

A Guide to Settlements for People on Benefits by

Angela Macey-Cushman, BSN, MN-MHA, JD

Note from the author: People who receive cash, healthcare, and/or housing benefits through government programs must consider how a settlement may impact their benefits. This guide is intended to help people on benefits understand their options, as well as their responsibilities. The information provided below is not legal advice, and is not a substitute for legal counsel. If you are anticipating a settlement and need legal advice, or if you are advising a client in this situation, you should consult an attorney who specializes in Special Needs Trusts and benefits planning.

Q: What benefits are affected by a settlement?

A: Benefits with a resource limit (also called an “asset limit”) are usually affected by a settlement. In some cases, benefits with an income limit can also be affected. Affected benefits may include the following:

- Cash benefits (SSI and ABD)
- Health benefits (Medicaid)
- Housing benefits (subsidized housing, Section 8)
- Food benefits (Supplemental Nutrition Assistance Program (SNAP))

Q: What benefits are not affected by a settlement?

A: Some benefits are not directly affected by a settlement. These include:

- Medicare (although increased income could raise the cost of your Part B premium)
- Social Security Disability Insurance (SSDI)
- Disabled Adult Child (DAC) Benefits
- Social Security Retirement or Widower’s benefits

Q: What counts as a resource? What counts as income?

A: Generally, **resources** (also referred to as **assets**) are the things you own, such as your bank accounts, cash on hand, vehicles, real estate, etc. Resources are typically counted

as of the end of a calendar month. This means that, even if you are over the resource limit at some point during the month, you may be back under the resource limit by the end of the last day of the month.

Generally, your **income** is the money you bring in each month. If you save the money, it becomes a **resource** in the following month.

Each benefit program is different. Some do not have resource and/or income limits, and different programs count resources and income differently. Some programs also count the income and/or resources of other members of your household, including your spouse. *You must look at each benefit you receive separately to understand how a settlement might affect that benefit.*

Q: Can I just accept a settlement and not tell anyone?

A: Typically, the answer is no. If you are on a benefit that counts your resources, then you generally must report changes to your resources, such as receiving a settlement. For example, if you are on Medicaid and SSI and receive settlement funds, you must report this to the Department of Social and Health Services (DSHS) and the Social Security Administration (SSA), typically by the tenth day of the month after you receive the funds.

If you do not report your settlement, then you may later lose eligibility and owe money back for benefits you received. You may also be penalized for misrepresenting or failing to report your resources or income.

Q: If I am on a benefit with a resource limit, what are my options?

A: One option is to report the settlement and go off the benefit program until you are back under the resource limit.

Or, you may consider the following options to maintain benefits with a resource limit (such as SSI), even if you receive a settlement. Each of these options has its own set of requirements, and you should learn more about each option before making a decision.

These options are summarized below:

1. **Spend Down the Settlement Funds in the Same Month You Receive Them**: You may be able to quickly spend down your settlement by, for example, paying off debt like credit cards, bank loans, or a mortgage.

Or, you can spend down your settlement by purchasing exempt resources. These typically include a single exempt vehicle (one vehicle of any value is allowed in most programs), non-refundable funeral plans, furniture, medical equipment, and electronics. Some benefit programs allow you to set aside a small amount (typically \$1500) for future burial costs, if you do not wish to pre-purchase a nonrefundable funeral plan.

If you choose to spend down your settlement funds, remember this must be done quickly – *before the end of the same month you receive them*. If you take this approach, make sure to keep receipts so you can demonstrate how you spent down the funds when you report your income to DSHS and/or SSA. You should be prepared, in most cases, to prove that the purchases were for you and were not gifts for others.

2. **Deposit the Funds in an ABLE Account**: If you are eligible for an ABLE account, this can be a great way to set aside a modest settlement for future use. ABLE accounts are available to individuals whose disability started before they turned 46. Even if you are over the age limit now, you may be eligible depending on when your disability began.

There are annual limits to how much you can put into an ABLE account; as of 2026, the contribution limit is \$20,000/year. There are also limits to how much an ABLE account can hold, depending on your benefit programs and the policies of the ABLE account program you choose. To learn more about Washington's ABLE program, go to their website at <https://www.washingtonstateable.com/>.

