SSI or Medicaid don't cover.

8. Western State or Eastern State Hospital

If you're a patient at Western State or Eastern State Hospital, your SSI and Medicaid are generally suspended for as long as you're at the hospital. They restart when you discharge.

If you're over the resource limit for SSI or Medicaid at the time of discharge, this could make you ineligible to get these benefits. This could delay your discharge.

The State might try to bill you for your treatment at the State Hospital because of money you got from *Luvert* sanctions (<https://law.justia.com/cases/washington/court-of-appeals-division-i/2021/81767-1.html>). You'll know the State will try to do this if you get a "Notice and Finding of Responsibility." It says the State is going to bill you for your cost of care.

If you get a Notice and Finding of Responsibility, and you want to fight the hospital's right to bill you, you must file an appeal within 28 days. If you get a notice that the hospital is going to bill you and you want legal help, you should immediately call the Patient Legal Services Office at Western State Hospital at 253-756-2965 or the Health Justice initiative at Eastern State Hospital at 509-381-2352.

9. Appeals

If the agency in charge of your benefits says you're over the resource limit, you can fight the overpayment, ask the agency to cancel (to waive) it, or do both. Talk to a lawyer, and learn about the rules for cash and medical assistance overpayments, and SSI overpayments (<https://www.ssa.gov/ssi/text-overpay-ussi.htm>).

WashingtonLawHelp.org gives general information. It is not legal advice. Find organizations that provide free legal help on our Get legal help page.