

**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, CA 95814



February 28, 2007

ALL COUNTY LETTER NO. 07-10

TO: ALL COUNTY WELFARE DIRECTORS  
ALL CHIEF PROBATION OFFICERS**REASON FOR THIS TRANSMITTAL**

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by  
One or More Counties
- Initiated by CDSS

SUBJECT: BEST PRACTICE GUIDELINES FOR SCREENING AND PROVIDING  
FOR FOSTER CHILDREN WITH DISABILITIES

Assembly Bill (AB) 1633 (Chapter 641, Statutes of 2006) required the California Department of Social Services (CDSS) to convene a workgroup of interested parties to develop Best Practice Guidelines (BPGs) to assist foster children to receive all federal Retirement, Survivor, or Disability Insurance (RSDI) benefits or Supplemental Security Income/State Supplemental Payment (SSI/SSP) benefits to which they are entitled. The workgroup met from April to December of 2006 and has developed the attached BPGs which provide useful information and direction for counties regarding strategies and procedures which promote beneficial screening processes for children and help ensure that federal benefits are received. Counties are strongly encouraged to consider implementation of these guidelines.

The BPGs refer to three brochures which will inform parents and youth about the SSI/SSP program. These brochures are currently in the Departmental signoff process and should be available on the CDSS website in early 2007.

If you have any questions about this ACL, please contact me at (916) 657-2614, or you may contact your Funding and Eligibility Unit County Consultant at (916) 651-9152.

Sincerely,

**Original Document Signed By:**MARY L. AULT  
Deputy Director  
Children and Family Services Division

Attachments

c: CWDA  
CPOC

**BEST PRACTICE GUIDELINES  
FOR SCREENING FOSTER CHILDREN  
WITH DISABILITIES AND ASSISTING THEM  
WITH ELIGIBILITY FOR SOCIAL SECURITY BENEFITS  
All County Letter No. 07-10**

**What Are Best Practice Guidelines and How Will They Be Used?**

Assembly Bill (AB) 1633, Chapter 641, Statutes of 2006, required the California Department of Social Services to develop best practice guidelines, in conjunction with a workgroup comprised of county staff, advocates, and current and former foster youth, for the identification of children with disabilities. The primary purpose of AB 1633 is to make every effort to get federal Supplemental Security Income (SSI) and Social Security, Retirement, Survivor, or Disability Insurance (RSDI) benefits in place for potentially eligible youth before the youth transitions from foster care. The guidelines are intended to assist counties in establishing a process for them to use in assessing a child's potential eligibility for SSI and RSDI benefits and for initiating an application for such benefits on behalf of foster children so that application delays are avoided and youth emancipate with those benefits in place.

These best practice guidelines provide useful information and direction for counties regarding strategies and procedures to promote beneficial screening processes for children and help ensure that federal benefits are received. While these guidelines are not mandatory, they will assist in meeting the objective of AB 1633 by getting federal disability benefits in place for youth and explain the fiscal and programmatic advantages for counties who implement the strategies. The Guidelines were developed by county social and eligibility workers, county program managers, representatives of the County Welfare Directors' Association (CWDA), child advocates, current and former foster youth, and State staff and represent what the workgroup believes to be a logical and viable process for establishing benefits for this vulnerable youth population. Through the application of these guidelines, counties will be able to ensure that foster children and youth receive all federal benefits to which they are entitled while in care, and that children and youth exiting the foster care system and their families understand their rights and responsibilities concerning the receipt of SSI and RSDI benefits.

Counties may realize improved safety, permanency and child well-being outcomes by employing these best practice guidelines to maximize access to SSI and RSDI benefits for foster children. The receipt of financial support at the point of reunification may help to speed up time to reunification and give parents access to resources and support services to help prevent foster care re-entry. The higher SSI monthly benefits paid to foster parents and relative caregivers, enabling them to meet the child's special needs, may help to stabilize placements. The receipt of SSI may increase permanency outcomes by ensuring the caregiver has the financial resources to care for the child without ongoing court dependency. If the caregiver is otherwise suitable, the county has the option of recommending the caregiver become the child's legal guardian and the SSI/RSDI representative payee, thus allowing the long term foster care dependency case to be closed and the Child Welfare Services/Case Management System case to be terminated. Several of the 17 new federal Children and Family Services Review (CFSR) outcomes now measure increases in exits due to guardianship and reduction in numbers of foster youth remaining in care until age 18. Improvements in these new outcomes are possible by using the SSI/RSDI benefits to increase exits from foster care, as appropriate.

Disabled foster youth who emancipate from care without establishing eligibility for federal disability benefits are especially vulnerable to negative outcomes such as homelessness and untreated medical conditions. These guidelines, therefore, focus on providing subsistence benefits for those youth who are least able to successfully transition to self sufficiency. Not only is receipt of SSI and/or RSDI benefits important to the success of children and youth, in most cases receipt of SSI/RSDI is a financial benefit to the county because there is no county share of cost in either program. Thus, implementation of these guidelines provides a unique opportunity to significantly improve the well-being outcomes of youth transitioning out of foster care without imposing any new local costs.

As of the date that these Best Practice Guidelines were released, the Workgroup has been unable to resolve an identified issue which limits the application of these guidelines to some children/youth receiving federal foster care. Pursuant to federal policy, children receiving federal foster care benefits may not be able to apply for SSI until one month prior to termination of those benefits. Because SSA processing timeframes currently take several months, this means that these youth will not have benefits in place prior to their emancipation. The CDSS and the Workgroup are continuing to analyze this barrier and working internally and with SSA to identify solutions that will resolve the issue and permit every youth in foster care who is likely to be eligible for SSI benefits to submit an application well in advance of emancipation. Counties are encouraged to work to find solutions that may address the issue at the local level, while the CDSS and the workgroup continue to pursue these solutions.

All counties are encouraged to develop practices which promote these best practice guidelines. The CDSS recognizes that some counties already perform these functions successfully and that some counties contract out part or all of these processes. These guidelines are not meant to supplant existing effective processes already in place but rather to enhance such processes.

For those counties that do implement these guidelines in part or in whole, we strongly recommend that the county keep statistics as to how many children were screened, how many children had applications filed with SSA, and how many applications were approved both pre and post-implementation of these guidelines.

## DEFINITION OF DISABILITY

The definition of a disabled child from the Social Security Administration (SSA) states:

SSA considers a child disabled if:

- The child has a physical or mental impairment (or combination of impairments)
  - That causes marked and severe functional limitations;
  - AND has lasted or is expected to last for at least 12 consecutive months, or to result in death.
  
- The child is not working at a job and doing substantial work.

A child is presumptively disabled due to:

- amputation,
- deafness,
- blindness,
- wheelchair or bed-bound,
- Cerebral Palsy,
- Down Syndrome or obvious mental retardation,
- prematurity with birth weight of 1,200 grams or less, or
- HIV/AIDS

## SSI SCREENING GUIDE

### SECTION A - DISABILITY SCREENING

CHILD'S NAME:	CHILD'S DOB:	CHILD'S SS#:
CHILD'S CASE #:	DATE COMPLETED:	NEXT SCREENING DUE (MUST BE DONE AT LEAST ANNUALLY):

DISABILITY SCREENING QUESTIONS	YES	NO	Info. Not Available
1. Have the parents/caregivers indicated that the child is receiving SSI?*** *** If "Yes," STOP, inform eligibility worker (or appropriate county staff person) to evaluate and send, if appropriate, change of payee information to SSA.			
2. Does the child have a serious physical or mental impairment which limits his/her daily activities? [Check yes if the child has difficulty, as compared to other children of the same age who do not have impairments, doing any of the following: (1) attending to and completing tasks; (2) interacting and relating to others; (3) moving about and manipulating objects; (4) caring for himself/herself.]			
3. Has the child been hospitalized or required medical treatment for a medical disability or psychiatric condition that has lasted or can be expected to last 12 months or result in death?			
4. During the past year, has child required medication on a daily basis?			
5. Has the child had school absenteeism due to health or behavioral problems?			
6. Has the child been tested for OR does the child attend special education classes? (Does the child have an Independent Education Plan (IEP), a pending IEP, or does the child qualify for services under Section 504 (504 Plan or accommodations) or is the child being assessed for these services? Has the child been designated Seriously Emotionally Disabled (SED)? Does the child have an Individualized Family Support Plan (IFSP) with Regional Center?			
7. Does the child require adaptations in order to function including assistive devices or appliances such as eyeglasses, hearing aids, orthopedic devices, or devices for self-care activities such as bathing, feeding, toileting, and dressing?			
8. Are the child's standardized test scores lower than average?			
9. Does the child receive special services such as counseling or speech therapy?			

FAST-TRACK SCREENING QUESTIONS	YES	NO	Info. Not Available
10. Is the child 16.5 years old or older?			
11. Is the child likely to exit Foster Care, through adoption, guardianship, emancipation, or reunification, in less than one year?			
12. Does the child have a presumptive disability: amputation, deafness, blindness, wheelchair or bed-bound, cerebral palsy, Down syndrome or obvious mental retardation, prematurity with birth weight of 1,200 grams or less, or HIV/AIDS?			
13. Is the child a minor parent?			
14. Is the child eligible for or does the child receive a Specialized Care Increment (SCI) or Regional Center Rate?			

INSTRUCTIONS: Any affirmative response in questions 1 through 9, warrants referral of the child for an SSI assessment. Any affirmative response in questions 10 through 14 requires that the child be placed in the "Fast Track" assessment process.

