

# RULES AND REGULATIONS

## Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

### STATE REAL ESTATE COMMISSION

#### Corrective Amendment to 49 Pa. Code § 35.341(6)(vi)

The State Real Estate Commission has discovered a discrepancy between the agency text at 49 Pa. Code § 35.341(6)(vi) (relating to approval of real estate education provider), as deposited with the Legislative Reference Bureau, and the text published at 34 Pa.B. 6530, 6538 (December 11, 2004) and codified in the February 2005 *Pennsylvania Code Reporter* (Master Transmittal Sheet No. 363), and as currently appearing in the *Pennsylvania Code*. The text of subparagraph (vi) was incorrect.

Therefore, under 45 Pa.C.S. § 901: The State Real Estate Commission has deposited with the Legislative Reference Bureau a corrective amendment to 49 Pa. Code § 35.341(6)(vi). The corrective amendment to 49 Pa. Code § 35.341(6)(vi) is effective as of December 11, 2004, the date the defective text was printed in the *Pennsylvania Bulletin*.

The correct version of 49 Pa. Code § 35.341(6)(vi) appears in Annex A, with ellipses referring to the existing text of the regulation.

#### Annex A

### TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

#### PART I. DEPARTMENT OF STATE

#### Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

#### CHAPTER 35. STATE REAL ESTATE COMMISSION

#### Subchapter F. REAL ESTATE EDUCATION PROVIDERS

#### APPROVAL OF REAL ESTATE EDUCATION PROVIDERS

#### § 35.341. Approval of real estate education provider.

A real estate education provider shall obtain the Commission's approval before commencing operations in this Commonwealth. To obtain approval from the Commission, the real estate education provider shall:

\* \* \* \* \*

(6) Submit a completed real estate education provider approval application to the Commission with:

\* \* \* \* \*

(vi) A copy of the student enrollment agreement.

\* \* \* \* \*

[Pa.B. Doc. No. 05-417. Filed for public inspection March 4, 2005, 9:00 a.m.]

## Title 55—PUBLIC WELFARE

### DEPARTMENT OF PUBLIC WELFARE

#### [55 PA. CODE CHS. 297 AND 299]

#### Supplemental Security Income Program and State Supplementary Payment Program

#### *Statutory Authority*

The Department of Public Welfare (Department) adopts this final-omitted rulemaking to read set forth in Annex under sections 201(2), 403(b) and 432(2) of the Public Welfare Code (62 P. S. §§ 201(2), 403(b) and 432(2)) and 20 CFR Part 416 (relating to Supplemental Security Income for the aged, blind, and disabled).

#### *Omission of Proposed Rulemaking*

Notice of proposed rulemaking is omitted in accordance with section 204(1)(iv) and (3) of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204(1)(iv) and (3)), known as the Commonwealth Documents Law (CDL), and 1 Pa. Code § 7.4(1)(iv) and (3). This final-omitted rulemaking relates to Commonwealth grants and benefits. The State Supplementary Payment (SSP) Program is a Commonwealth benefit. In addition, the Department finds that notice of proposed rulemaking is, under the circumstances, unnecessary and contrary to the public interest. Notice of proposed rulemaking is unnecessary since the only change in the SSP program is the entity which is responsible for its administration. Instead of the Social Security Administration (SSA) administering the SSP for certain groups of eligible applicants and recipients, the Department will administer the program. The Department is not altering current eligibility standards for the SSP program. Finally, the Department finds that it is contrary to the public interest to continue to pay the SSA the ever-increasing cost of the administration of the SSP. Considerable savings will be realized if the Commonwealth assumes responsibility for the administration of the program.

#### *Purpose*

The purpose of this final-omitted rulemaking is to delete Chapter 297 and add Chapter 299 (relating to Supplemental Security Income Program and State Supplementary Payment Program).

The final-omitted rulemaking is needed because Chapter 297 includes unnecessary historical background discussion of Supplemental Security Income (SSI), SSI procedural explanations and eligibility requirements already in 20 CFR Part 416, as well as obsolete SSI and SSP payment information. Chapter 299 establishes requirements relevant to State administration of the SSP.

