

HEART ACT

Question: How do AmeriCorps payments affect SSA disability benefits?

AmeriCorps offers a valuable alternative during a time of exceptionally high unemployment. An important reminder when advising beneficiaries is that AmeriCorps is actually three separate and distinct programs - AmeriCorps State and National, AmeriCorps NCCC, and AmeriCorps-VISTA. With the passage of the HEART Act in 1998, SSI now treats income from all three AmeriCorps programs the same way. The Title II programs treats income from the AmeriCorps-VISTA program one way and income from the other two AmeriCorps programs in another way. Below is the summary of the relevant POMS on AmeriCorps payments pulled together with a description of the HEART Act.

AmeriCorps and Title 2 (SSDI, CDB, DWB)

In the Title II program, only the AmeriCorps-VISTA income is completely disregarded when SSA makes TWP and SGA determinations. Income from the other two AmeriCorps programs counts as earned income - at least, whatever portions of that income would be subject to FICA. The relevant POMS citation is: **DI 10505.025 - Special Employment Situations.**

The federal government has administered a number of programs for volunteer activity under the Domestic Volunteer Service Act of 1973 (Public Law 93-113) (DVSA) and the Small Business Act (SBA). Volunteers in such programs may have received payments in the form of a minimal stipend, payment for supportive services (such as housing, supplies, equipment), an expense allowance, and/or reimbursement of out-of-pocket expenses.

Such payments cannot be counted as earnings, income or resources to reduce or eliminate payments made under other government programs. Therefore, SSA will not evaluate payments made to volunteers or the services performed by them under the DVSA or SBA, for the purpose of determining SGA (or TWP) under Title II or Title XVI of the Social Security Act. This means that none of the SGA tests – earnings, comparability of work activity, or worth of work activity – is to be applied to volunteer activity under the DVSA or SBA.

This exclusion from the SGA (and TWP) provisions applies only to volunteers participating in programs explicitly mentioned in the DVSA and the SBA:

- AmeriCorps VISTA (formerly Volunteers in Service to America (VISTA));
- University Year for Action; Special Volunteer Programs;
- Retired Senior Volunteer Program;
- Foster Grandparent Program;
- Older American Community Services Programs;
- Service Corps of Retired Executives (SCORE); and
- Active Corps of Executives (ACE).

The protection of the exclusion explained here does not cover:

- Volunteers under DVSA or SBA programs for any work they may undertake in activities *outside* these specified programs;

- *Non-volunteers* associated with DVSA or SBA programs, i.e., program operating personnel and those persons served by the programs; and
- Volunteers who work for an AmeriCorps organization **other** than AmeriCorps-VISTA.

Summary of the HEART Act

On June 17, 2008, President Bush signed into law H.R. 6081, the Heroes Earnings Assistance and Relief Tax Act of 2008 ("the HEART Act"), making AmeriCorps more accessible to people with disabilities.

How does the HEART Act make AmeriCorps more accessible to people with disabilities?

In the past, receiving an AmeriCorps living allowance could disqualify an individual from SSI eligibility or cause a reduction in SSI cash payments. The new law directs the Social Security Administration to ignore an individual's receipt of AmeriCorps benefits for purposes of SSI eligibility and when calculating monthly payment amount.

Why did Congress make this change?

This brings all AmeriCorps members under one treatment of benefits rule for SSI. In the past, only AmeriCorps-VISTA benefits were excluded by law from countable income for SSI purposes.

Which AmeriCorps benefits are excluded from countable income?

The Heart Act excludes "any benefit (whether cash or in-kind)" and so covers the living allowance, health insurance, child care, and the education award (and related interest payments).

When does the new law take effect?

The exclusion of AmeriCorps benefits takes effect for benefits payable after September 1, 2008.

How AmeriCorps Payments Affect SSI Benefits

There are two different POMS citations that cover all three AmeriCorps programs. **SI 00830.537** covers AmeriCorps and National Civilian Community Corps (NCCC) payments. **SI 00830.610** covers AmeriCorps-VISTA. Through the Corporation for National and Community Services (CNCS), the federal government administers a number of national and community service programs. CNCS is a federal agency that also administers VISTA and the Service Corps programs formerly administered by the ACTION Agency.

AmeriCorps State and National program is a national service program authorized by the National and Community Service Act of 1990 (NCSA). Through this program, the Corporation provides grants to states, Indian tribes, private and public nonprofit organizations and Institutes of higher education for community service projects such as educational programs, environmental activities, and disaster relief. AmeriCorps NCCC is a residential service program for young adults between the ages of 18 and 24 in which participants provide work teams for a variety of community service projects.

Participants of AmeriCorps State and National and AmeriCorps NCCC receive a stipend or living allowance generally based on minimum wage requirements. Participants also are eligible to receive an educational award made upon completion of a specified term of service. The educational award is for educational assistance and must be applied to the cost of attendance at an Institute of Higher Education, or outstanding college loans. The educational award is paid from the National Service Trust directly to an Institute of Higher Education or to a loan holder for repayment of a student education loan, as directed by the participant.

Instead of an educational award, AmeriCorps State and National and AmeriCorps NCCC participants may, with the approval of the director of CNCS, receive an alternative payment paid directly to the participant.

Effective with benefits payable on or after September 1, 2008, cash or in-kind payments provided by AmeriCorps State and National or AmeriCorps NCCC are excluded from income for SSI purposes, even if they meet the definition of wages.

Such payments include, but are not limited to:

- Living allowance payments
- Stipends
- Food and shelter
- Clothing allowance
- Educational awards
- Payments in lieu of educational awards

SSA will verify the payment was provided by AmeriCorps State and National or AmeriCorps NCCC by using documentation in the individual's possession or contacting AmeriCorps State and National or AmeriCorps NCCC. The Claims Representative will accept the individual's allegation of amount(s) and date(s) of receipt.

Corporation for National and Community Service (CNCS) Programs

The National and Community Service Trust Act of 1993 (NCSTA) (P.L. 103-82) established the Corporation for National and Community Service (CNCS) by combining two formerly independent agencies: the Commission on National Service and ACTION.

ACTION consisted of a number of volunteer service programs including:

- Volunteers in Service to America (VISTA) (now AmeriCorps-VISTA);
- University Year for ACTION (UYA);
- Special and Demonstration Volunteer Programs;
- Retired Senior Volunteer Program (RSVP);
- Foster Grandparent Program; and
- Senior Companion Program.

Payments to volunteers under the former ACTION programs are excluded from income and resources. There is an exception to this rule: payments are not excluded if the CNCS determines that their value, adjusted to reflect the hours served, is equivalent to or greater than the minimum wage in effect under the Fair Labor Standards Act of 1938 or the minimum wage under the applicable state law, whichever is greater. However, Claims Representatives are directed to assume that all payments are excluded. To date, SSA has not made a determination that income is counted and the agency does not foresee that such a determination will ever be made. Instead, Claims Representatives are directed to accept an individual's allegation of participation in a former ACTION program and exclude any payments from income and resources without further development or documentation.

Claims Representatives generally use documents in the individual's possession, contact with the program or agency involved or a precedent to verify that a program is a former ACTION program.

As CWICs encounter beneficiaries who are considering participating in one of the Americorps programs described above, it is important to verify which program is being considered, and which SSA benefit is being received. As always, CWICs should encourage beneficiaries to report participation in an Americorps program to their local SSA office, even if it will not count. In this way, participation can be documented at the time and avoid any misunderstands in the future. CWICs should also encourage beneficiaries to keep documentation of their program participation.