Referred to SSI Assessment?  YES  NO

Fast Track?  YES  NO

SIGNATURE OF EMPLOYEE COMPLETING SECTION A

DATE

PRINTED NAME/ID #/CLASSIFICATION OF EMPLOYEE COMPLETING SECTION A

## SSI SCREENING GUIDE

### SECTION B - FINANCIAL SCREENING

CHILD'S NAME:	CHILD'S DOB:	CHILD'S SS#:
CHILD'S CASE #:	DATE COMPLETED:	NEXT SCREENING DUE (MUST BE DONE AT LEAST ANNUALLY):

#### Child's Current Funding Source and Amount:

<input type="checkbox"/> 40 Foster Care \$ _____	<input type="checkbox"/> 42 Foster Care \$ _____
<input type="checkbox"/> CalWORKs \$ _____	<input type="checkbox"/> SSI <sup>1</sup> \$ _____
<input type="checkbox"/> Other \$ _____	<input type="checkbox"/> SSA or DAC \$ _____

Is the child a U.S. citizen or qualified immigrant?  YES  NO

If NO, the social worker should consult with a knowledgeable attorney regarding those children who are currently non-citizen/non-legal residents to determine the best method for gaining the child legal status and any potential benefits. A list of agencies which can assist with this process is attached in Appendix B.

Calculation:

1. Amount of federal Foster Care (including SCI)	1. Federal FC payment Rate: \$ _____ x County share of cost: _____ 30%
2. Sum of A times 30%	2. Total \$ _____
3. Subtract the SSI/SSP Non-Medical Out of Home Care Rate (NMOHC) from the Federal FC rate.	Federal FC Payment Rate: \$ _____ SSI/SSP NMOHC Rate -\$ 1035 <sup>2</sup>
	3. Total: \$ _____

Compare 2 and 3 to determine whether it is financially advantageous to apply for SSI.

If child/youth is not receiving 42 Foster Care or currently on SSI/RSDI, and identified as potentially eligible in Section A, child should be moved to Fast Track.

SIGNATURE OF EMPLOYEE COMPLETING SECTION B	DATE
PRINTED NAME/ID/CLASSIFICATION # OF EMPLOYEE COMPLETING SECTION B	

<sup>1</sup> If child/youth in receipt of SSI/RSDI, complete payee change, as appropriate. As it may be more advantageous to the youth to remain on SSI, complete the above calculation PRIOR to granting federal FC.

<sup>2</sup> This rate is subject to change due to periodic cost of living adjustments.

## SSI SCREENING GUIDE

### SECTION C - APPLICATION INFORMATION

CHILD'S NAME:	CHILD'S DOB:	CHILD'S SS#:
CHILD'S CASE #:	DATE COMPLETED:	NEXT SCREENING DUE (MUST BE DONE AT LEAST ANNUALLY):

Use the SSI Screening guide, Sections A and B and the flow chart to make a decision as to whether SSI should be applied for. Apply for SSI?  YES  NO

1. If YES, contact SSA at 1-800-772-1213 to establish an appointment date for an application and/or protective filing date.<sup>1</sup>

2. Date call made: \_\_\_\_\_

**NOTE:** An application must be filed with SSA within 60 days from the date SSA is called in order to use this date as a protective filing date.

DATE APPLICATION MUST BE RECEIVED BY SSA:	DATE ASSESSMENT INITIATED:
ASSIGNED SW/PHONE:	DATE APPLICATION SENT:

3. If NO, reason for not applying: \_\_\_\_\_

If deferred, date eligibility should be reassessed and/or application filed: \_\_\_\_\_

SIGNATURE OF EMPLOYEE COMPLETING SECTION C	DATE
PRINTED NAME/ID/CLASSIFICATION # OF EMPLOYEE COMPLETING SECTION C	

<sup>1</sup> **NOTE:** The county can call SSA for an appointment for SSA to help the county complete an application, or to establish a protective filing date. To maintain the protective filing date, the county must file the application with SSA within 60 days of the date of the initial call/protective filing date.

## SSI SCREENING

1. All children who enter a foster care (FC) placement should receive an initial disability and financial screening for SSI eligibility. This population includes:
  - Dependents,
  - Wards of the court,
  - Children subject to a Voluntary Placement Agreement,
  - Wards of a Legal Guardianship,
  - Children who have been relinquished to a licensed public or private adoption agency or the department, AND
  - Children whose parents have had their parental rights terminated.

Please note a child/youth must be a citizen or qualified immigrant in order to receive SSI. The social worker should consult with a knowledgeable attorney regarding those children who are currently non-citizen/non-legal residents to determine the best method for gaining the child legal status and any potential benefits. A list of agencies which can assist with this process is attached in Appendix B.

2. Children should be screened using an appropriate screening guide within three months of entering custody.
3. Answers to the screening guide Disability Screening (Section A) should help evaluate the child's physical or mental impairments which might make the child eligible for SSI benefits as well as the case plan objectives for the child. This portion of the guide should be completed by a social worker or other individual familiar with the child.
4. The screening guide Financial Screening (Section B) should also contain information as to the child's current benefit levels and likely SSI benefit levels so that a determination can be made as to whether application for SSI would be beneficial for the child. Section B also contains a formula for analysis of the current funding and potential SSI funding; this guide should be used at intake for children/youth already receiving SSI and at any time an application for SSI is being considered. This portion of the guide should be completed by an employee with a financial background, such as an Eligibility Worker.
  - Special attention should be given to youth who are already receiving SSI benefits and entering care at 16.5 years or older. Because one of the main aims of these guidelines is to ensure that youth exiting care have SSI benefits in place, it may be detrimental to the youth to suspend SSI benefits and apply for federal foster care when the child is close to emancipation. If the youth is 17 or older and the county makes the decision to grant federal FC benefits, the county should request that SSA place the SSI benefits in suspense. (SSA can suspend the youth's benefits for up to one year which allows the child to maintain eligibility without having to resubmit application.) If a child is receiving SSI benefits and there is a change which affects his/her eligibility such as an increase in income, their benefits may be suspended for 12 consecutive months before their record is terminated. If the child becomes eligible within that 12-month period, it is the county's responsibility to contact SSA to have the benefits reinstated.

5. If the results of the initial screening are affirmative in that the child would likely be eligible for SSI, the child should be referred to the county designated SSI liaison (see page nine for explanation) for determination as to whether the application should be filed and assessment process should be started. If the results of the screening are negative, a due date for the next annual screening should be recorded on the screening guide.
  
6. Specific to Question #6 on the SSI Screening Guide, Section A, Disability Screening: The Individualized Education Plan (IEP) is a written document describing the services and accommodations that will be provided to the student because he/she qualifies for Special Education services under the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1400, et seq.). Students access special education services based on one of twelve qualifying disabilities, including Emotional Disturbance (formerly Severely Emotionally Disturbed or SED), Specific Learning Disability and Autism (34 C.F.R. 300.8). If a child does not qualify for special education services under IDEA, he/she may be able to access services through Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). Section 504 was designed to serve students with physical or mental disabilities that impair a major life skill, such as learning [34 C.F.R. 104.3(j)]. The IEP or a list of Section 504 accommodations can be found in the child's cumulative school file.

## **RESCREENING**

1. Children who were initially screened and NOT referred for an SSI application should be re-screened at LEAST annually or whenever there is a change in circumstances, e.g., change of placement (to a lower placement rate), change of physical and/or emotional condition, which might make the child eligible for SSI. Children/youth whose applications were initially deferred due to a lack of citizenship or qualified immigrant status should be rescreened when status is granted.
2. When the child is rescreened and the outcome is still no referral, the date that the next screening is due should be noted on the screening guide.
3. It is recommended that the counties tie this annual screening process to an already existing time frame such as the annual eligibility redetermination or case plan updates.
4. If at the rescreening, the child is referred for an SSI Application, the county should complete the Assessment process within 9 months UNLESS the child is referred to the “Fast Track” process.