The final-omitted rulemaking is also needed to codify policy applicable to personal care services (PCS) that is currently contained in *Income Maintenance Bulletin* (IMB) 297-82-73, State Supplementary Security Income Supplement for Licensed Personal Care Boarding Home Residents and IMB 297-84-43, Personal Care Boarding Home Supplement.

#### *Background*

In 1972, Congress enacted the SSI program to provide payments to aged, blind and disabled individuals and couples based on uniform Federal eligibility standards

and a National base payment level. The standards do not account for variations in living costs that exist from one state to another. Recognizing this, Congress provided a mechanism for states to provide additional payments to supplement the basic Federal SSI payment. The Commonwealth chose to establish an SSP and contracted with the SSA to administer the SSP.

The SSA currently determines eligibility for both State-funded mandatory and optional SSPs and charges the State an administrative fee to cover processing and issuance costs. Mandatory SSPs are provided to certain individuals and couples who were recipients of Old Age Assistance, Aid to the Blind or Aid to the Disabled cash payments as of December 31, 1973. The mandatory SSP, when combined with the total income of the individual or couple, must provide the same total income that was available in December 1973. Optional SSPs are provided to individuals and couples who are eligible for SSI with the exception that certain SSI recipients in Medicaid institutions are ineligible for an SSP. An optional SSP is also provided to individuals and couples who are otherwise eligible for SSI except for income and whose income is less than the combined Federal SSI benefit and the applicable SSP.

In 1993, the SSA began assessing a processing fee of \$1.67 per check per month. On January 1, 1996, the Department reduced certain SSPs by \$5 per check per month to offset additional costs resulting from the SSA's administrative fee. By October 2003, the processing fee had increased to \$8.77 per check per month and is subject to continued increases based on the Consumer Price Index. Based on projected costs, the Department determined that it is no longer cost-effective to pay the SSA to administer all SSPs. The SSA will continue to administer the optional SSP for individuals and couples living in personal care homes (PCH) or domiciliary care homes (DCH) and for individuals and couples receiving a mandatory SSP. There are fewer than 50 individuals receiving a mandatory SSP and this number will not increase. It is not cost-effective for the Department to develop eligibility requirements and procedures, train staff and administer payments for these individuals. The SSA will continue to administer the SSP for individuals and couples residing in PCHs or DCHs at this time because of the complexity of the application process and the vulnerability of this population. To substantially reduce costs, the Department will administer the optional SSP for all other eligible individuals. Assuming responsibility for the administration and issuance of certain SSPs will result in both an immediate and long-term savings to the Department.

#### *Requirements*

References to Federal regulations are used throughout Chapter 299. Eligibility requirements and payment levels for the SSP program administered by the State are generally based on the eligibility requirements and payment levels for SSI.

The following is a summary of specific provisions in Chapter 299:

*§ 299.1 (relating to policy).* The Department describes the SSI program, including payment levels and living arrangements. Additionally, the Department describes the SSP program and SSI recipients whose SSP will be administered by the SSA or the Commonwealth.

*§ 299.2 (relating to definitions).* The Department includes the definitions of "countable income," "DCH—domiciliary care home," "DCS—domiciliary care services," "FBR—Federal benefit rate," "in-kind support and main-

tenance," "living in the household of another," "mandatory SSP," "optional SSP," "PCH—personal care home," "PCS—personal care services," "representative payee," "SSA," "SSI—Supplemental Security Income," "SSP—State Supplementary Payment" and "SSP—Only."

*§ 299.11 (relating to mandatory and optional SSPs).* The Department describes the two types of SSP, mandatory and optional.

*§ 299.21 (relating to general).* The Department identifies the individuals and couples who are eligible for an optional SSP.

*§ 299.22 (relating to eligibility requirements for SSA-administered optional SSP for DCS and PCS).* The Department describes the eligibility requirements for individuals and couples receiving DCS that will continue to have their SSP administered by the SSA. Additionally, the Department establishes the eligibility requirements for individuals and couples receiving PCS that will continue to have their SSP administered by the SSA.

