§ 209. Eligibility. 1. (a) Notwithstanding any law to the contrary, no person shall be eligible for any payment pursuant to this title who is ineligible for supplemental security income for any reason other than having countable income exceeding the federal benefit rate for such program. An individual shall be eligible to receive additional state payments if he or she has applied for supplemental security income benefits, has received a determination with respect to such application and:

(i) is over sixty-five years of age, or is blind or disabled; and

(ii) does not have countable income in an amount equal to or greater than the standard of need established in subdivision two of this section; and

(iii) does not have countable resources in an amount equal to or greater than the amount of resources an individual or couple may have and remain eligible for supplemental security income benefits pursuant to federal law and regulations of the department; and

(iv) is a resident of the state and is either a citizen of the United States or is not a noncitizen who is or would be ineligible for federal supplemental security income benefits solely by reason of noncitizen status.

(b) A person who is properly receiving supplemental security income benefits shall be deemed to have met the eligibility criteria contained in subparagraphs (i), (ii) and (iii) of paragraph (a) of this subdivision.

(c) A person who, for the month of December, nineteen hundred seventy-three, properly received a grant of assistance under the state's program of old age assistance, assistance to the blind, aid to the disabled or the combined program of aid to aged, blind and disabled persons, shall be deemed to have met the eligibility criteria of this subdivision; provided, however, that a disabled person who did not also receive such a grant for any month prior to July, nineteen hundred seventy-three, shall not be deemed to have met such eligibility criteria under this paragraph. A person who is deemed eligible under this paragraph shall continue to be deemed to meet the eligibility criteria of this subdivision so long as he continues to be blind or disabled, as the case may be, pursuant to state standards in effect for October, nineteen hundred seventy-two, and so long as he continues to reside in

the state.

(d) Any inconsistent provision of this title notwithstanding, an individual shall not be eligible for additional state payments with respect to any month, if throughout such month, (i) he is an inmate of a public institution, or (ii) he is an inmate in a medical facility which is receiving medical assistance payments for him at a level exceeding fifty per cent of the cost of his care, or (iii) he is an inmate in a medical facility which is not certified under the state's medical assistance program. Nor shall an individual be eligible for additional state payments for any month in which he is ineligible for supplemental security income benefits because of a failure to file for other non-public assistance benefits to which he might be entitled, or because of a refusal to participate in treatment for drug addiction or alcoholism or because he has remained outside the United States for all of such month, or because he has refused vocational rehabilitation.

2. The following amounts shall be the standard of monthly need for determining eligibility for and the amount of additional state payments, depending on the type of living arrangement and the geographic area in which the eligible individual or the eligible couple resides:

* (a) On and after January first, two thousand twenty-five, for an eligible individual living alone, $1,054.00; and for an eligible couple living alone, $1,554.00.

* NB Effective until December 31, 2026

* (a) On and after January first, two thousand twenty-six, for an eligible individual living alone, $1,081.00; and for an eligible couple living alone, $1,595.00.

* NB Effective December 31, 2026

* (b) On and after January first, two thousand twenty-five, for an eligible individual living with others with or without in-kind income, $990.00; and for an eligible couple living with others with or without in-kind income, $1,496.00.

* NB Effective until December 31, 2026

* (b) On and after January first, two thousand twenty-six, for an eligible individual living with others with or without in-kind income, $1,017.00; and for an eligible couple living with others with or without in-kind income, $1,537.00.

* NB Effective December 31, 2026

* (c) On and after January first, two thousand twenty-five, (i) for an eligible individual receiving family care, $1,233.48 if such individual is receiving such care in the city of New York or the county of Nassau, Suffolk, Westchester or Rockland; and (ii) for an eligible couple receiving family care in the city of New York or the county of Nassau, Suffolk, Westchester or Rockland, two times the amount set forth in subparagraph (i) of this paragraph; or (iii) for an eligible individual receiving such care in any other county in the state, $1,195.48; and (iv) for an eligible couple receiving such care in any other county in the state, two times the amount set forth in subparagraph (iii) of this paragraph.

* NB Effective until December 31, 2026

* (c) On and after January first, two thousand twenty-six, (i) for an eligible individual receiving family care, $1,260.48 if such individual is receiving such care in the city of New York or the county of Nassau, Suffolk, Westchester or Rockland; and (ii) for an eligible couple receiving family care in the city of New York or the county of Nassau, Suffolk, Westchester or Rockland, two times the amount set forth in subparagraph (i) of this paragraph; or (iii) for an eligible individual receiving such care in any other county in the state, $1,222.48; and (iv) for an eligible couple receiving such care in any other county in the state, two times the amount set forth in subparagraph (iii) of this paragraph.

