


Regulatory Analysis Form		This space for use by IRRC 	
		RECEIVED 2004 OCT 28 PM 3:34	
(1) Agency Department of Public Welfare Office of Income Maintenance Bureau of Policy		REGULATORY REVIEW COMMISSION	
(2) I.D. Number (Governor's Office Use)		IRRC Number: 2444	
(3) Short Title SSI Program and State Supplementary Payment Program			
(4) PA Code Cite 55 Pa.Code Chapter 297 55 Pa.Code Chapter 299		(5) Agency Contacts & Telephone Numbers Primary Contact: Edward J. Zogby 787-4081 Secondary Contact: Karole Aldridge 772-7829	
(6) Type of Rulemaking (check one) <input type="checkbox"/> Proposed Rulemaking <input type="checkbox"/> Final Order Adopting Regulation <input checked="" type="checkbox"/> Final Order, Proposed Rulemaking Omitted		(7) Is a 120-Day Emergency Certification Attached? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor	
(8) Briefly explain the regulation in clear and nontechnical language. The purpose of this rulemaking is to repeal Chapter 297 (relating to Supplemental Security Income Program) and add a new Chapter 299 (relating to Supplemental Security Income Program and State Supplementary Payment Program). The rulemaking is needed because Chapter 297 currently includes unnecessary historical background discussion of SSI, SSI procedural explanations and eligibility requirements already contained at 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 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 Supplemental Security Income Supplement for Licensed Personal Care Boarding Home Residents and IMB 297-84-43, Personal Care Boarding Home Supplement.			
(9) State the statutory authority for the regulation and any relevant state or federal court decisions. The Public Welfare Code, Act of June 13, 1967, P. L. 31, No. 21 (62 P.S. §§ 201(2), 403(b), and 432(2)) and Federal regulation at 20 CFR Part 416 (relating to SSI for the aged, blind and disabled).			

Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

There is no statutory or court mandate for this change.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The SSA currently determines eligibility for both state-funded mandatory and optional SSPs and charges the Commonwealth an administrative fee to cover processing and issuance costs.

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 month in benefits 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 (CPI). 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 living in personal care homes or domiciliary care facilities and for individuals 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 residing in personal care homes or domiciliary care facilities 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.

(12) State the public health, safety, environmental or general welfare risks associated with non-regulation.

There are no public health, safety, environmental or general welfare risks associated with nonregulation.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

The rulemaking affects approximately 298,000 recipients who receive an optional SSP. Since the SSA currently administers the SSP, County Assistance Office (CAO) contact and involvement with SSP recipients is limited. The regulation 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 and cooling costs. This interaction may also provide opportunities to review Medicaid eligibility for other household members.

Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

The rulemaking affects approximately 298,000 individuals who now receive an optional SSP. As a result of the 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.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

The rulemaking affects approximately 298,000 recipients who receive an optional SSP.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

Community Legal Services and the Income Maintenance Advisory Committee were provided an overview of the general aspects of this project. They provided comments on some of the proposed forms that will communicate this change to the general public and the affected individuals.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

There are no new costs or savings to the regulated community associated with compliance with this rulemaking. No new legal, accounting or consultant procedures are required.

Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

There are no new costs or savings to local governments associated with compliance with this regulation. No new legal, accounting or consultant procedures are required.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

Costs and savings are reflected in item 20.

Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

(Dollar Amounts In Thousands)

	FY 04-05 Year	FY +1 05-06 Year	FY +2 06-07 Year	FY +3 07-08 Year	FY +4 08-09 Year	FY +5 09-10 Year
SAVINGS:						
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	(\$15,950)	(\$32,434)	(\$33,042)	(\$33,686)	(\$34,401)	(\$34,401)
Total Savings	(\$15,950)	(\$32,434)	(\$33,042)	(\$33,686)	(\$34,401)	(\$34,401)
COSTS:						
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$5,169	\$5,673	\$4,193	\$4,211	\$4,224	\$4,224
Total Costs	\$5,169	\$5,673	\$4,193	\$4,211	\$4,224	\$4,224
REVENUE LOSSES:						
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Revenue Losses	\$0	\$0	\$0	\$0	\$0	\$0

(20a) Explain how the estimates listed above were derived.