## **APPLICATION DECISION PROCESS—COUNTY DESIGNATED SSI LIAISON**

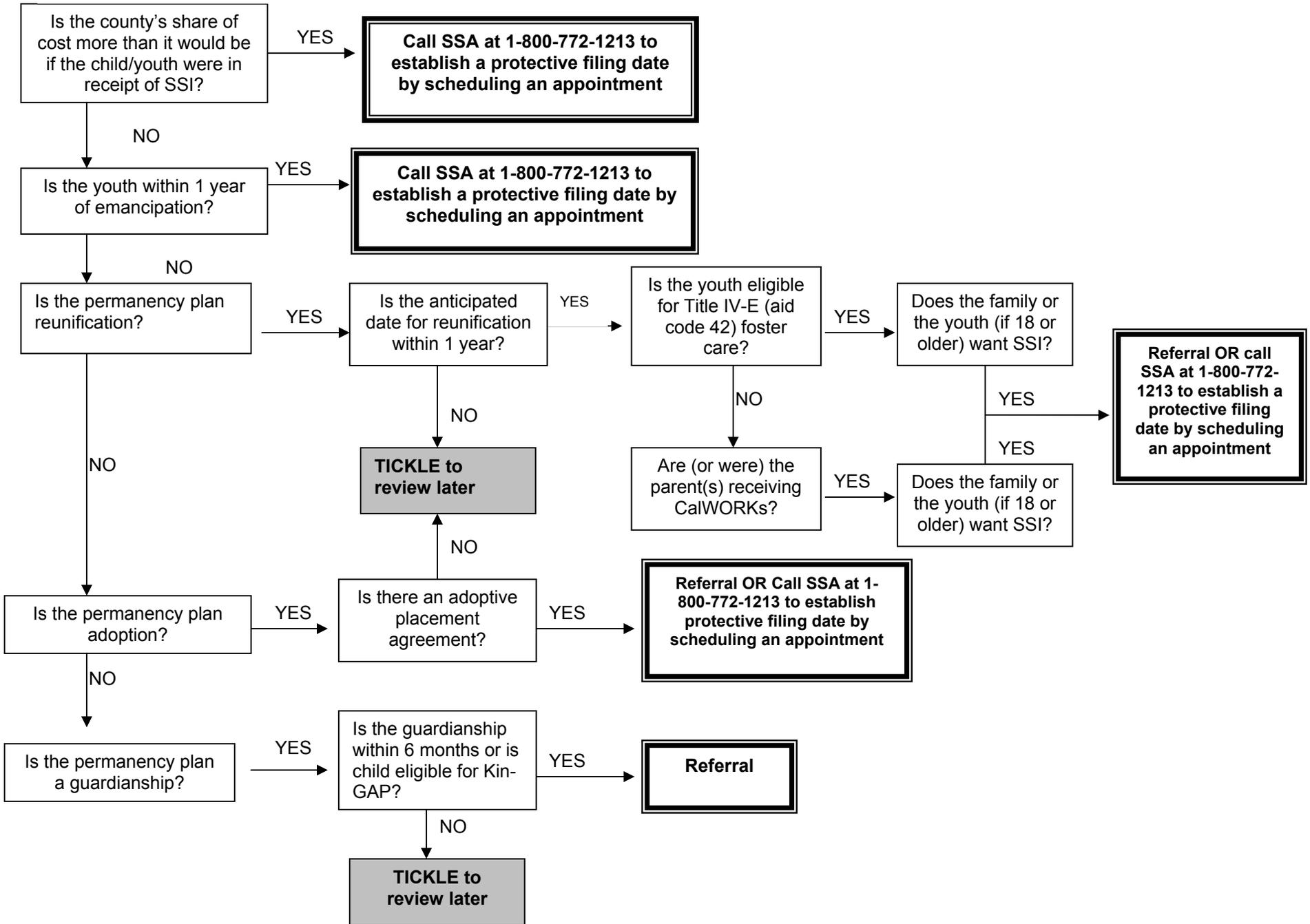
### County Designated SSI Liaison

1. These guidelines recommend that each county designate an employee or team of employees who will “specialize” in the SSI application process.
2. The county designated SSI Liaison or team will be a central point of contact for the Social Security Administration (SSA) in the county. These guidelines also recommend that the county liaison work with their local Social Security Office to set up procedures that may work best in their county.
3. The county designated SSI Liaison should also coordinate all appeals.

### Application Decision Process

1. Children who are screened as likely eligible for SSI should be referred to the county designated SSI liaison. The SSI liaison should review the screening guide and determine whether an application should be filed on behalf of the child and if so when. This review should include a cost/benefit analysis for the child and family as well as the county. The best interests of the child should be paramount to any county financial considerations.
2. The following flow chart explains the decision points a county should consider in deciding whether an SSI application on behalf of the child should be filed. The intention of the workgroup in developing these guidelines and flowchart was to ensure that children/youth who were exiting the Foster Care system would either have benefits in place prior to their exit, or have adequate information to apply for benefits themselves.

# Decision-Making Tool: When to Initiate an SSI Application



3. Flow Chart Explanation:

- a. Is the county's share of cost more than it would be if the child/youth were in receipt of SSI? In other words, is it financially advantageous for the child, family and/or county for an SSI application to be filed? For example, if the child is receiving CalWORKs rather than Foster Care funding, it would be advantageous to both the county and the child to apply for SSI.
- If yes, a protected filing date (PFD) should be established with SSA by contacting SSA at 1-800-772-1213 to schedule an appointment or inform them of your intent to file an application; the application must be filed within 60 days from the date of contact with SSA to avoid loss of the PFD. An SSI Assessment should also be undertaken (see p. 13).
  - If no, continue flow chart.

Examples of computation to be used in 3(a):

1. Amount of federal Foster Care (including SCI)	1. Federal FC Payment Rate: \$ <u>1200</u> x County share of cost: <u>(30%)</u> 2. Total \$ <u>360</u>
2. Sum of A times 30%	
3. Subtract the SSI/SSP Non-Medical out of Home Care Rate from the Federal FC rate.	3. Federal FC Payment Rate: \$ <u>1200</u> Minus SSI/SSP NMOHC Rate \$ <u>-1035</u> Total: \$ <u>165</u>

In this example, if the county applied for SSI for the youth, then supplemented with county only funds, it would likely be financially advantageous for the county to apply for SSI.

1. Amount of federal Foster Care (including SCI)	1. Federal FC Payment Rate: \$ <u>1800</u> x County share of cost: <u>x(30%)</u> 2. Total \$ <u>540</u>
2. Sum of A times 30%	
3. Subtract the SSI/SSP Non-Medical Out of Home Care Rate from the Federal FC rate.	3. Federal FC Payment Rate: \$ <u>1800</u> Minus SSI/SSP NMOHC Rate \$ <u>-1035</u> Total: \$ <u>765</u>

In this example, if the county applied for SSI for the youth, then supplemented with county only funds, the county would end up spending more on the youth's placement than if the youth received AFDC-FC. It is important to note, however, that FC benefits terminate at emancipation whereas SSI benefits can continue into adulthood as long as the disability continues.

- b. Is the youth within one year of transitioning out of Foster Care?
- If yes, PFD should be established with SSA by contacting SSA at 1-800-772-1213 to schedule an appointment or inform them of your intent to file an application. The application must be filed within 60 days from the date of contact with SSA to avoid loss of the PFD. An SSI Assessment should also be undertaken (see p. 13).
  - If no, continue flow chart.

- c. Is the child/youth's permanency plan reunification and is the reunification date anticipated within 1 year?
- If no, tickle the file until the date is confirmed within one year.
  - If yes, is the youth eligible for IV-E or were the parents receiving CalWORKs prior to the child/youth's removal?
    1. If no, analysis is complete and no application filed at this time.
    2. If yes, does the family or youth (if age 18) want SSI?
      - a. If no, analysis is complete, no applications filed at this time.
  - If yes, PFD should be established with SSA by contacting SSA at 1-800-772-1213 to schedule an appointment or inform them of your intent to file an application. The application must be filed within 60 days from the date of contact with SSA to avoid loss of the PFD. An SSI Assessment should also be undertaken (see p. 13).
    - a. If the child's return home is planned within the next 60 days, the parents should be informed of the child's potential eligibility for SSI and a brochure provided.
- d. Is the child/youth's permanency plan adoption?
- If no, analysis is complete and no application is filed at this time.
  - If yes, is there a signed adoption placement agreement?
    1. If yes, the adoptive parents should be informed of the child's potential eligibility for SSI and a brochure provided.

Note: Adoptive parent's income and resources may be considered as part of the SSI determination.

- e. Is the child/youth's permanency plan legal guardianship within the next six months or is the child eligible for Kin-GAP?
- If no, analysis is complete, no application filed at this time.
    1. If yes, the potential legal guardian should be informed of the child's potential eligibility for SSI and a referral made. If the legal guardian is a relative, an explanation of other available benefits should be given, e.g., Kin-GAP, CalWORKs, AAP, etc.

**\*\* It should be noted that if there is a chance the child will return home, the decision to apply for SSI should be discussed with the child's parents.**

4. If application is to be filed, a PFD should be established with SSA by contacting SSA at 1-800-772-1213 to schedule an appointment. In addition, an SSI Assessment should be undertaken immediately. (See SSI Assessment on page 13.)
5. When the liaison calls SSA to establish a PFD, an appointment can be made up to 4 weeks from the date of the call. If the SSA does not receive an application after several attempts, they will send a closeout notice to the county indicating the PFD will be closed. The notice gives the county/claimant 60 days to get the application in. Thus, the liaison should not establish a PFD until they are reasonably certain that they can meet SSA's timelines.

6. Once the Assessment is complete, the SSI Liaison shall prepare the application for SSI and forward it to SSA. The liaison is encouraged to work with their local SSA office on completion of the application form. If the child is placed in out-of-home care, then the county may want to consider submitting an SSP 22 along with the application in an effort to expedite processing. The SSP 22, Authorization for Non-Medical Out-of-Home Care, certifies that the child is in an out-of-home placement and entitled to the higher SSI non-medical out-of-home care rate (\$1035 as of the writing of these best practice guidelines). It should be noted that since SSA will still be responsible for investigating the license/approval status of the facility, even though SSA may receive the SSP 22 with the application, they still have to ensure that license is valid, etc. Therefore, if counties are waiting on the SSP 22 information before sending in the application, they may be unnecessarily delaying the processing of the application resulting in delaying the claim and duplicating work that SSA will perform. Therefore, if there is any doubt or delay, the county may want to defer to SSA as to the need for an SSP 22. (A sample of the SSP 22 is included in Appendix E.)

Notes:

- The SSP 22 form should not be completed if the child/youth will be returning home.
  - If the child/youth is placed out of state, the county will need to ascertain what type of rate is available to the child in the host state.
7. Approximately two weeks after mailing the application, the SSI Liaison should contact the local SSA Office. This phone call provides an opportunity for the SSI Liaison to introduce themselves and be a point of contact between the child and the Disability Evaluation Analyst (DEA). In addition, this may be an opportunity for SSA staff to inform the SSI Liaison of a scheduled medical exam for the child, ensure that the child has transportation to the appointment, ask subsequent case questions, etc.

## SSI ASSESSMENT

1. The SSI Assessment should begin immediately after the SSI liaison has determined an SSI application should be filed and be completed by the end of the first year that the child is in care (unless the child is referred to the "Fast Track" process -- see below).
2. **Disability Assessment:**
  1. The **Disability Assessment** should be conducted using an Assessment Tool, or a similar instrument, to ensure thoroughness. (A Sample Tool follows.) This tool should be used by the SSI Liaison to ensure that all relevant data and information has been gathered for inclusion with the SSI application.
  2. The **Disability Assessment** is comprised of referrals to various medical and psychological evaluations and gathering of necessary documentation to substantiate the child's disability.

3. The referrals for medical and psychological evaluations, function reports, etc. should be completed by an employee with skills in evaluating a child for disabilities, such as a social worker or public health nurse. If feasible, referrals to specialists should not be made until initial reports are received from the child/youth's treating physicians.