* NB Effective December 31, 2026

* (d) On and after January first, two thousand twenty-five, (i) for an eligible individual receiving residential care, $1,402.00 if such individual is receiving such care in the city of New York or the county of Nassau, Suffolk, Westchester or Rockland; and (ii) for an eligible couple receiving residential care in the city of New York or the county of Nassau, Suffolk, Westchester or Rockland, two times the amount set forth in subparagraph (i) of this paragraph; or (iii) for an eligible individual receiving such care in any other county in the state, $1,372.00; and (iv) for an eligible couple receiving such care in any other county in the state, two times the amount set forth in subparagraph (iii) of this paragraph.

* NB Effective until December 31, 2026

* (d) On and after January first, two thousand twenty-six, (i) for an eligible individual receiving residential care, $1,429.00 if such individual is receiving such care in the city of New York or the county of Nassau, Suffolk, Westchester or Rockland; and (ii) for an eligible couple receiving residential care in the city of New York or the county of Nassau, Suffolk, Westchester or Rockland, two times the amount set forth in subparagraph (i) of this paragraph; or (iii) for an eligible individual receiving such care in any other county in the state, $1,399.00; and (iv) for an eligible couple receiving such care in any other county in the state, two times the amount set forth in subparagraph (iii) of this paragraph.

* NB Effective December 31, 2026

* (e) On and after January first, two thousand twenty-five, (i) for an eligible individual receiving enhanced residential care, $1,661.00; and (ii) for an eligible couple receiving enhanced residential care, two times the amount set forth in subparagraph (i) of this paragraph.

* NB Effective until December 31, 2026

* (e) On and after January first, two thousand twenty-six, (i) for an eligible individual receiving enhanced residential care, $1,688.00; and (ii) for an eligible couple receiving enhanced residential care, two times the amount set forth in subparagraph (i) of this paragraph.

* NB Effective December 31, 2026

* (f) The amounts set forth in paragraphs (a) through (e) of this subdivision shall be increased to reflect any increases in federal supplemental security income benefits for individuals or couples which become effective on or after January first, two thousand twenty-six but prior to June thirtieth, two thousand twenty-six.

* NB Effective until December 31, 2026

* (f) The amounts set forth in paragraphs (a) through (e) of this subdivision shall be increased to reflect any increases in federal supplemental security income benefits for individuals or couples which become effective on or after January first, two thousand twenty-seven but prior to June thirtieth, two thousand twenty-seven.

* NB Effective December 31, 2026

2-a. Notwithstanding any inconsistent provision of subparagraph (ii) of paragraph (d) of subdivision one of this section, an individual who

is receiving or is eligible to receive federal supplemental security income payments and/or additional state payments and who is a resident of a residential health care facility as defined by section twenty-eight hundred one of the public health law, shall, in accordance with regulations of the department, be entitled to a state payment for personal needs in the amount of fifteen dollars a month, provided, however, that on or after January first, nineteen hundred eighty-eight the state payment for personal needs for such persons shall be in the amount of twenty-five dollars a month. Notwithstanding any inconsistent provision of subparagraph (ii) of paragraph (d) of subdivision one of this section, on or after January first, nineteen hundred eighty-eight, a resident of an intermediate care facility operated or issued an operating certificate by the office for people with developmental disabilities or a patient of a hospital operated by the office of mental health as defined in subdivision ten of section 1.03 of the mental hygiene law who is receiving or is eligible to receive supplemental security income payments and/or additional state payments shall receive a state payment for personal needs in the amount of five dollars a month. The department is authorized to promulgate necessary regulations to provide for the time and manner for payment of such personal allowance to such individuals.

3. As used in subdivision two of this section:

(a) "Living alone" shall mean living in a private household composed of one eligible individual or one eligible couple.

(b) "Living with others" shall mean living in a private household composed of an eligible individual or couple and at least one other person; or, with respect to any child who is not the head of a household and who is under the age of eighteen, or under the age of twenty-two if attending school, any living arrangement other than residential care in a facility operated or licensed by an office of the department of mental hygiene.

* (c) "Receiving family care" shall mean residing in a family type home for adults which is certified by the department and supervised by a social services district, in accordance with applicable provisions of law and regulations, or a family care home certified by the appropriate office of the department of mental hygiene, in accordance with

applicable provisions of law and regulations or participating in a foster family care demonstration program pursuant to section three hundred sixty-four-h of this chapter.

* NB Effective until December 31, 2027

* (c) "Receiving family care" shall mean residing in a family type home for adults which is certified by the department and supervised by a social services district, in accordance with applicable provisions of law and regulations, or a family care home certified by the appropriate office of the department of mental hygiene, in accordance with applicable provisions of law and regulations.

* NB Effective December 31, 2027

(d) "Receiving residential care" shall mean residing in a residence for adults or a privately operated community residence, residential substance abuse treatment program or community residential facility for alcoholism, certified by the appropriate office of the department of mental hygiene; or a residential care center for adults certified by the office of mental health, in accordance with applicable law and regulations. For the purpose of this paragraph, a person receiving care in an intermediate care facility, certified by the department of health or by the appropriate office of the department of mental hygiene, or receiving respite services shall not be deemed to be receiving residential care.