The above estimate represents 298,000 State Supplemental Income (SSI) clients receiving their state supplement directly from the Department of Public Welfare. Currently, the state supplement is paid by the Federal government, and the Department is charged a fee per monthly issuance, which historically has increased each year. The current monthly fee per issuance is \$8.77.

The costs represent developmental and operational system costs.

Savings represent avoidance of the administrative fee.

	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09	FY 09-10
Supplemental Grants	(\$15,950)	(\$32,434)	(\$33,042)	(\$33,686)	(\$34,401)	(\$34,401)
County Administration - Statewide	\$1,936	\$3,893	\$3,913	\$3,931	\$3,944	\$3,944
County Assistance Offices	\$45	\$30	\$30	\$30	\$30	\$30
Information Systems	\$3,188	\$1,750	\$250	\$250	\$250	\$250

Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
Supplemental Grants	\$129,852	\$159,857	\$149,608	\$152,336
County Administration – Statewide	\$45,463	\$46,490	\$45,724	\$41,323
County Assistance Offices	\$256,464	\$248,498	\$250,299	\$252,318
Information Systems	\$32,425	\$41,851	\$48,598	\$54,904

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

There are no adverse effects or costs of the rulemaking. The projected savings exceed the costs incurred.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

The nonregulatory alternative is to continue to pay the SSA to administer the SSP. Since the administrative fee will increase yearly based on the CPI, there will be less state funds available for the ever-increasing needs and demands of Pennsylvania's needy, aged, blind and disabled citizens. The total cost for Pennsylvania to handle the administrative functions is far less than paying SSA to continue to administer the program.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

The Department considered amending 55 Pa.Code Chapter 297 but decided to rescind it because Chapter 297 currently includes unnecessary references to SSI and SSP benefit amounts, procedures for issuing SSI payments and sections that are found in Federal regulation in 20 CFR Part 416 (relating to SSI for the aged, blind and disabled).

Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

Yes, there is one provision in the rulemaking that is more stringent than federal standards. According to 20 CFR Part 416.1409, an initial SSA determination shall be reconsidered if a written request is filed within 60 days after the date the determination notice is received.

Regulation at 55 Pa.Code § 275.3(b)(1) (relating to time limitations on right to appeal) indicate that the right to appeal must be exercised within 30 days from the date of a written notice of a decision or action. The Department is adopting a 30-day time limitation to maintain consistency throughout cash assistance programs.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

Approximately 31 of the approximately 49 states that offer mandatory and/or optional state supplements administer their own supplements to some degree. The state supplementary programs in New Jersey, Delaware, and Maryland are still administered by SSA.

New York's state supplement is currently administered by SSA. However, the State is determining the feasibility of assuming administration of the state supplement.

Ohio administers an optional state supplement for a select group of adults who have increased needs due to a medical condition that is not severe enough to require institutionalization. Ohio's program is limited to a maximum enrollment of 2,800.

West Virginia does not offer a state supplement.

The rulemaking will not put Pennsylvania at a competitive advantage or disadvantage. The eligibility requirements and the benefit amounts for clients and recipients will not change. The change is that the payments will be administered and issued by the Department instead of the SSA.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

This regulation rescinds 55 Pa.Code Chapter 297 (relating to Supplemental Security Income).

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No public hearings or informational meetings are scheduled.

Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

The 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.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

The rulemaking applies to individuals and couples that are considered aged, blind or disabled according to Federal regulation. The rulemaking does not change the eligibility requirements for receipt of an SSP. The change is that the Department instead of the SSA will administer and issue the SSP for certain individuals and couples. While there are no special provisions in the rulemaking, the Department is developing brochures and letters to explain this change. The brochure will be available to local SSA offices, Area Agency on Aging offices and other social service providers. Letters explaining the changes regarding the administration of SSP are under development and will be sent to SSP recipients 60 days prior to the change of administration. Spanish language versions of these letters will be sent to the appropriate clients. The letters will also be sent in tagline envelopes for people with limited English proficiency.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The regulation will be effective January 1, 2005.

