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Divorce and the Child With Special Needs: Income Deeming and Child Custody

LAST UPDATED: 7/24/2008

Divorce is a difficult process for everyone. If you have a child with special needs, the choices you make during a divorce can have lifelong repercussions, both for you and for the child. As we pointed out in [our earlier discussion](#) of child support awards for special needs children, it is not always in the best interest of a child with a disability to receive a large award because child support *could* cancel the child's SSI and Medicaid benefits.

But this is not the only problem child support creates for a child with special needs; a complicated process that the Social Security Administration (SSA) uses to evaluate household income can also wreak havoc with SSI and Medicaid benefits.

When an SSI beneficiary lives in a household with other people, the SSA takes into account not just the beneficiary's income, but the income of everyone she lives with when it calculates her eligibility for benefits. This is known as "income deeming." The SSA applies a formula to determine what portion of a beneficiary's household income applies towards her eligibility. If your child's total household income is too high, she can lose SSI.

In families going through a divorce, income deeming becomes especially important for two reasons. First, a child with special needs may have siblings who are also receiving child support from an absent parent. In these cases, that additional child support will count as household income and could place the SSI recipient's benefits in jeopardy. Second, the choice of parent who will have custody of the child (the custodial parent) could throw off an SSI benefit if one parent's household income is significantly different from the other's. In many cases, loss of SSI benefits is not a key factor in choosing a custodial parent. But in other cases, especially when the child receives significant benefits from SSI and Medicaid, the choice of a custodial parent could make all of the difference for that child's welfare.

A special needs planner can help you understand these complex income deeming regulations and will work with your divorce attorney to make sure that child support will not adversely affect your child's future. To find a special needs planner near you, [click here](#).

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