**SSI ASSESSMENT TOOL**

CHILD'S NAME:	CHILD'S DOB:	CHILD'S SS#:
PFD:	Fast Track?	<input type="checkbox"/> YES <input type="checkbox"/> NO

**Disability Assessment**

The following documents should be gathered and submitted to SSA with the application:

**Medical/Behavioral/Developmental**

Gather Data (information from child's treating physicians is preferable).

- Child's Medical Record Number(s) and source of number(s)
- Name, address, and phone number of every doctor, therapist, and clinic/hospital that has seen or treated the child for at least the last year.
- Any available medical records.
- Any medications the child is taking.
- Any medical tests the child has had.
- Signed Authorization to Disclose Information to the Social Security Administration (SSA 827) (See Appendix C for sample.)
- Function Reports (SSA 3375 through 3379)
- SSA 3368 or SSA 3820
- SSA 11 BK (Representative Payee Form)

**Educational**

Gather Data:

- Names, addresses, and phone numbers of any schools the child attended in the past 12 months.
- Names of teachers, psychologists, counselors, speech and other therapists who have seen or treated the child.
- The child's Individual Family Services Plan or Individualized Education Plan.
- Other school records.

**Employment/Financial/Other**

Gather Data:

- Names, addresses and phone numbers of any employers the youth has had.
- Proof of current income and resources for the child.
- Certified copy of birth certificate or proof of U.S. citizenship or qualified immigrant status.
- Copy of court order which gives county custody and care of child/youth.

**Likely Eligible for SSI?**  YES  NO

**NOTE:** The following categories of disability are presumptively eligible: amputation, deafness, blindness, wheelchair or bed-bound, cerebral palsy, Down syndrome or obvious mental retardation, prematurity with birth weight of 1,200 grams or less, or HIV/AIDS.

**Condition(s) likely to qualify child for SSI:** \_\_\_\_\_

SIGNATURE OF EMPLOYEE COMPLETING FORM:	DATE:
PRINTED NAME/ID #/CLASSIFICATION OF EMPLOYEE COMPLETING FORM:	

### 3. **Deferred Applications:**

- If after the Financial Assessment, it is decided to defer an SSI application due to financial considerations, a tickler system should be developed so that the case will be forwarded for application at least six months prior to when the child transitions from care, exits care, or it becomes financially advantageous for the child or family to receive SSI benefits instead of or in addition to foster care funding.

## ***FAST TRACK -- DISABILITY AND FINANCIAL ASSESSMENT***

### 1. **Population:**

The following populations of children should be “Fast Tracked” through the application process due to increased need for expeditious applications or greater need for the financial resources:

- Youth who are age 16.5 or older;
- Children receiving no Foster Care funding (Aid Code 40 or 42);
- Children who will exit Foster Care via adoption, guardianship, reunification, or emancipation in less than a year;
- Children receiving SCI or Regional Center rates;
- Children with presumptive disabilities, i.e., amputation, deafness, blindness, wheelchair or bed-bound, Cerebral Palsy, Down Syndrome or obvious mental retardation, prematurity with birth weight of 1,200 grams or less, or HIV/AIDS.

**\*\* If the youth is also a parenting minor, the youth should be given the highest priority.**

### 2. **Process:**

- Fast Tracked Children should be identified at the initial screening and immediately referred to the SSI Liaison for Assessment and application. The Screening Guide will identify that the child is “Fast Track.”
- Fast Track Assessments should be completed within 6 months of screening or on a case sensitive basis. For example, if the child is identified as Fast Track because the child is turning 18, the application should be completed in time for SSI to be in place before they transition from care.
- It may be necessary for the application to be sent to SSI before all relevant documentation can be gathered to expedite the process.

## RECONSIDERATIONS AND APPEALS

1. When a recipient receives a notice from SSA either denying or terminating benefits, the appeal process is as follows:
  - A. The recipient must file an appeal (currently a Request for Reconsideration) within 60 days of receipt of the notice. (Initial denials are very common.) If it is a termination of benefits, and the recipient appeals within **10** days, the benefits will continue through the appeal, up to an administrative hearing decision.
  - B. When filing a Request for Reconsideration, the box for “Informal Conference” should be checked, to assure an in-person discussion of the case review.
  - C. The likelihood of approval is higher on appeal, so it is much better to appeal than to file a new application. The claimant (or county) should complete the request for reconsideration and either mail it or hand deliver it to SSA.
  - D. The reconsideration is intended to be a complete review of claimant’s file by someone who did not take part in the first decision. If additional medical information is available, it should be submitted with the appeal.
  - E. There is no formal timeframe for SSA to make a determination on an appeal.
  - F. If SSA denies the Request for Reconsideration, the next step is to request a hearing before an Administrative Law Judge. This request also must be made within 60 days from the decision. It may take a year or more for the hearing to be scheduled.
  - G. The likelihood of success rises at each level of appeal, so this process should be undertaken. At this point, it is probably best that the recipient or the county consult with an attorney, either county counsel or a private attorney specializing in SSI appeals.<sup>1</sup>
2. The county-designated SSI liaison should manage the appeal and reconsideration process for each youth still in care and should familiarize themselves with the process and timeframes.
3. For youth that have transitioned from foster care, the county, utilizing its Independent Living Program or other means, should assist the youth with any SSI related paperwork.
4. Emancipated youth should also be referred to the “One Stop” center in each county for help with SSI related issues. At each “One Stop” center, there is a benefits navigator who can help the youth with their SSI benefits.

---

<sup>1</sup> Counties should be aware that fees may be available from a retroactive award of benefits to cover the attorney costs in successful cases.

## **YOUTH WHO TRANSITION OUT OF CARE WITHOUT SSI BENEFITS IN PLACE**

Special care should be taken by the county wherever and however possible to assist potentially SSI eligible youth who emancipate without SSI benefits in place. Although some youth who transition from care choose not to maintain a connection with the county once they emancipate, if the youth is willing, the county should attempt to maintain contact with the youth and track their progress toward gaining SSI benefits. Examples of services which the county could provide to these youth are:

1. Aftercare/ILP workers could help with the SSI application process, including appeals.
2. Involve a responsible adult in the child's application process so that adult can provide necessary guidance to the child and assist in future efforts to access SSI benefits.
3. Make arrangements with local legal services agencies to provide counsel to emancipated youth on SSI application matters.
4. Refer youth to appropriate adult social services such as Regional Centers or IHSS. A list of local agencies follows in Appendix A.

Note: Welfare and Institutions Code, Section 391 requires counties to make a report to the court concerning a youth's readiness for emancipation. Counties may wish to consider whether the circumstances of a youth with a pending SSI application are such that the youth would not be considered ready for emancipation.

## **PROCEDURES FOR EXISTING FOSTER CARE POPULATION**

Counties are encouraged to screen all children who are already in care as of the implementation of these guidelines within two years of the implementation date of this ACL.

1. Counties should tie the initial screening process to an existing county process such as the annual eligibility reevaluation or a case plan update, to help ensure compliance.
2. Children who are 17 years old at the time of screening should have applications submitted as soon as practicable if the screening demonstrates potential SSI eligibility.

## INFORMING REQUIREMENTS

### Parents/Caretakers

When a child exits foster care who has been identified as potentially eligible for SSI, yet no application has been filed with SSA, the county shall be responsible for providing the parents or caretakers with information about the potential SSI eligibility.

1. A sample brochure is being developed by CDSS and should be available on its website in early 2007. The brochure will outline the basics of the SSI program. The brochure will contain information about:
  - a. The SSI Program;
  - b. Deemed income and its effect on eligibility;
  - c. The effect of SSI on CalWORKs;
  - d. Responsibilities of being a representative payee;
  - e. The appeals process; and
  - f. Benefits changing due to a change in living arrangements/moving.
2. It is recommended that the social worker provide this brochure to the parents/caretaker when the child is getting ready to return home.
3. If there are specific questions about SSI that the social worker cannot address, a referral to the county designated SSI liaison should be made.
4. While it is recognized that counties are bound by HIPAA regulations, counties are encouraged to give parents/caretakers any SSI related materials which they legally can provide to the parents which would help the parents complete an SSI application. In addition, the county should encourage teachers and medical professionals to keep copies of any SSI related reports or materials that they have prepared so that the parents can obtain copies more easily.
5. In addition to providing the sample brochure, counties are encouraged to include information about SSI eligibility in the child's case plan. Any discussions with the parents about potential SSI eligibility should also be documented in the case plan.

### Youth

1. It is important that children and youth be informed about the SSI program if an application is being filed on their behalf. In addition, when a youth emancipates from foster care who has been identified as potentially eligible for SSI, yet no application has been filed, the county shall be responsible for providing the youth with information about his/her potential SSI eligibility.

2. Two sample brochures are being developed by CDSS and should be available on its website in early 2007. These brochures will inform children/youth about SSI.
3. The first brochure will provide general information about the SSI program and should be given to youth, as age appropriate, to inform them about an application being filed on their behalf. This brochure will contain the following:
  - a. Basic information about the SSI Program;
  - b. The benefits of the program to the youth;
  - c. The appeals process;
  - d. Inform the youth to tell the county if something changes in their health/mental status;
  - e. Advise the youth that if they do not want SSI benefits, they should discuss it with their attorney;
  - f. Assure the youth that SSI is not a lifelong assessment of their abilities and that it can help them get better and then no longer be needed;
  - g. Explain to the youth that it is a federal program, not a county program;
  - h. Recertification;
  - i. Managing their own benefits;
  - j. The disability review process;
  - k. Resources where they can receive help.
4. The second brochure should be given to youth who are transitioning from care with SSI benefits in place and need information about how to maintain their current benefits. This brochure should be discussed with the youth as part of their Transitional Independent Living Plan (TILP) and contain the following:
  - a. Basic information about the SSI program;
  - b. The benefits of the program to the youth;
  - c. The appeals process;
  - d. Informs youth that they can request and receive travel expenses to travel for their consultative exams;
  - e. Discusses the availability of after-care workers;
  - f. Explains recertifications;
  - g. Explains what happens if the youth moves, goes to college, changes living arrangements;
  - h. Assures the youth that SSI is not a lifelong assessment of their abilities and that it can help them get better and then not be needed;
  - i. Explains what happens if the youth gets a job;
  - j. Explains the youth's rights, responsibilities, and reporting requirements;
  - k. Explains the availability of a benefits navigator at the local "One Stop;"
  - l. Explains what happens if the youth gets married. Has a baby.
  - m. Explains that the youth gets no-share-of-cost Medi-Cal with prescription, dental, and medical coverage;
  - n. Discusses the potential of accumulated benefits.