*§§ 299.31—299.33 (relating to authorization; restitution; and appeal and fair hearing).* The Department establishes general provisions for State-administered optional SSP. These provisions include: authorization in county of residence; restitution; and appeal and fair hearing. The Department decided to follow cash and Medical Assistance policies for these provisions since SSI regulation does not address county of residence and the SSA will no longer process restitution for these SSPs. The decision to follow Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings) relative to appeal and fair hearing provisions maintains consistency with other assistance programs.

*§ 299.34 (relating to representative payment).* The Department will provide a State-administered SSP to a representative payee if the SSA determined a representative payment is applicable or if the Department appoints a representative payee in accordance with § 299.36(f) (relating to eligibility requirements for SSP-Only).

*§ 299.35 (relating to eligibility requirements for individuals or couples eligible for SSI).* The Department will administer and pay an optional SSP to residents of this Commonwealth that receive SSI except those individuals and couples that reside in a PCH or a DCH.

*§ 299.36 (relating to eligibility requirements for SSP-Only).* The Department establishes eligibility requirements for the State-administered SSP program that provides SSP to individuals and couples that do not receive SSI. The Department will appoint a representative payee for those eligible for SSP-Only if a representative payee would be applicable under 20 CFR Part 416, Subpart F (relating to representative payment).

*§ 299.37 (relating to SSP payment level changes).* The Department provides SSP payment levels in Appendix A. Additionally, revisions to Appendix A will be codified when published as a notice in the *Pennsylvania Bulletin*.

#### *Affected Individuals and Organizations*

The final-omitted rulemaking affects approximately 298,000 individuals who now receive an optional SSP. As a result of the final-omitted rulemaking, certain SSI applicants and recipients may have to interact with both a local county assistance office (CAO) and the SSA. Approximately 7,000 of the 298,000 affected individuals will interact exclusively with a local CAO.

*Accomplishments and Benefits*

Since the SSA currently administers the SSP, CAO contact and involvement with SSP recipients is limited. The final-omitted rulemaking will provide opportunities for CAOs to identify individuals who may qualify for other benefits administered by the Department, such as Food Stamps or payments to help with heating or cooling costs. This interaction may also provide opportunities to review Medicaid eligibility for other household members.

*Fiscal Impact*

The Commonwealth will realize an estimated savings of \$15.950 million in the first year. These savings represent 298,000 SSI clients receiving the SSP directly from the Department. The savings in subsequent years will increase based on the projected increases in SSA administration costs. The Commonwealth will incur estimated costs of \$5.170 million in the first year associated with developmental and operational system costs for implementing in-house issuance of SSP.

There are no costs or savings to political subdivisions, the private sector and to the general public.

*Paperwork Requirements*

The final-omitted rulemaking will increase the Department's paperwork requirements associated with the eligibility process. Unlike the automated eligibility determination process for the Temporary Assistance for Needy Families (TANF) and general assistance (GA) programs, the eligibility determination process for SSP-Only will be done manually based on requirements that are not consistent with TANF and GA. Additionally, the Department must develop eligibility notices, forms and letters that are specific to this group of cash assistance recipients.

*Effective Date*

The final-omitted rulemaking was effective January 1, 2005.

*Public Comment*

Although this final-omitted rulemaking is being adopted without publication as proposed rulemaking, interested persons are invited to submit written comments, suggestions or objections to the Department of Public Welfare, Office of Income Maintenance, Edward J. Zogby, Director, Bureau of Policy, Room 431 Health and Welfare Building, Harrisburg, PA 17120. Comments will be reviewed and considered for any subsequent revision of the final-omitted rulemaking. Persons with a disability who require an auxiliary aid or service may submit comments by using the AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

*Regulatory Review Act*

Under section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)), on October 28, 2004, the Department submitted a copy of the final-omitted rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chair-

persons of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare. A copy of this material is available to the public upon request. On the same date, the final-omitted rulemaking was submitted to the Office of the Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Under section 5.1(j.2) of the Regulatory Review Act, on February 9, 2005, the final-form rulemaking was (deemed) approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on February 10, 2005, and approved the final-omitted rulemaking.

