

Dr. Kilolo Kijakazi
Acting Commissioner
U.S. Social Security Administration
6401 Security Boulevard
Baltimore, Maryland 21235– 6401

Re: Expansion of the Rental Subsidy Policy for Supplemental Security Income (SSI) Applicants and Recipients - SSA-2023-0010

Dear Dr. Kijakazi:

As advocates for older adults, people with disabilities, and their families, we appreciate the opportunity to comment on the Social Security Administration (SSA) proposed rule, “Expansion of the Rental Subsidy Policy for Supplemental Security Income (SSI) Applicants and Recipients.”

The National Academy of Elder Law Attorneys (NAELA) is the only professional, non-profit association of attorneys that conditions membership on a commitment to the Aspirational Standards for the Practice of Elder and Special Needs Law Attorneys. Extending beyond the benchmark set by the American Bar Association’s Model Rules Professional Conduct, these standards recognize the need for holistic, person-centered legal services to meet the needs of older adults, people with disabilities, and their caregivers. Supporting the dignity and independence of these vulnerable populations is at the center of what we do. This letter reflects the subject matter expertise of our members, particularly the Federal Advocacy Committee and Board.

NAELA strongly supports SSA’s proposal to apply nationwide the rental subsidy exception currently in place in seven States. If the SSA’s proposal is finalized, the nationwide policy would be that a “business arrangement” exists when the amount of monthly rent required to be paid equals or exceeds the presumed maximum value (PMV). If the required amount of rent is less than the PMV, in-kind support and maintenance (ISM) would be imputed as the difference between the required amount of rent and either the PMV or the current market rental value (CMRV), whichever is less. The formula currently in place in all but seven states creates a burdensome rebuttal process for any beneficiary who seeks to prove that a business arrangement lower than the CMRV is less than the PMV. Extending to all States the exception creates not only an equitable national standard, but applies Seventh and Second Circuit Court decisions *Jackson* and *Ruppert*, produces efficiency in universalizing the rule, and produces a more just result for SSI beneficiaries.

We agree with SSA that this step would simplify existing policy and reduce reporting burdens. The proposal would also promote equity and housing security by not disadvantaging an already vulnerable population when they receive rental subsidies. In our view, all SSI beneficiaries should be treated equitably, and their benefits should be sufficient to supply their housing needs

to reduce and prevent poverty and homelessness especially among aging and disabled populations.

Conclusion

We thank SSA for its work so far in updating SSI financial rules, and for its thoughtful consideration of the important issues discussed in the proposed rule. As noted above, NAELA stands firmly in support of the proposal to expand the rental subsidy policy to apply to all SSI beneficiaries and applicants.

We appreciate this and future opportunities to work with SSA. In addition to our written comments, we welcome the opportunity to engage with you on our policy suggestions and priorities moving forward. If you have any questions or would like to set up a discussion, please reach out to Michael Knaapen, NAELA's Director of Public Policy and Alliance Development, at MKnaapen@naela.org.

Sincerely,

Bridget O'Brien Swartz
NAELA President