## **SSA RETIREMENT, SURVIVORS, OR DISABILITY INSURANCE (RSDI) BENEFITS; DISABLED ADULT CHILD BENEFITS**

### SSA Retirement, Survivors, or Disability Benefits

1. Every child should be screened for RSDI benefits.
2. First question: Is the child currently receiving benefits? This information can be found in the Income Eligibility and Verification System (IEVS) and/or Medi-Cal Eligibility Data System (MEDS).
  - a. If yes, complete a SSA 11 BK change in payee, if appropriate.
  - b. If no, go to number three.
3. Second question: Does the child have a deceased parent? A parent over 62 years of age? A disabled parent (on IEVS/MEDS)?
  - a. If yes to any of the questions, an application (SSA 4BK) should be sent with a certified copy of the court order giving the county care, custody, and control of the child, a certified copy of the birth certificate, and a certified copy of the death certificate, if appropriate.

### Disabled Adult Child (DAC) Benefits

If the youth is in receipt of RSDI benefits when he/she approaches emancipation and the child has an SSI type disability, an application for DAC benefits should be considered.

- The application/assessment and appeals process is essentially the same as SSI;
- The disability which qualifies the youth for DAC must be established by the youth's 22nd birthday.
- Regardless of the funding source, the youth can apply for RSDI at any time.
- If the youth is still in a foster care placement, the county will need to make arrangements for payment to the foster care provider as SSA automatically makes the child their own payee at 18.

Things to note regarding RSDI benefits:

- If the youth is receiving RSDI and the child goes home, the county should send any further payments back to SSA and not directly to the parent. If there is an overpayment, SSA will come to the county to collect if they were the payee.
- Parents may be eligible for an Emergency Advance Payment or an Immediate Payment from SSA when the child or youth returns home if it takes awhile for the check to "catch up" to the parent.
- The child may be eligible on the earnings records of both parents in which case SSA will pay the higher benefit. If this is the case, the county should work with SSA to ensure that SSA does not establish payments for the child based on the other parent's earning record to a different payee.

## APPENDIX A

The following three nonprofit agencies either are, or include projects which are specifically designed to respond to the legal and non-legal needs of former foster youth:

The Alliance for Children’s Rights 3333 Wilshire Boulevard, Suite 550 Los Angeles, CA 90010 (213) 368-6010	Provides free legal services to youth who have emancipated from care with a range of legal matters including consumer problems and debt, sealing records, tickets and warrants, sibling visitation, Medi-Cal and other public benefit matters. Also offers a mentoring program for qualified youth.
The First Place Fund for Youth 519 17 <sup>th</sup> Street Oakland, CA 94612 (510) 272-0979	Assists youth ages 16 to 23 to access housing, education, and employment resources.
Public Counsel 610 South Ardmore Avenue Los Angeles, CA 90005 (213) 385-2977	Helps youth exiting care to access government and other benefits.

**The following legal aid agencies offer legal and other assistance to indigent clients in need of help with homelessness, consumer fraud, bankruptcy, employment issues, landlord/tenant disputes, Supplemental Security Income, Medi-Cal and other benefit matters, and some family law and immigration. Staff attorneys, law students, and volunteer attorneys provide free or low-fee services to indigent clients. The range of services provided varies from agency to agency. Moreover, each agency may have multiple offices throughout the state. The numbers provided below are only the central listings for some of the major service providers:**

<b>SOUTHERN CALIFORNIA</b>	
Bet Tzedek Legal Services 145 S. Fairfax Avenue Los Angeles, CA 90036 (323) 939-0506 (818) 769-0136	
Public Counsel 610 South Ardmore Avenue Los Angeles, CA 90005 (213) 385-2977	
Legal Aid Foundation of Los Angeles 1102 Crenshaw Boulevard Los Angeles, CA 90019 (323)801-7989	Areas served: Greater Long Beach & Los Angeles Harbor, Greater City of Los Angeles area
Legal Aid Society of San Diego Inc. 110 S. Euclin Avenue San Diego, CA 92114 (877) 534-2524	

Inland Counties Legal Services Inc. 1737 Atlanta Avenue. Suite H-3 Riverside, CA 92507 (888) 245-4257	Counties served: Riverside, San Bernardino
California Rural Legal Assistance, Inc. 631 Howard Street, Suite 300 San Francisco, CA 94105-3907 (415) 777-2752	Counties served: Colusa, Imperial, Kern, Madera, Monterey, San Benito, San Joaquin, San Luis Obispo, Santa Barbara, Santa Clara, Santa Cruz, Sonoma, Stanislaus, Ventura, Yuba
Legal Aid Society of Orange County Inc. 902 North Main Street Santa Ana, CA 92701 (800) 834-5001	
<b>CENTRAL VALLEY</b>	
Central California Legal Services 1999 Tuolumne Street, Suite 700 Fresno, CA 93721 (559) 441-1611	Counties served: Fresno, Kings, Mariposa, Merced, Tuolumne
Greater Bakersfield Legal Assistance Inc. 615 California Avenue Bakersfield, CA 93304 (805) 325-5943	Counties served: Kern (except northwest portion)
<b>NORTHERN CALIFORNIA</b>	
Bay Area Legal Aid 405 14 <sup>th</sup> Street Oakland, CA 94612 (510) 663-4744	Counties served: Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara (except Gilroy & Morgan Hill areas)
California Indian Legal Services Inc. 510 16 <sup>th</sup> Street, 4 <sup>th</sup> Floor Oakland, CA 94612-1500 (510) 835-0284	Counties served: Alpine, Inyo, Mono, Native American counties, including Native American Reservations
Legal Services of Northern California 517 12 <sup>th</sup> Street Sacramento, California 95814 (916) 551-2150	Counties served: Amador, Butte, Calaveras, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Mendocino, Nevada, Placer, Plumas, Sacramento, Shasta, Siskiyou, Solano, Tehama, Trinity, Yolo
Law Foundation of Silicon Valley 111 W. Saint John Street, Suite 315 San Jose, CA 95113 (408) 293-4790	
Legal Aid of Marin 30 N. Pedro Road, Suite 220 Santa Rosa, CA 94903 (415) 492-0230	

<p>Legal Aid Society of San Mateo County  521 East 5<sup>th</sup> Avenue  San Mateo, CA 94402  (650) 558-0915</p>	
<p>Legal Aid Society of Sonoma County  37 Old Courthouse Square, Suite 100  Santa Rosa, CA 95404  (707) 542-1290</p>	
<p>Legal Services for Children  1254 Market Street, 3<sup>rd</sup> Floor  San Francisco, CA 94102  (415) 863-3762</p>	
<b>STATEWIDE</b>	
<p>Protection &amp; Advocacy Inc.  Administration  100 Howe Avenue, Suite 185-N  Sacramento, CA 95825  (800) 776-5746</p>	<p>With offices in Los Angeles, Oakland, Sacramento, and San Diego; provides individual and group representation to disabled people with legal problems arising from their disabilities.</p>

## APPENDIX B

The following organizations provide free legal services and/or referrals for immigration services to indigent individuals. Some of these organizations may also charge a nominal fee for legal services to certain low income individuals.

<b>NORTHERN CALIFORNIA</b>	
Asian Law Caucus 939 Market Street, Suite 201 San Francisco, CA 94103 (415) 896-1701	Serves the San Francisco Bay area.
Asian Pacific Island Legal Outreach 1188 Franklin Street, Suite 202 San Francisco, CA 94109 (415) 567-6255	<ul style="list-style-type: none"> <li>• Willing to represent indigent aliens in asylum proceedings.</li> <li>• Provides legal services in the following languages: Cantonese, Japanese, Korean, Mandarin, and Vietnamese.</li> </ul>
Central American Resource Center (CARECEN) 1245 Alabama Street San Francisco, CA 94110 (415) 824-2330 Mon.-Fri. 9 a.m.-5 p.m.	<ul style="list-style-type: none"> <li>• Language: Spanish.</li> <li>• Charges nominal fee.</li> <li>• Must meet (HUD) income guidelines for representation.</li> <li>• Will represent Latin American aliens in asylum cases.</li> </ul>
Catholic Charities Immigration Program 2625 Zanker Road, Ste. 201 San Jose, CA 95134 (408) 944-0691 Mon.-Fri. 9 a.m.-5 p.m.	<ul style="list-style-type: none"> <li>• Languages: Spanish, Tagalog, Vietnamese, Italian, Portuguese, Mandarin.</li> <li>• Must meet low income guidelines for representation.</li> <li>• Will represent aliens in immigration cases.</li> </ul>
Immigration Law Clinic UC Davis School of Law 400 Mrak Hall Davis, CA 95616-5201 (530) 752-6942	<ul style="list-style-type: none"> <li>• Language: Spanish.</li> <li>• Serves Davis, Yolo, Solano, and Sacramento within a 60-mile radius.</li> </ul>
International Institute of the East Bay 449 15th Street, Suite 303 Oakland, CA 94612 (510) 451-2846 www.iieb.org	<ul style="list-style-type: none"> <li>• Language: Spanish.</li> <li>• Will represent aliens in all types of immigration matters, except detention.</li> <li>• Will require proof of income.</li> <li>• Serves San Francisco Bay Area.</li> </ul>
La Raza Centro Legal 474 Valencia Street, Suite 295 San Francisco, CA 94103 (415) 575-3500	<ul style="list-style-type: none"> <li>• Language: Spanish</li> <li>• May charge nominal fee.</li> <li>• Will represent aliens in asylum cases.</li> </ul>