In addition to submitting the final-omit rulemaking, the Department has provided IRRC and the Committees with a copy of a Regulatory Analysis Form prepared by the Department. A copy of this form is available to the public upon request.

*Findings*

The Department finds that:

(a) Notice of proposed rulemaking is omitted in accordance with section 204(1)(iv) and (3) of the CDL and 1 Pa. Code § 7.4(1)(iv) and (3) because the rulemaking relates to Commonwealth benefits and proposed rulemaking is unnecessary and contrary to the public interest.

(b) The adoption of this rulemaking in the manner provided by this order is necessary and appropriate for the administration and enforcement of the Public Welfare Code.

*Order*

The Department acting under the Public Welfare Code and 20 CFR Part 416 orders that:

(a) The regulations of the Department, 55 Pa. Code Chapters 297 and 299, are amended by deleting §§ 297.1—297.4 and by adding §§ 299.1, 299.2, 299.11, 299.21, 299.22, 299.31—299.37 and Appendix A to read as set forth in Annex A.

(b) The Secretary of the Department shall submit this order and Annex A to the Offices of General Counsel and Attorney General for approval as to legality and form as required by law.

(c) The Secretary of the Department shall certify and deposit this order and Annex A with the Legislative Reference Bureau as required by law.

(d) This order takes effect January 1, 2005.

ESTELLE B. RICHMAN,  
*Secretary*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 35 Pa.B. 1487 (February 26, 2005).)*

**Fiscal Note:** 14-492. (1) General Fund;

	<i>Information System</i>	<i>Co. Admin—State</i>	<i>Co. Assist</i>
(2) Implementing Year 2004-05 is	\$3,188,000	\$1,936,000	\$45,000
(3) 1st Succeeding Year 2005-06 is	\$1,750,000	\$3,893,000	\$30,000
2nd Succeeding Year 2006-07 is	\$250,000	\$3,913,000	\$30,000
3rd Succeeding Year 2007-08 is	\$250,000	\$3,931,000	\$30,000
4th Succeeding Year 2008-09 is	\$250,000	\$3,944,000	\$30,000
5th Succeeding Year 2009-10 is	\$250,000	\$3,944,000	\$30,000

	<i>Information System</i>	<i>Co. Admin—State</i>	<i>Co. Assist</i>
(4) 2003-04 Program—	\$54,904,000	\$41,323,000	\$252,318,000
2002-03 Program—	\$48,598,000	\$45,724,000	\$250,299,000
2001-02 Program—	\$41,851,000	\$46,490,000	\$248,498,000

(7) Department of Public Welfare—Information Systems, County Administration—Statewide and County Assistance Offices; (8) recommends adoption. Offsetting the previous costs would be annual net savings to the Supplemental Grants—Aged, Blind and Disable Appropriation. These savings are estimated at \$15,950,000 for Fiscal Year 2004-05. The costs are included in the 2004 General Appropriation Act.

**Annex A**

**TITLE 55. PUBLIC WELFARE**

**PART II. PUBLIC ASSISTANCE MANUAL**

**Subpart I. OTHER INCOME MAINTENANCE PROGRAMS**

**CHAPTER 297. (Reserved)**

**§§ 297.1—297.4. (Reserved).**

**CHAPTER 299. SUPPLEMENTAL SECURITY INCOME PROGRAM AND STATE SUPPLEMENTARY PAYMENT PROGRAM**

**GENERAL PROVISIONS**

- Sec. 299.1. Policy.
- 299.2. Definitions.

**TYPES OF SSP**

- 299.11. Mandatory and optional SSPs.

**GENERAL ELIGIBILITY PROVISIONS FOR OPTIONAL SSP**

- 299.21. General.
- 299.22. Eligibility requirements for SSA-administered optional SSP for DCS and PCS.

**GENERAL PROVISIONS FOR STATE-ADMINISTERED OPTIONAL SSP**

- 299.31. Authorization.
- 299.32. Restitution.
- 299.33. Appeal and fair hearing.
- 299.34. Representative payment.
- 299.35. Eligibility requirements for individuals or couples eligible for SSI.
- 299.36. Eligibility requirements for SSP-Only.
- 299.37. SSP payment level changes.

