Federal SSI/SSA Benefits for Foster Youth

Child Welfare Policy Roundtable Presentation

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AB 1331 (Statutes of 2007)

AB 1331 - A bill co-sponsored by CWDA, Alliance for Children's Rights, and Public Interest Law Project and John Burton Advocates for Youth

- Requires counties to screen foster youth prior to exiting foster care at age 18 for their potential eligibility for Supplemental Security Income (SSI), and to make applications to SSI on youth's behalf.
- AB 1331 was intended to ensure that youth who may be eligible for SSI benefits, receive the financial assistance they need, as it was not the practice of all counties to screen and apply for SSI benefits on behalf of foster youth prior to age 18.

AB 1331 (2007)

AB 1331 requires that…..

- Screening occur between ages 16 ½ - 17 ½
- In the month of SSI application, shifts the payment for any federally-eligible foster youth from AFDC-FC to "state-only" Foster Care, so that the application is based solely on disability on not on income of the child.

AB 1331 was preceded by another bill, **AB 1633** that established a workgroup to develop Best Practice Guidelines to assist counties in screening and applying for SSI benefits. (ACL 07-10) That workgroup also developed recommendations which led to the introduction of AB 1331.

AB 1633 (Statutes of 2005)

AB 1633 (Commencing in W&I Code Section 13750) requires that:

- Counties provide information, and assistance, to the youth regarding the federal requirement that the youth establish continuing disability as an adult, if necessary, in order for SSI benefits to continue beyond his or her 18th birthday.

- Counties provide information, and assistance, to the youth regarding the process for becoming his or her own payee, or designating an appropriate representative payee if benefits continue beyond his or her 18th birthday, and regarding any SSI benefits that have accumulated on his or her behalf.

AB 1633 (Statutes of 2005)

AB 1633 also requires that:
The county is only to be appointed representative payee on behalf of a child beneficiary in its custody when no other appropriate party is available to serve.

In its capacity as representative payee, the county shall do all of the following:

Establish a no-cost, interest-bearing <u>maintenance account</u> for each child. *Can be used to meet child/youths basic needs (food, shelter, clothing).*

Establish and maintain a <u>dedicated account</u> in a financial institution for past-due monthly benefits that exceed six times the maximum monthly benefit payable. This account has federal rules that must be applied.

Establish procedures for disbursing money from the accounts, including disbursing the net balance to the beneficiary upon release from care. Procedures must ensure the funds are for the use and benefit of the child and for purposes determined by the county to be in the child's best interest.

Dedicated Accounts

- County receives notification from the SSA to set up a Dedicated Account prior to disbursement of the funds **when past-due SSI benefits exceed six times the maximum monthly benefit.** The funds in a Dedicated Account are exempt from the property/resource limit for both AFDC-FC ($10,000) and SSI ($2,000).
- **Money can only be used for medical treatment and education or job skills training and only if these expenses cannot be paid by another source**. Other expenses such as personal needs or assistance, (e.g., in-home nursing care); special equipment, housing modification, therapy or rehabilitation may be allowed, if they benefit the child and are related to the disability. ***Other items or services approved by the social security office,*** that may include legal fees incurred by the child in establishing a claim for disabled child benefits
- Dedicated Account monies **cannot be used for basic monthly costs** such as food, clothing and shelter. Dedicated Account monies are excluded as an SSI resource. Monies in a Dedicated Account are considered unavailable for AFDC-FC.
- Counties and rep payees submit annual reports to SSA and are audited every 3 years to ensure the Dedicated Accounts are spent according to allowable federal rules.

SSI Benefits

Social Security Income (SSI) is a "need based" federal public assistance program. The program is designed to provide income to a person with limited income and resources to meet basic needs for food, clothing and shelter. An individual thus must meet both income and need standards to qualify.

SSI benefits are paid under three (3) categories:

- Aged (over 65),
- Blind (the benefits are higher), and
- Disabled (at any age, including newborns).

To qualify for SSI benefits children must have a physical or mental condition that can be medically validated and results in "marked and severe functional limitations" of substantial duration.