<p>National Center for Lesbian Rights (NCLR)  870 Market Street, Suite 370  San Francisco, CA 94102  (415) 392-6257  (415) 392-8442 (FAX)</p>	<ul style="list-style-type: none"> <li>• Represents lesbian, gay, bisexual, and transgender (LGBT) indigent aliens in asylum proceedings.</li> <li>• Assists LGBT aliens and immigrants in understanding visas, asylum claims, and HIV exclusion, and provides legal and practical strategies for bi-national couples.</li> </ul>
<p>Santa Clara University School of Law  Civil Clinical Programs  East San Jose Community Law Center  1030 The Alameda  San Jose, CA 95126  (408) 288-7030</p>	
<b>CENTRAL CALIFORNIA</b>	
<p>Catholic Charities  250 West Orange Avenue  El Centro, CA 92243  (760) 353-6822</p>	<ul style="list-style-type: none"> <li>• May charge a nominal fee.</li> <li>• Primarily able to represent non-detained aliens.</li> <li>• Will represent persons applying for asylum.</li> </ul>
<b>SOUTHERN CALIFORNIA</b>	
<p>Catholic Charities  435 S. Boyle Avenue  Los Angeles, CA 90033  (323) 264-6217  Or  14701 Friar Street  Van Nuys, CA 91411  (818) 988-1332 or 1333</p>	
<p>Catholic Legal Immigration Network, Inc.  Catholic Immigration Services  1530 James M. Boulevard  P.O. Box 15095  Los Angeles, CA 90015  (213) 251-3505  (213) 487-0986, FAX</p>	<ul style="list-style-type: none"> <li>• Can assist unrepresented detainees with filling out applications.</li> </ul>
<p>El Rescate Legal Services  1313 West 8th Street, Suite 200  Los Angeles, CA 90017  (213) 387-3284  Accepts collect calls Mondays  1:00 to 5:00 p.m.</p>	<ul style="list-style-type: none"> <li>• Will not represent criminal aliens.</li> </ul>

<p>Immigration Center for Women and Children  634 South Spring Street, Suite 615  Los Angeles, CA 90014  (213) 614-1165  (213) 624-1163 FAX</p>	
<p>International Institute of Los Angeles  435 S. Boyle Avenue  Los Angeles, CA 90033  (323) 264-6217  Or  14701 Friar Street  Van Nuys, CA 91411  (818) 988-1332 or 1333</p>	
<p>Legal Aid Foundation of Los Angeles  1102 S. Crenshaw Boulevard  Los Angeles, CA 90019  (323) 801-7989  Toll free telephone: (800) 399-4529  or  5228 E. Whittier Boulevard  Los Angeles, CA 90022  (213) 640-3881  Toll free telephone: (800) 399-4529</p>	<ul style="list-style-type: none"> <li>• Cannot represent undocumented aliens.</li> <li>• Representation is restricted to assisting legal permanent residents, asylees, special agricultural workers or others who have filed applications to adjust their status to legal permanent residents.</li> <li>• Cannot represent aliens incarcerated due to criminal activity and/or criminal convictions.</li> </ul>
<p>Legal Aid Society of San Diego  110 South Euclid Avenue  San Diego, CA 92114  Toll free: 1-877 Legal Aid (877-534-2524)</p>	<ul style="list-style-type: none"> <li>• No charge.</li> <li>• Will not represent asylum cases.</li> </ul>
<p>Los Angeles Center for Law and Justice  1241 South Soto Street  Los Angeles, CA 90023  (323) 980-3500</p>	
<p>National Immigration Law Center  3435 Wilshire #2850  Los Angeles, CA 90010  (213) 639-3900  www.nilc.org</p>	<ul style="list-style-type: none"> <li>• Class actions, publications, training and referrals to attorneys/advocates.</li> <li>• Does not provide direct services.</li> </ul>
<p>San Fernando Valley Neighborhood Legal Services, Inc.  13327 Van Nuys Boulevard  Pacoima, CA 91331  (818) 896-5211</p>	<ul style="list-style-type: none"> <li>• Cannot represent undocumented aliens.</li> <li>• Representation is restricted to assisting legal permanent residents, asylees, special agricultural workers or others who have filed applications to adjust their status to legal permanent residents.</li> <li>• Cannot represent aliens incarcerated due to criminal activity and/or criminal convictions.</li> <li>• Cannot represent aliens at the Lompoc Federal Prison.</li> </ul>

USC Law School Legal Clinics 699 Exposition Boulevard Los Angeles, CA 90089 (213) 740-9415	
-----------------------------------------------------------------------------------------------------	--

## APPENDIX D

### Social Security Benefits for Children: Focus on Issues Affecting Youth in the Dependency System

#### I. General Eligibility Criteria:

##### A. What are the basic eligibility requirements for Social Security benefits for children?

Supplemental Security Income (Title XVI of the Social Security Act):

Children may be eligible for Supplemental Security Income (SSI) benefits if they meet the following criteria:

- (1) Limited income;<sup>2</sup> AND
- (2) Limited resources;<sup>3</sup> AND
- (3) A resident of one of the 50 States, the District of Columbia, or the Northern Mariana Islands, and is not absent from the country for a full calendar month or more than 30 consecutive days; AND
- (4) Citizen or national of the United States or certain categories of immigrant;<sup>4</sup> AND
- (5) Blind or disabled; AND
- (6) Meets certain other requirements.

Retirement, Survivors, and Disability Insurance Benefits (Title II of the Social Security Act):

A child may be eligible to receive Retirement, Survivors, and Disability Insurance benefits (RSDI) if s/he has a parent that has worked enough quarters to become insured for Title II and is disabled, deceased, or entitled to retirement benefits.<sup>5</sup>

##### B. What types of disabilities qualify for Supplemental Security Income benefits?

There are different disability standards for adults (individuals 18 or older) and children (those under the age of 18).

In order for a child to meet the disability criteria, he/she must have a “medically determinable physical or mental impairment, or combination of impairments, that causes marked and severe functional limitations, and that can be expected to cause death or that has lasted or can be expected to last for a continuous period of not less than 12 months.”<sup>6</sup> The Social Security Administration’s regulations outline the information considered in determining disability for children. Regulations outline how the SSA evaluates medical evidence, test scores, and information from other people (such as parents, other caregivers and teachers). SSA

---

<sup>2</sup> The countable income must be below the SSI federal benefit rate.

<sup>3</sup> Disabled children can have up to \$2,000 in resources. In addition, for children living in the home of their parent(s), a single parent can have an additional \$2,000 in resources and married parents can have up to \$3,000.

<sup>4</sup> The following categories of immigrants qualify for SSI benefits: (1) Noncitizens lawfully residing in the U.S. on August 22, 1996, (2) Legal Permanent Residents with 5 years of residency in the U.S. and parents with “40 quarters”, (3) Active duty military personnel and honorable discharged veterans, (4) American Indians born in Canada who were members of specified tribes, (5) Refugees (for up to 7 years from date of entry), (6) Asylees (for up to 7 years from date of entry), (7) Persons whose deportation is withheld (for up to 7 years from date of entry), and (8) Cuban/Haitian immigrants (for up to 7 years from date of entry).

<sup>5</sup> 42 United States Code (USC) § 402(d)

<sup>6</sup> 42 USC § 1382c(a)(3)(C)(i); 20 Code of Federal Regulations (CFR) § 416.906.

considers how the child's functioning compares to the functioning of children his/her age who do not have impairments, and how well the child can initiate, sustain, and complete activities, including the amount of help or adaptations the child needs, and the effects of structured or supportive settings.<sup>7</sup>

The definition of disability for adults is defined as the inability to engage in any substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of no less than 12 months.<sup>8</sup>

The SSA publishes a "listing of impairments" which describes, for each of the major body systems, impairments that are considered severe enough to prevent an adult from doing any gainful activity or, for a child that causes marked and severe functional limitations.<sup>9</sup>

### **C. Is the income of the other people in the youth's household deemed available to the youth when determining eligibility for Supplemental Security Income?**

When determining eligibility for SSI benefits for individuals under the age of 18, the Social Security Administration deems a portion of the income and/or resources of a parent who is living in the same household as if they were available to the youth, regardless of whether the income or resources are actually available to the individual.<sup>10</sup> SSA also does this when a child is temporarily away at school, returns home during weekends, holidays or during the summers and remains subject to parental control.

**Note** – if the individual is not living with a parent, then this deeming rule does not apply, and the child is evaluated for eligibility based only on his or her own income.

## **II. The Application Process**

### **A. Who May Apply for SSI Benefits on Behalf of a Foster Youth?**

For youth under age 18, a court appointed representative or a person who is responsible for the care of the youth, including a relative, may sign and submit the application on the youth's behalf.<sup>11</sup> Thus, a county social service agency, relative, or court appointed representative may submit an SSI application on behalf of a foster youth.

### **B. When is an Application Considered Filed?**

In general, an application is considered to be filed on the date it is received by an employee at any social security office.<sup>12</sup> However, if certain conditions are met, the SSA will provide the youth with a protective filing date, which is established on the date of a filing of a written

---

<sup>7</sup> 20 CFR § 416.924a.

<sup>8</sup> 42 USC § 1382c(a)(3)(A) and (B); 20 CFR § 416.905.

<sup>9</sup> The listings are available at 20 CFR § 404 (Subpart P– Determining Disability and Blindness, Appendix 1).