**GENERAL PROVISIONS**

**§ 299.1. Policy.**

(a) *SSI Program.* The SSI Program provides payments to aged, blind and disabled individuals based on uniform Federal eligibility standards and a National base payment level under 20 CFR 416.110 (relating to purpose of program).

(b) *Payment levels.* Under 20 CFR Part 416, Subparts D and K (relating to amount of benefits; and income), the SSI Program has three payment levels that are based on the Federal living arrangement of an eligible individual or couple. These payment levels are based on one of the following living arrangements:

(1) The individual or couple is living independently and owns its own home or is paying rent or room and board.

(2) The individual or couple is living in the household of another and receiving in-kind support and maintenance.

(3) The individual or couple is living in a medical care facility where a substantial part (more than 50%) of the cost of care is paid under Title XIX of the Social Security Act (42 U.S.C.A. §§ 1396—1396v).

(c) *SSP Program.* An individual or couple eligible for SSI is eligible for an SSP in accordance with the following:

(1) The SSP is not considered income by the SSA in determining eligibility for SSI.

(2) The SSA administers SSPs for an individual or couple that is one of the following:

- (i) Receiving a mandatory SSP under 20 CFR 416.2050 (relating to mandatory minimum state supplementation).
- (ii) Living in a DCH.
- (iii) Living in a licensed PCH.

(3) The Commonwealth administers SSPs for an eligible individual or couple that does not qualify for an SSP under paragraph (2) and is one of the following:

- (i) Living independently.
- (ii) Living in the household of another and receiving in-kind support and maintenance.

**§ 299.2. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Countable income*—As defined in 20 CFR 416.1104 (relating to income we count).

*DCH—Domiciliary care home*—A premises certified by an area agency on aging for the purpose of providing a supervised living arrangement in a homelike setting for a period exceeding 24 consecutive hours to clients placed there by the area agency on aging.

*DCS—Domiciliary care services*—Services and activities performed by the area agency on aging which are necessary to:

- (1) Seek out, assess and determine the eligibility of applicants and prospective providers.
- (2) Certify domiciliary care homes.
- (3) Arrange for, oversee and follow-up on the placement of clients into domiciliary care homes and the receipt of the domiciliary care supplement by clients.

*FBR—Federal benefit rate*—As defined in 20 CFR 416.1101 (relating to definitions of terms).

*In-kind support and maintenance*—As defined in 20 CFR 416.1130(b) (relating to introduction).

*Living in the household of another*—As defined in 20 CFR 416.1132 (relating to what we mean by “living in another person’s household”).

*Mandatory SSP*—As defined in 20 CFR 416.2050 (relating to mandatory minimum state supplementation).

*Optional SSP*—A cash benefit, other than the mandatory SSP, provided to an eligible individual or couple under 20 CFR 416.2001 (relating to state supplementary payments; general).

*PCH—Personal care home*—A premise in which food, shelter and personal assistance or supervision are provided for a period exceeding 24 hours for four or more adults who are not relatives of the operator, who do not require the services in or of a licensed long-term care facility, but who do require assistance or supervision in matters such as dressing, bathing, diet, financial management, evacuation of a residence in the event of an emergency or medication prescribed for self-administration.

*PCS—Personal care services*—Assistance or supervision in matters, such as dressing, bathing, diet, financial management, evacuation of a resident in the event of an emergency, or medication prescribed for self-administration.

*Representative payee*—As defined in 20 CFR 416.601 (relating to introduction).

*SSA—Social Security Administration.*

*SSI—Supplemental Security Income*—As defined in 20 CFR 416.201 (relating to general definitions and terms used in this subpart).

*SSP—State Supplementary Payment*—A cash benefit provided by the State to an individual or couple eligible for SSI or that would be eligible for SSI except for income.

*SSP-Only*—A category designation for an individual or couple that is ineligible for SSI based on income alone, but eligible for an SSP.