Assets cannot exceed $2,000.

SSI Benefits and Foster Care

If a child is eligible for **federal** AFDC-FC payments and in receipt of SSI, the Federal SSA requires that the SSI payment is discounted (reduced) on a dollar-for-dollar basis. The Feds see federal AFDC-FC as “income” to the SSI recipient (but not State or County-only FC). Therefore:

- If SSI payment is ***lower than*** federal AFDC-FC, SSI payments are suspended. If SSI is suspended for more than 12 months, the child must re-apply for SSI.
- If the SSI payment is ***higher than*** the federal AFDC-FC placement cost, the excess can be deposited into a maintenance account.

Maintenance accounts cannot exceed $2,000 (due to federal SSI rules). If assets exceed $2,000, the child/youth can lose SSI eligibility.

Counties work with the youth and caregiver to spend down the funds in the maintenance account to meet youth’s basic needs, pursuant to AB 1633 and federal requirements.

SSI Benefits and Foster Care

Children or youth **eligible for non-federal AFDC-FC funding** can receive SSI benefits and AFDC-FC at the same time, but SSI is counted as income to AFDC-FC under state rules.

- When the county is the rep payee for the SSI benefit, the county will offset SSI payment from the AFDC-FC payment. Any excess can be deposited into a maintenance account.

Again…

- Maintenance Accounts cannot exceed $2,000 (due to federal SSI rules).
- Counties work with the youth and caregiver to spend down the funds in the maintenance account to meet youth's needs, pursuant to AB 1633 requirements.

SSA Retirement, Survivors and Disability Insurance

Social Security Assistance (SSA) Retirement, Survivor, Disability Insurance (RSDI) are earned benefits based on a youth's parent's record and include:

- Dependent's benefits, when a parent is receiving RSDI for retirement or disability
- Survivor's benefits, when a parent who has earned enough work quarters is deceased

In order for a youth to qualify for these benefits, the child's parent had to work enough quarters and the amount of these benefits varies widely based on the parent's work history and income.

These benefits can be received regardless of the source of foster care (fed or local).

Funds can accumulate into savings as they do not have the $2,000 asset limit.

Payments to the youth end at age 18 or 19 until high school completion, or up to age 22 if the youth is disabled.

Disabled Adult Child (DAC)

A child/youth recipient of RSDI may continue to receive benefits as a "DAC" after age 18.

The SSA may pay benefits to adults who have a disability that began before they became 22 years old. This includes Nonminor dependents (NMD). The SSA considers this a "child's" benefit because it is paid on a parent's Social Security earnings record. For a disabled NMD to become eligible to this "child" benefit, one of their parents:

- Must be receiving Social Security retirement or disability benefits; or
- Must have worked long enough to earn enough work credits, and is now deceased

The NMD may have received dependent or survivor's benefits prior to age 18 but this is not a requirement for DAC benefits. When an NMD is eligible to DAC benefits, the benefits will continue as long as they remain disabled.

A person receiving DAC benefits may also receive SSI/SSP when the DAC benefits are less than the SSI/SSP income limit.

SSI, SSA RSDI Benefits and Foster Care

RSDI Rules for Foster Care:

- RSDI may be used to offset the foster care maintenance payment.
- While there is no income/asset limit for RSDI, federal and state AFDC-FC property limits (for children/youth in foster care) are capped at $10,000.
- If the child has RSDI resources in excess of $10,000 (normally the result of retroactive RSDI benefits) a “blocked account” can be established. Funds in a blocked account can only be released by court order.

SSI, RSDI & Foster Care:

- When a child/youth is eligible for both SSA ***and*** SSI benefits, the resource limit is based on the SSI limits which = $2,000.

Payments to Youth after Age 18

- Balance of a youth's Trust Accounts can assigned to that youth or other appropriate rep payee; however, the restrictions of uses of the Dedicated Account still applies.
- If the child's whereabouts are unknown at the time they turn 18 any trust funds are returned to the SSA.
- If the funds are returned to the SSA, the youth can attempt to secure the funds directly from the SSA.

Questions?

For questions contact:

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Thank you!