<sup>10</sup> 42 USC § 1382c(f)(1); 20 CFR § 416.1160; Social Security Administration, Program Operations Manual System (POMS) SI 01310.145.

<sup>11</sup> 20 CFR § 416.315.

<sup>12</sup> 20 CFR § 416.325.

statement or on the date that an oral inquiry is made.<sup>13</sup> This is important, because if an SSI application is approved, eligibility may be retroactive to the protective filing date. (SSI payments begin the month after the month of initial eligibility, 20 CFR 416.501)

### **C. What is Included in an SSI Application and Evaluation of the Application?**

When filing an SSI application there are various forms that are required to be completed in order to obtain medical and non-medical information. The information provided in the “Disability Report – Child”, which is available at: <http://www.ssa.gov/online/ssa-3820.pdf> is used to obtain medical and other records. However, the SSA does not rely only on the information contained in the Disability Report. The SSA also considers any medical or school records submitted along with the application, and requests medical records from the hospitals, doctors, and other treatment sources and information from the child's teachers, schools, and other people whom you listed as having information about the child's illnesses, injuries or conditions. In addition, the SSA uses forms to obtain information about an individual's functioning. These include the following reports, listed according to the report number the SSA uses:

SSA-5665: Teacher Questionnaire

SSA-3881: Questionnaire for Children Claiming SSI benefits

The SSA relies on school records, hospital records, laboratory/imaging reports, outpatient notes, clinic notes, physician's records and reports, cover letters from treatment source if medical evidence is not otherwise identified, x-ray findings, examination reports, medical opinions, and other relevant information.<sup>14</sup>

### **III. Representative Payees:**

#### **A. Do Youth Receive the SSI Benefits Themselves?**

Generally children do not receive SSI benefits themselves. A person or entity called a representative payee receives and manages the benefits for the youth.<sup>15</sup> However, the youth may be able to receive the benefits directly in limited circumstances. For example, the SSA assumes that a youth between the ages of 15 and 17 is capable of managing his/her own funds, “unless he/she has a court-appointed legal guardian or is entitled to disability benefits and a substance abuse condition exists which indicates that he/she may need assistance.”<sup>16</sup> Further, the SSA may make direct payment to a beneficiary under the age of 18 when:

- (1) The individual is a parent and files for themselves and/or their child and he or she has experience in handling his or her own finances; or
- (2) Capable of using the benefits to provide for their current needs and no qualified payee is available; or
- (3) Within 7 months of attaining age 18 and is initially filing an application for benefits.<sup>17</sup>

---

<sup>13</sup> 20 CFR §§ 416.501

<sup>14</sup> Available at: <http://www.ssa.gov/online/forms.html>.

<sup>15</sup> 42 USC § 1383(a)(2)(A); 20 CFR § 416.610; POMS GN 00502.005.

<sup>16</sup> SSA POMS GN 00502.070.

<sup>17</sup> 20 CFR § 416.610.

## **B. How is a Representative Payee Selected?**

SSA generally tries to select a Representative Payee who will serve the best interests of the child. SSA is required to use “extreme care” in selecting and monitoring payees.<sup>18</sup> SSA specifies a hierarchy of most and least preferred representative payees, but the hierarchy is flexible. Natural or adoptive parents who have custody of the child and guardians are the most preferred payee, and authorized custodial agencies are the last resort.<sup>19</sup> In determining which payee will best serve the child’s needs, SSA will consider:

- The relationship of the person/entity to the child;
- The interest the person/entity shows in the child;
- Any legal authority the person/entity has to act on behalf of the child;
- Whether the person/entity has custody of the child; and
- Whether the person/entity is in a position to know of and look after the needs of the child.<sup>20</sup>

California law also requires that counties only be selected as representative payee if no other appropriate person is available.<sup>21</sup>

## **C. What are the Responsibilities of the Representative Payee?**

Representative Payees are responsible for using benefits in the best interest of the youth.<sup>22</sup> They must also notify SSA of changes in income or anything that might give the youth the right to receive benefits directly, and submit written reports accounting for the benefits if SSA requests them.<sup>23</sup> Payees must also ensure that the youth is receiving medically necessary treatment for the condition that makes him/her eligible for benefits.<sup>24</sup>

Under California Law, if the county serves as a child Representative Payee, the county must establish a no-cost, interest-bearing maintenance account for each child and credit interest to the account.<sup>25</sup> The county must keep records of income and expenses on the account.<sup>26</sup> The county may only use the SSI funds for the benefit of the child or purposes “determined by the county to be in the child’s best interest.”<sup>27</sup> Payees are responsible for submitting annual reports to SSA about whether the benefits were spent or saved, how the benefits were used if they were spent, and who made the decisions about spending or saving benefits.<sup>28</sup>

In addition, for youth that are emancipating from foster care, the county is also required to establish procedures for assisting the youth in receiving direct payment of their benefits or finding an appropriate successor payee and for gaining access to any accumulated benefits.

---

<sup>18</sup> 42 USC § 1383; 20 CFR Part 416, Subpart F; POMS GN 00502.183.

<sup>19</sup> 20 CFR §416.621; 20 CFR §404.2021; POMS GN 00502.105.

<sup>20</sup> 20 CFR §§ 416.620 and 404.2020.

<sup>21</sup> California Welfare and Institutions Code (W&IC) § 13754.

<sup>22</sup> 20 CFR §§ 416.635(a) and 404.2035(a)

<sup>23</sup> 20 CFR §§ 416.635(b)-(c) and 404.2035(b)-(c).

<sup>24</sup> 20 CFR § 416.635(e).

<sup>25</sup> W&IC § 13754(a); 20 CFR § 416.645 (federal law requires that any funds not needed for the beneficiary’s current maintenance must be conserved in accordance with the rules followed by trustees).

<sup>26</sup> W&IC § 13754(a); 20 CFR § 416.645

<sup>27</sup> W&IC § 13754(b); POMS GN 00605.350 (setting forth when a final accounting to SSA is not required).

<sup>28</sup> W&IC § 13754(b); POMS GN 00605.350

However, the County should contact their local SSA Field Office before disbursing any conserved SSA/SSI funds.<sup>29</sup>

#### **D. What happens if a Representative Payee uses funds improperly?**

If a payee uses social security or SSI benefits for a purpose other than for the use and benefit of the child, misuse has occurred.<sup>30</sup> If the payee misusing funds is a county or state social services agency, SSA will pay the misused funds to the child.<sup>31</sup> SSA will require the agency to refund the misused funds to SSA, so they may be redistributed to the successor payee.

Misapplication occurs "when a payee knowingly uses dedicated account funds for expenditures not permitted."<sup>32</sup> The difference between misuse and misapplication of benefits is that a misapplication occurs if the benefits are not used in the manner required by law, regardless of whether they are used to benefit the child. The payee is liable to SSA for the entire amount of the misapplied benefits.<sup>33</sup> Misapplied benefits are returned to the SSA. The payee can appeal a finding that he or she has misapplied benefits.<sup>34</sup>

### **IV. Conservation and Maintenance of Benefits**

#### **A. What is a dedicated account and when must one be established?**

When a child with a Representative Payee is eligible for past-due benefits that are more than six times the monthly SSI/SSP rate, the past-due benefits must be paid into a dedicated account.<sup>35</sup> This account is separate from the account used to manage the regular, monthly benefits paid on behalf of the child. This account must be used for specific purposes benefiting the child. These are:

- Medical treatment and education or job skills training;
- If related to the child's impairment(s), personal needs assistance; special equipment; housing modification; and therapy or rehabilitation; or
- Other items and services related to the child's impairment(s) that we determine to be appropriate. The representative payee must explain why or how the other item or service relates to the impairment(s) of the child."<sup>36</sup>

Representative Payees must keep records of deposits and expenditures from the dedicated accounts, and submit them to SSA if requested.<sup>37</sup> Most expenditures from dedicated accounts must be approved by field office staff.<sup>38</sup>

---

<sup>29</sup> 42 USC § 405(j)(3)(A); 20 CFR § 416.665; POMS GN 00605 et seq; POMS GN 00605.240.

<sup>30</sup> 42 USC 405(j); 20 CFR §§ 416.641 and 416.650; POMS GN 00604.et seq.

<sup>31</sup> Public Law 108-203 (amends 42 USC 405(j)(5)).

<sup>32</sup> POMS GN 00602.140.

<sup>33</sup> POMS SI 02220.060.

<sup>34</sup> POMS GN 00602.140.

<sup>35</sup> 42 USC 1383(a)(2)(F)(i)(I); 20 CFR § 416.546; POMS GN 00603.025.

<sup>36</sup> 20 CFR § 416.640; W&IC § 13754(c).

<sup>37</sup> 20 CFR § 416.640; W&IC § 13754(c).

<sup>38</sup> POMS GN 00602.140.

The restrictions on use of dedicated accounts apply until the funds are gone or until the child is no longer eligible for benefits, whichever comes first. This means that the restrictions still apply:

- When a child turns 18, continues to be eligible and receives payments directly;
- If a new Representative payee is appointed; funds remaining in a dedicated account must be returned to SSA by the former representative payee. The new representative payee must establish a separate account into which SSA will deposit these funds; or
- During a period of suspension due to ineligibility or a period of eligibility for which no payment is due.<sup>39</sup>

## **B. What is a maintenance account and when must one be established?**

When all or a portion of a youth's monthly benefits are not needed for the youth's current maintenance or reasonably foreseeable needs, the funds must be placed in a maintenance account for the youth.<sup>40</sup> Under California Law, if the county serves as a child's Representative Payee, the county must establish a no-cost, interest-bearing maintenance account for each child and credit interest to the account.<sup>41</sup> The county must keep records of income and expenses on the account.<sup>42</sup> The county is also required to establish a procedure for disbursing the balance to the youth when they are released from care.<sup>43</sup> The county may only use the SSI funds for the benefit of the child or purposes "determined by the county to be in the child's best interest."<sup>44</sup>

Dedicated accounts and maintenance accounts differ from one another. Dedicated accounts are only for retroactive awards that equal more than six times the monthly benefit. Further, dedicated account funds can only be used to meet the specialized needs of the child, and cannot be used for a youth's current maintenance, including the cost of foster care. Maintenance accounts are accounts established to manage the monthly benefits of the youth. The Representative Payee should use the monthly benefit to provide for the current maintenance of the youth, including the cost of food, clothing, and shelter. Any remaining funds that are not needed to provide for the youth's current maintenance must be conserved in a maintenance account. Maintenance account funds can be used for future living expenses, and are not restricted in the same way that dedicated account funds are.