(31) Provide the schedule for continual review of the regulation.

The Department will review compliance with the regulation through its quality control and corrective action review process.

CDL-1

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

RECEIVED

2004 OCT 28 PM 3: 34

INDEPENDENT REGULATORY
REVIEW COMMISSION

2444

DO NOT WRITE IN THIS SPACE

<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>By: _____ (Deputy Attorney General)</p> <p>_____ Date of Approval</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p>DEPARTMENT OF PUBLIC WELFARE (Agency)</p> <p>LEGAL COUNSEL: <u>Alicia Clark</u></p> <p>DOCUMENT/FISCAL NOTE NO. <u>14-492</u> (DPW-OIM-06-04-01)</p> <p>DATE OF ADOPTION: _____</p> <p>BY: <u>Estelle B. Richman</u></p> <p>TITLE: SECRETARY OF PUBLIC WELFARE (Executive Officer, Chairman or Secretary)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies.</p> <p>BY: <u>Tanya G. [Signature]</u></p> <p><u>10.28.04</u> Date of Approval</p> <p>Asst: (Deputy General Counsel) (Chief Counsel, Independent Agency) (Strike Inapplicable title)</p> <p><input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
---	--	---

NOTICE OF FINAL-OMITTED RULEMAKING WITHOUT PUBLICATION
AS PROPOSED

DEPARTMENT OF PUBLIC WELFARE

OFFICE OF INCOME MAINTENANCE

[55 Pa.Code Chapter 297 Supplemental Security Income Program]
[55 Pa.Code Chapter 299 Supplemental Security Income Program and
State Supplementary Payment Program]

STATUTORY AUTHORITY

The Department of Public Welfare (Department), by this order, adopts the regulation set forth in Annex A pursuant to the authority of the Public Welfare Code Act of June 13, 1967, P. L. 31, No. 21 (62 P.S. §§ 201(2), 403(b) and 432(2)) and Federal regulation at 20 CFR Part 416 (relating to Supplemental Security Income (SSI) for the aged, blind, and disabled).

OMISSION OF PROPOSED RULEMAKING

Notice of proposed rulemaking is omitted in accordance with §§ 204(1)(iv) and (3) of the Commonwealth Documents Law (45 P.S. §§ 1204(1)(iv) and (3)) and 1 Pa.Code §§ 7.4(1)(iv) and (3). This 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

14-492

OCT 22 2004

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 regulation is to repeal Chapter 297 (relating to Supplemental Security Income (SSI) Program) and add a new Chapter 299 (relating to Supplemental Security Income Program and State Supplementary Payment (SSP) Program).

The regulation is needed because Chapter 297 currently includes unnecessary historical background discussion of SSI, SSI procedural explanations and eligibility requirements already contained at 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 regulation 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 Supplemental 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. Pennsylvania 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 (CPI). 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 (PCHs) or domiciliary care homes (DCHs) 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 regulation 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 the regulation:

1. Section 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 those SSI recipients whose SSP will be administered by the SSA or the State.
2. Section 299.2 (relating to definitions). The Department includes the definitions of countable income, DCH, domiciliary care services (DCS), federal benefit rate, in-kind support and maintenance, living in the household of another, mandatory SSP, optional SSP, PCH, PCS, representative payee, SSA, SSI, SSP and SSP-Only.
3. Section 299.11 (relating to mandatory and optional SSPs). The Department describes the two types of SSP, mandatory and optional.
4. Section 299.21 (relating to general). The Department identifies the individuals and couples who are eligible for an optional SSP.

5. Section 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.

6. Section 299.23-299.25 (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 relative to appeal and fair hearing provisions maintains consistency with other assistance programs.

7. Section 299.26 (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 § 299.28(f).

8. Section 299.27 (relating to eligibility requirements for individuals or couples eligible for SSI). The Department will administer and pay an optional SSP to residents of Pennsylvania that receive SSI except those individuals and couples that reside in a PCH or a DCH.

9. Section 299.28 (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.

10. Section 299.29 (relating to SSP payment level changes). The Department will provide SSP payment levels as set forth in Appendix A to this regulation. Additionally, revisions to the Appendix will be codified when published as a notice in the *Pennsylvania Bulletin*.