**TYPES OF SSP**

**§ 299.11. Mandatory and optional SSPs.**

The two types of SSPs are as follows:

(1) *Mandatory SSP.* A mandatory SSP is provided to an eligible individual or couple under 20 CFR 416.2050 (relating to mandatory minimum state supplementation).

(2) *Optional SSP.* An individual or couple not eligible for the mandatory SSP may receive an optional SSP, as specified in Appendix A (relating to SSP payment levels). Eligibility requirements for the optional SSP are set forth in §§ 299.21, 299.22 and 299.31—299.36 (relating to general eligibility provisions for optional SSP).

**GENERAL ELIGIBILITY PROVISIONS FOR OPTIONAL SSP**

**§ 299.21. General.**

(a) *SSI Eligibility.* Except as specified in subsection (b)(1), to be eligible for an optional SSP, the individual or couple shall be eligible for SSI.

(b) *Exceptions.*

(1) *Excess income for SSI.* If the individual or couple meets all SSI requirements other than income, and if countable income does not exceed the combined FBR and applicable SSP, the individual or couple is eligible to receive an optional SSP.

(2) *No optional SSP if eligible for a mandatory SSP.* If the individual or couple receiving SSI is entitled to a mandatory SSP in an amount greater than the combined FBR and the applicable SSP, the individual or couple is ineligible for an optional SSP.

(3) *No optional SSP for those living in certain medical care facilities.* If the individual or couple receiving SSI is living in a medical care facility where a substantial portion (more than 50%) of the cost of care is paid under

Title XIX of the Social Security Act (42 U.S.C.A. §§ 1396—1396v), the individual or couple is ineligible for an optional SSP.

**§ 299.22. Eligibility requirements for SSA-administered optional SSP for DCS and PCS.**

(a) *DCS.* In addition to meeting the requirements in § 299.21 (relating to general), to receive an optional SSP for DCS, an individual or couple residing in a DCH shall meet the requirements for receipt of DCS, and submit an application under 6 Pa. Code § 21.23 (relating to application process for DCS and the domiciliary care supplement).

(b) *PCS.* In addition to meeting the requirements in § 299.21, to receive an optional SSP for PCS, an individual or couple residing in a licensed PCH shall meet the following requirements:

(1) The individual or each member of the couple shall submit an application for an SSP for PCS to the area agency on aging under 6 Pa. Code § 21.23.

(2) If the individual or each member of the couple is not an SSI recipient, he shall submit an application for SSI to the SSA indicating that an application for an SSP for PCS is pending.

(3) The individual or each member of the couple shall notify the Department or the SSA of a move from a PCH.

(c) *Notice.* The Department will notify the individual or each member of the couple of the eligibility determination for SSP for DCS or PCS and send a copy of the notice to the area agency on aging.

(d) *Appeal rights.* An applicant or recipient may appeal the denial or termination of the SSP for DCS or PCS under Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings).

**GENERAL PROVISIONS FOR STATE-ADMINISTERED OPTIONAL SSP**

**§ 299.31. Authorization.**

The State-administered optional SSP is authorized in the county of residence.

**§ 299.32. Restitution.**

An individual or couple that receives State-administered optional SSP is subject to restitution requirements in Chapter 255 (relating to restitution).

**§ 299.33. Appeal and fair hearing.**

An individual or each member of a couple applying for or receiving State-administered optional SSP has the right to appeal and have a fair hearing under Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings).

**§ 299.34. Representative payment.**

An SSP is paid to a representative payee if the SSA determined that a representative payment is applicable under 20 CFR Part 404, Subpart U (relating to representative payment) or Part 416, Subpart F (relating to representative payment), or if the Department appoints a representative payee under § 299.36 (relating to eligibility requirements for SSP-Only).

**§ 299.35. Eligibility requirements for individuals or couples eligible for SSI.**

The Commonwealth will administer and pay an optional SSP to an individual or couple eligible for SSI under § 299.21 (relating to general) and residing in this Commonwealth under 20 CFR 416.2035 (relating to op-

tional supplementation: additional state options), unless the individual or couple is eligible for an SSP under § 299.22 (relating to eligibility requirements for SSA-administered optional SSP for DCS and PCS).