(e) "Receiving enhanced residential care" shall mean residing in a privately operated school for individuals with developmental disabilities which is certified by the office for people with developmental disabilities of the department of mental hygiene, in accordance with applicable provisions of law and regulations or an adult home, or enriched housing program certified by the department of health in accordance with applicable law, rules and regulations to the extent permitted by federal law and regulations.

4. An eligible individual or an eligible couple shall be entitled to receive monthly an additional state payment in an amount equal to the difference between the monthly standard of need applicable to such individual or couple and the sum of such individual's or couple's supplemental security income benefit plus countable income.

5. If necessary in order to comply with or reflect changes in federal law, or to take full advantage of available federal funding for the purposes of this title, or to remain qualified for federal funding under any other program, the department may, by regulation, with the approval of the director of the budget, change the amounts specified as the standard of need in subdivision two of this section, or provide that any portion of the supplemental security income benefit be disregarded in determining the amount of the additional state payment. Any such change in the amounts of the standards of need or in the amounts to be so disregarded shall remain effective only until the first day of July of the year next succeeding the year in which such change is to take effect, unless such change is enacted into law prior to such date.

6. (a) As applicable federal law, rules and regulations so provide, a recipient of supplemental security income benefits or medical assistance in the state of New York or any other state may establish an irrevocable trust fund for the exclusive purpose of their or a family member's funeral and burial. Such trust fund and any accumulated interest not withdrawn by the recipient shall remain the responsibility of the funeral firm, funeral director, undertaker, cemetery or any other person, firm or corporation to whom such payment is made to administer for funeral and burial expenses of the recipient. Those persons who establish such a trust fund shall be given the opportunity to select the funeral firm, funeral director, undertaker, cemetery or any other person, firm or corporation to whom such payment is made of their choice to provide for their or a family member's burial arrangements and to change such selection at any time to any funeral firm, funeral director, undertaker, cemetery or any other person, firm or corporation to whom such payment is made, located either in the state of New York or any other state. Any such change of funeral firm, funeral director, undertaker, cemetery, or any other person, firm or corporation to whom such payment is made, must be carried out within ten business days following receipt of a request by the purchaser to the funeral firm, funeral director, undertaker, cemetery, or any other person, firm or corporation to whom such payment is made with which the current trust fund was established. Funds in such trust fund shall be placed in an interest bearing account pursuant to section four hundred fifty-three of

the general business law. Accumulated interest from such account shall not be reported as "countable income" pursuant to section two hundred eight of this title.

(b) An applicant for or a recipient of medical assistance in the state of New York or any other state who enters into an agreement pursuant to section four hundred fifty-three of the general business law for their own benefit or for the benefit of a family member shall establish a single irrevocable trust fund for each such beneficiary pursuant to paragraph (a) of this subdivision.

(c) A funeral firm, funeral director, undertaker, cemetery, or any other person, firm or corporation which makes an agreement for and accepts payment for such an irrevocable trust fund, shall comply with the provisions of section four hundred fifty-three of the general business law, and shall include the following statement in any such agreement in conspicuous print of at least twelve point type:

DISCLOSURE

NEW YORK LAW REQUIRES THIS AGREEMENT TO BE IRREVOCABLE FOR APPLICANTS FOR AND RECIPIENTS OF SUPPLEMENTAL SECURITY BENEFITS UNDER SECTION TWO HUNDRED NINE OF THE SOCIAL SERVICES LAW OR OF MEDICAL ASSISTANCE UNDER SECTION THREE HUNDRED SIXTY-SIX OF THE SOCIAL SERVICES LAW, AND FOR THE MONEYS PUT INTO A TRUST UNDER THIS AGREEMENT TO BE USED ONLY FOR FUNERAL AND BURIAL EXPENSES. WHETHER THIS AGREEMENT IS FOR YOUR FUNERAL AND BURIAL EXPENSES OR FOR THOSE OF A FAMILY MEMBER, IF ANY MONEY IS LEFT OVER AFTER YOUR FUNERAL AND BURIAL EXPENSES HAVE BEEN PAID, IT WILL GO TO THE COUNTY. YOU MAY CHANGE YOUR CHOICE OF FUNERAL HOME AT ANY TIME. IF THIS AGREEMENT IS FOR THE FUNERAL AND BURIAL EXPENSES OF A FAMILY MEMBER, AFTER YOUR DEATH SUCH FAMILY MEMBER MAY CHANGE THE CHOICE OF FUNERAL HOME AT ANY TIME.

(d) Any promotional literature prepared after January first, nineteen hundred ninety-seven by a funeral firm, funeral director, undertaker, cemetery, or any other person, firm or corporation for prearranged funeral and burial services must contain language disclosing the irrevocable nature of burial trusts established by or for an applicant or recipient of supplemental security income benefits or medical assistance.