3. **Deposit the Funds in a Pooled-Asset Special Needs Trust (PSNT) Account**: If your settlement is too large for an ABLE account or if your disability started too late in life for an ABLE account, then you may choose to fund a Pooled-Asset Special Needs Trust account. These trusts are administered by non-profit organizations that manage the funds and make distributions for your benefit. For example, a PSNT may use your account to pay certain recurring bills, and to make special purchases as needed. When you die, the amount remaining in the PSNT account

typically stays in the pooled trust for other beneficiaries, up to the amount you would have owed to pay back Medicaid if you opted for a private trust, as described below. You should carefully review the PSNT's policies about remaining funds, before using this type of trust.

One popular PSNT in Washington is Lifetime Advocacy Plus. To learn more about them, go to their website at <http://laplus.org/>.

4. **Establish a Private Self-Settled Special Needs Trust (a “ d4A SNT”, or sometimes “SSSNT”)**: If you are under 65 and disabled (i.e., receiving SSI or SSDI), you could choose to establish and fund a private trust that is designed to allow continued eligibility for benefits. These trusts have strict requirements, and you should work with a qualified and experienced Special Needs Trust attorney to set one up. For a valid SNT, the trustee must be someone other than yourself, and this trustee will have sole control over the money spent on your behalf from the trust (“distributions”). Distributions may supplement benefits you are receiving, but there are limits on the types of distributions your trustee may make. Typically, the trust will not distribute cash to you, but will instead pay providers directly for goods or services. When you die, Medicaid has a right to repayment from any assets remaining in the trust, up to the amount Medicaid programs have paid on your behalf during your lifetime.

In some situations, the court overseeing your settlement requires additional protections, such as court supervision of the trust and/or a professional trustee. If you or your attorney are considering an SNT for your settlement, a Special Needs Trust Attorney can help you understand the options and process for setting up this type of trust.

5. **Gift the Settlement Funds**: Many (but not all) benefits impose a penalty for certain gifts you make before you apply or while you are on benefits. *It is important to know if your benefit programs, or programs you may apply for in the future, have gifting penalties.*

In some situations, you may be able to gift your settlement funds *in the month you receive them* without losing eligibility for benefits. For example, you may be able to gift to your spouse, a minor child, or to a trust for a disabled child or other disabled individual.

In other situations, you may choose to gift and accept a penalty or future ineligibility for benefits.

Gifting is risky, and you should make sure you understand the risks and alternatives before you decide to gift. **Do not assume the benefits programs simply will not find out about the gift.** You have an affirmative responsibility to report gifts for many programs, and unreported gifts are typically discovered upon eligibility review. This can trigger penalties for you, as well as the recipient of the gift.

Consult an attorney who specializes in benefits eligibility if you are on benefits with a gift penalty, or if you may need them in the future. The attorneys at Macey-Cushman & Reilly, PLLC can often provide this type of consultation.

For gifting (and all other planning), it is important to understand your benefits and make a plan *before* you receive the settlement, rather than after you have received the check.

Q: What about other benefits, such as Food Stamps (SNAP) and Housing Benefits?

A: These benefits may also be affected by a settlement, but it varies depending on different programs' guidelines, and how the settlement funds are used. This guide focuses on cash and medical benefits, but you should also determine whether a settlement affects other benefits you may receive.

Q: I think I need a lawyer to help me sort this out. What information should I provide to them?

A: When we at Macey-Cushman & Reilly, PLLC work with a new client regarding a settlement, we require the information listed below, so that we can provide reliable guidance. When describing benefits, you should be as specific as possible and provide documentation (such as correspondence from DSHS and/or SSA).

1. Full Legal Name
2. Date of Birth
3. Are you married or single?
4. Do you have children? (Include ages and whether any are disabled)

5. What cash benefits do you receive, including the type and amount per month? (For example, SSI, SSDI, ABD, TANF)
6. What health benefits do you receive? (For example, Medicare, MAGI Medicaid, Long-term care Medicaid)
7. What housing benefits do you receive? (For example, Section 8 voucher)
8. Do you receive personal care services in the home (such as COPES or Community First Choice), or live in a long-term care setting?
9. Do you own a home?
10. Do you drive?
11. What is the amount of your anticipated settlement distribution? (If possible, provide the net amount you will receive after attorney's fees and any liens)
12. Who is the attorney who represents you for the settlement?
13. What is the timing of the anticipated settlement distribution (Next Month? Next Year?)

Keep in mind that this guide is not meant to provide or replace legal advice that is specific to your situation. You should seek advice from an attorney if you have questions about your own benefits or circumstances.

Prepared by:
Angela Macey-Cushman
Macey-Cushman & Reilly, PLLC angela@mcrlawfirm.com
www.mcrlawfirm.com