**§ 299.36. Eligibility requirements for SSP-Only.**

(a) *Eligibility Requirements.* The Commonwealth will administer and pay an optional SSP to an individual or a couple as follows:

(1) *Categories.* The individual or couple may be eligible for SSP-Only if the individual or each member of the couple is one of the following:

- (i) Aged—65 years of age or older.
- (ii) Blind under 20 CFR Part 416, Subpart I (relating to determining disability and blindness).
- (iii) Disabled under 20 CFR Part 416, Subpart I.

(2) *Additional requirements.* In addition to paragraph (1), the individual or each member of the couple shall:

- (i) Meet the residency requirements under § 147.23 (relating to requirements).
- (ii) Be a United States citizen or a qualified alien under 20 CFR Part 416, Subpart P (relating to residence and citizenship). A qualified alien shall meet the eligibility requirements under section 401 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C.A. § 1612) regarding limited eligibility of qualified aliens for certain Federal programs.
- (iii) Meet SSI resource requirements under 20 CFR Part 416, Subpart L (relating to resources and exclusions).
- (iv) Meet income requirements under 20 CFR Part 416, Subpart K (relating to income), except that:
  - (A) Countable income must be less than the combined total of the FBR and the maximum allowable SSP for the eligible individual or couple.
  - (B) Countable income is adjusted dollar for dollar against the appropriate SSP amount in Appendix A (relating to SSP payment levels), plus the FBR.
- (v) Meet enumeration requirements under § 155.2 (relating to general).
- (vi) Meet redetermination requirements under 20 CFR 416.204 (relating to redeterminations of SSI eligibility).
- (vii) Cooperate in verifying all eligibility requirements including age, residence, citizenship, employment, income and resources as specified under § 201.4 (relating to procedures).
- (viii) Consent to the disclosure of information that is in the possession of third parties and necessary for the SSP eligibility determination.

(b) *Determining eligibility for SSP-Only.* The Department will determine the eligibility of an individual or couple for SSP-Only when one of the following occurs:

(1) *SSA notification of excess income for SSI.* The SSA notifies the Department that the individual or couple is ineligible for SSI due to excess income.

(2) *Application for SSP-Only.* The individual or each member of the couple applies for SSP-Only through the Department.

(i) If the Department determines that countable income of the individual or couple exceeds SSI eligibility limits, the Department will determine eligibility for SSP-Only.

(ii) If the Department determines that countable income of the individual or couple is within SSI eligibility limits, the Department will refer the individual or couple to the SSA. In that event, the individual or each member of the couple shall cooperate in establishing eligibility for SSI.

(iii) For the individual or couple referred to the SSA, failure to cooperate in establishing eligibility for SSI will result in ineligibility for an SSP.

(c) *Effective date.* The effective date of eligibility for SSP-Only is one of the following:

(1) *SSA application.* The first full month following the month of the SSI application date for the individual or each member of the couple that is denied SSI.

(2) *Department application.* The first full month following the month the SSP-Only application is received by the Department under subsection (b)(2)(i).

(d) *Primary source of information for SSP-Only.* The individual or couple is the primary source of information under § 201.1 (relating to policy).

(e) *Medicaid.* The individual or each member of the couple that is eligible for SSP-Only is also eligible for Medicaid under § 141.1 (relating to policy).

(f) *Representative payee.* The Department will appoint a representative payee for an individual or each member of the couple eligible for SSP-Only if a representative payee would be applicable under 20 CFR Part 416, Subpart F (relating to representative payment).

**§ 299.37. SSP payment level changes.**

Revisions to the SSP payment levels will be published as a notice in the *Pennsylvania Bulletin* for codification in Appendix A.

**APPENDIX A  
SSP Payment Levels**

	<i>Individual</i>	<i>Couple</i>
Residing in an Independent Living Arrangement	\$27.40	\$43.70
Residing in the Household of Another	\$27.40	\$43.70
Residing in a Domiciliary Care Home	\$389.30	\$857.40
Residing in a Personal Care Home	\$394.30	\$867.40

[Pa.B. Doc. No. 05-418. Filed for public inspection March 4, 2005, 9:00 a.m.]