AFFECTED INDIVIDUALS AND ORGANIZATIONS

The rulemaking affects approximately 298,000 individuals who now receive an optional SSP. As a result of the 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 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 regulation 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 regulation will be effective January 1, 2005.

PUBLIC COMMENT

Although this regulation is being adopted without publication as proposed rulemaking, interested persons are invited to submit written comments, suggestions or objections regarding the regulation to the Department at the following address: Department of Public Welfare, Office of Income Maintenance, Edward J. Zogby, Director, Bureau of Policy, Room 431 Health and Welfare Building, Harrisburg,

Pennsylvania 17120. Comments will be reviewed and considered for any subsequent revision of the regulation.

Persons with a disability who require an auxiliary aid or service may submit comments by using the AT&T Relay Service at 1-800-654-5984 (TDD users) or 1-800-654-5988 (voice users).

REGULATORY REVIEW ACT

Under § 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5(a)), on OCT 28 2004 , the Department submitted a copy of this regulation, with proposed rulemaking omitted, to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare. On the same date, the regulation was submitted to the Office of the Attorney General for review and approval pursuant to the Commonwealth Attorneys Act.

In accordance with § 5.1(j.1) and (j.2) of the Regulatory Review Act, this regulation was approved by the Committees on . The IRRC met on and approved the regulation.

In addition to submitting the final-omit rulemaking, the Department has provided the 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.

ORDER

The Department finds:

- (a) Notice of proposed rulemaking is omitted in accordance with § 204(1)(iv) and (3) of the Commonwealth Documents Law (45 P.S. § 1204) 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) That the adoption of this regulation in the manner provided by this Order is necessary and appropriate for the administration and enforcement of the Public Welfare Code.

The Department acting pursuant to the Public Welfare Code and 20 CFR Part 416 orders:

- (a) The regulation of the Department is adopted to read as set forth in

Annex A of this Order.

- (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 shall take effect January 1, 2005.

Annex A

TITLE 55. PUBLIC WELFARE

PART II. PUBLIC ASSISTANCE MANUAL

Subpart I. OTHER INCOME MAINTENANCE PROGRAMS

CHAPTER 297. (Reserved)

CHAPTER 299. SUPPLEMENTAL SECURITY INCOME PROGRAM

AND STATE SUPPLEMENTARY PAYMENT PROGRAM

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, Subpart D (relating to amount of benefits) and 20 CFR Part 416, Subpart K (relating to 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 their 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.

(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 do 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 seek out, assess and determine the eligibility of applicants and prospective providers, to certify domiciliary care homes, and to 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:

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

(b) *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 §§ 299.21-299.28.

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, 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

§ 299.23. Authorization.

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

§ 299.24. Restitution.

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

§ 299.25. 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).

§ 299.26. 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 § 299.28 (relating to eligibility requirements for SSP-Only).

§ 299.27. 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 the Commonwealth under 20 CFR 416.2035 (relating to optional 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).

§ 299.28. 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 must meet the eligibility requirements under 8 U.S.C.A. § 1612 (relating to 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 subparagraph (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).

§ 299.29 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

	Individual	Couple
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

**TRANSMITTAL SHEET FOR REGULATIONS SUB
REGULATORY REVIEW ACT**

IRRC
14th Floor
HARRISTOWN II

②

I.D. NUMBER: 14-492
 SUBJECT: Supplemental Security Income Program & State Supplementary Payment Program
 AGENCY: DEPARTMENT OF PUBLIC WELFARE

2444

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

RECEIVED
 2004 OCT 28 PM 3:34
 INDEPENDENT REGULATORY
 REVIEW COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
10/28	<i>D. Ruck</i>	HOUSE COMMITTEE ON HEALTH & HUMAN SERVICES
10/28	<i>N. Thompson</i>	
	<i>Sen. P. B.</i>	SENATE COMMITTEE ON PUBLIC HEALTH & WELFARE
10/28/04	<i>Laraine C. B.</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
10/28/04	<i>John F. Allen</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
	<i>R. P. S.</i>	ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)