

§416.1133

(c) *Your own household—not another person’s household.* You are not living in another person’s household (you live in your own household) if—

(1) You (or your spouse who lives with you or any person whose income is deemed to you) have an ownership interest or a life estate interest in the home;

(2) You (or your spouse who lives with you or any person whose income is deemed to you) are liable to the landlord for payment of any part of the rental charges;

(3) You live in a noninstitutional care situation as described in §416.1143;

(4) You pay at least a pro rata share of household and operating expenses (see §416.1133); or

(5) All members of the household receive public income—maintenance payments (§416.1142).

[45 FR 65547, Oct. 3, 1980, as amended at 50 FR 48574, Nov. 26, 1985]

§416.1133 What is a pro rata share of household operating expenses.

(a) *General.* If you pay your pro rata share toward monthly household operating expenses, you are living in your own household and are not receiving in-kind support and maintenance from anyone else in the household. The one-third reduction, therefore, does not apply to you. (If you are receiving food or shelter from someone outside the household, we value it under the rule in §416.1140.)

(b) *How we determine a pro rata share.* Your pro rata share of household operating expenses is the average monthly household operating expenses (based on a reasonable estimate if exact figures are not available) divided by the number of people in the household, regardless of age.

(c) *Average household operating expenses.* Household operating expenses are the household’s total monthly expenditures for food, rent, mortgage, property taxes, heating fuel, gas, electricity, water, sewerage, and garbage collection service. (The term does not include the cost of these items if someone outside the household pays for them.) Generally, we average household operating expenses over the past

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12 months to determine a pro rata share.

[45 FR 65547, Oct. 3, 1980, as amended at 70 FR 6345, Feb. 7, 2005]

§416.1140 The presumed value rule.

(a) *How we apply the presumed value rule.* (1) When you receive in-kind support and maintenance and the one-third reduction rule does not apply, we use the presumed value rule. Instead of determining the actual dollar value of any food or shelter you receive, we presume that it is worth a maximum value. This maximum value is one-third of your Federal benefit rate plus the amount of the general income exclusion described in §416.1124(c)(12).

(2) The presumed value rule allows you to show that your in-kind support and maintenance is not equal to the presumed value. We will not use the presumed value if you show us that—

(i) The current market value of any food or shelter you receive, minus any payment you make for them, is lower than the presumed value; or

(ii) The actual amount someone else pays for your food or shelter is lower than the presumed value.

(b) *How we determine the amount of your unearned income under the presumed value rule.* (1) If you choose not to question the use of the presumed value, or if the presumed value is less than the actual value of the food or shelter you receive, we use the presumed value to figure your unearned income.

(2) If you show us, as provided in paragraph (a)(2) of this section, that the presumed value is higher than the actual value of the food or shelter you receive, we use the actual amount to figure your unearned income.

[45 FR 65547, Oct. 3, 1980, as amended at 50 FR 48575, Nov. 26, 1985; 58 FR 63888, Dec. 3, 1993; 70 FR 6345, Feb. 7, 2005]

§416.1141 When the presumed value rule applies.

The presumed value rule applies whenever we must count in-kind support and maintenance as unearned income and the one-third reduction rule does not apply. This means that the presumed value rule applies if you are living—