## **C. How can a payee use a youth's SSI or RSDI benefits to meet the youth's needs?**

Generally, a Payee must expend funds for the use and benefit of the child and in the child's best interests.<sup>45</sup> The interests of the child is interpreted to mean providing the child with a minimum level of income for ordinary and necessary living expenses.<sup>46</sup> Using funds for the

---

<sup>39</sup> 20 CFR § 416.640

<sup>40</sup> W&IC § 13754(a); 20 CFR § 416.645.

<sup>41</sup> W&IC § 13754(a).

<sup>42</sup> W&IC § 13754(a)

<sup>43</sup> W&IC§ 13754(b)

<sup>44</sup> W&IC§ 13754(b)

<sup>45</sup> 20 CFR §§ 404.2035(a) and 416.635(a); POMS GN 00602 et. seq.

<sup>46</sup> *Washington State Dep't of Social and Health Services v. Keffeler*, 537 U.S. 371, 390, citing 20 CFR §§ 416.110 and 404.508(a).

“current maintenance” of the child is in the child’s interest. This includes the cost of food, shelter, clothing, medical care and personal comfort items.<sup>47</sup>

Funds that are not used for the child’s current maintenance or needed for reasonably foreseeable needs should be saved or invested on behalf of the child.<sup>48</sup> When a payee invests a child’s benefits, the “[i]nvestments must show clearly that the payee holds the property in trust for the beneficiary.”<sup>49</sup> U.S. Savings Bonds and deposits in an interest or dividend paying account in an institution insured under either Federal or State law are preferred investments.<sup>50</sup>

#### **D. Can a county use SSI or RSDI benefits to recoup the cost of foster care?**

States may use social security benefits to recoup the cost of foster care. The use of RSDI and SSI benefits to reimburse the state for the cost of foster care does not violate a provision of the Social Security Act protecting benefits from “execution, levy, attachment, garnishment, or other legal process.”<sup>51</sup> Using SSI payments to recoup the cost of foster care is considered “current maintenance.”<sup>52</sup> Before a social agency can do this, it must follow SSA’s creditor-payee policy. A creditor payee must obtain SSA approval prior to using benefits for self-reimbursement, see GN 00602.030. SSA regulations requires proof that the beneficiary/recipient’s current and anticipated future needs have been met before any remaining past-due benefits can be applied to the foster care debt, CFR20 404.2040.

When the county is not the payee, the county cannot force the payee to turn over the child’s Social Security benefits. The Keffeler court notes: “it is true that the State could not directly compel the beneficiary or any other representative payee to pay Social Security benefits over to the State, [but] that fact does not render the appointment of a self-reimbursing representative payee at odds with the Commissioner’s mandate to find that a beneficiary’s ‘interest ... would be served’ by the appointment.”<sup>53</sup> NOTE: See section V.A for rules pertaining to the accounting rules when a youth receives SSI and foster care benefits concurrently.

#### **V. The Decision to Apply for Benefits When a Youth is in Dependency:**

##### **A. When should an application for Social Security benefits be made for youth in dependency?**

Youth in the dependency system may be eligible for several different benefit programs at the same time, including:

- Federal foster care (Title IV-E of the Social Security Act)
- State foster care
- Kin-GAP
- TANF/CalWORKs

---

<sup>47</sup> 20 CFR § 416.640.

<sup>48</sup> 20 CFR § 416.645(a).

<sup>49</sup> 20 C.F.R. §§ 416.645(a) and 404.2045(a).

<sup>50</sup> 20 C.F.R. §§ 416.645(b) and 404.2045(b).

<sup>51</sup> *Keffeler*, 537 U.S. 371 (2003).

<sup>52</sup> 20 CFR § 416.640(a).

<sup>53</sup> *Keffeler*, 537 U.S. 371 (2003).

- Adoption Assistance
- SSI
- RSDI

It is important to consider which benefits make the most sense for the youth, given factors such as the child's circumstances, the needs of the family, the reunification plan, and the date they are expected to leave the state's care.

In general, RSDI or SSI/SSP benefits can be highly beneficial for children in the state's care because:

- (1) RSDI and SSI/SSP benefits are an important source of additional funds that can be used to meet the child's individual needs while in the state's care;
- (2) If the child returns home, the SSI benefits follow the child, providing essential benefits to the family;
- (3) The diagnostic evaluations that are done in assessing a child for potential eligibility for SSI/SSP and during the application process will improve the likelihood that the child or youth will receive timely and appropriate treatment;
- (4) SSI benefits can be conserved for youth to aid in their transition. The federal SSI rules permit a child to have up to \$2,000 in resources before becoming ineligible for SSI. Ensuring that a child emancipating out of the state's care transitions with that \$2,000 can make the difference between having shelter and living on the streets.

The Child Welfare Policy Manual<sup>54</sup> instructs individuals and agencies to carefully weigh the differences between Title IV-E benefits and SSI benefits, noting "[t]he difference between Title XVI (SSI) and Title IV-E should be considered carefully by the decision maker when choosing whether to apply for either or both Title IV-E or SSI benefits on behalf of the child. Information regarding the benefits available under each program should be made available by the State Title IV-E agency so that an informed choice can be made in the child's best interest. To achieve this goal, Title IV-E agencies should exchange information regarding eligibility requirements and benefits with local Social Security district offices and establish formal procedures to refer clients and their representatives to the local Social Security district office for consultation and/or application when appropriate."<sup>55</sup>

## **VI. Choosing Benefits Programs and Managing the Child's Income**

### **A. Can foster children receive Title IV-E benefits and SSI or social security benefits concurrently?**

Federal law permits the concurrent receipt of SSI benefits and Title IV-E foster care benefits, but the SSI benefits are offset dollar-for-dollar by the amount of Title IV-E benefits a youth

<sup>54</sup> Child Welfare Policy Manual (CWPM) is compiled by the Department of Health and Human Services, Administration for Children and Families, and includes all of the current and updated relevant federal policy issuances (Policy Announcements and Policy Information Questions). The CWPM "conveys mandatory policies that have their basis in Federal Law and/or program regulations. It also provides interpretations of Federal Statutes and program regulations initiated by inquiries from State Child Welfare agencies or ACF Regional Offices." <http://www.acf.hhs.gov/programs/cb/laws/policy.htm>.

<sup>55</sup> U.S. Dep't of Health and Human Services, Administration for Children and Families, CWPM, Section 8.4D, Question 2.

receives.<sup>56</sup> Thus, in practice, a youth can only receive both SSI and Title IV-E foster care if the SSI benefit is more than the IV-E payment. In this situation, the dollar-for-dollar offset will result in the child receiving the entire IV-E payment and an SSI benefit equal to the difference between the two benefits.<sup>57</sup> The total benefit the child receives will not exceed the SSI rate.<sup>58</sup>

In the event that the Title IV-E payment is greater than the SSI payment, the SSI will be reduced to zero, and the SSI benefits will be placed in suspense.<sup>59</sup> After 12 consecutive months of benefit suspension for any reason, SSI benefits are terminated, and an individual must file a new application for SSI benefits.<sup>60</sup>

There is no provision under federal law requiring SSI payments to be offset by state-only foster care benefits. However, California law counts SSI benefits as income to the youth resulting in the youth's state-only foster care benefits being reduced by the amount of SSI benefits that the youth receives. State law also permits a county to supplement SSI benefits with state-only foster care benefits, as long as the youth is not otherwise eligible for federal foster care benefits.<sup>61</sup>

## **B. Who Gets to Choose What Benefit a Foster Youth Receives?**

California regulation provides that "a person or his/her representative who believes the application meets the eligibility requirements for more than one category of aid has the right to choose the type of aid he/she will apply for."<sup>62</sup> In the case of foster children, the County has care, custody and control of the youth, and therefore can choose between foster care benefits or SSI benefits, depending on which benefits best meet the individual needs of the youth.<sup>63</sup> Counties are encouraged to "review the circumstances in each case to determine which options ensures the county, state and federal funds are expended in the most cost beneficial manner."<sup>64</sup>

The only limitation to the county's choice of aid payment is in the case of foster children placed in the home of a relative caregiver. In order for a foster child who is placed with a relative to be eligible for foster care benefits the child must be "otherwise eligible for federal financial participation in the AFDC-FC payment."<sup>65</sup>

## **VII. Maintaining Eligibility for Social Security Benefits:**

### **A. When and why would a youth's benefits be suspended?**

If the amount of income countable to the child exceeds the SSI payment, then the SSI benefit will be put in "suspense." Suspension of payments due to ineligibility for benefits because of

---

<sup>56</sup> CWPM, Section 8.4D, Question 1

<sup>57</sup> CWPM, Section 8.4D, Question 1

<sup>58</sup> CWPM, Section 8.4D, Question 1

<sup>59</sup> 20 CFR § 416.1323.

<sup>60</sup> 20 CFR § 416.1335.

<sup>61</sup> Manual of Policy and Procedures (MPP) § 45-302.11.

<sup>62</sup> MPP § 40-109.2

<sup>63</sup> All County Information Notice (ACIN) I-65-91.

<sup>64</sup> All County Letter (ACL) 94-42.

<sup>65</sup> W&IC § 11402(a).

excess income is effective with the first month in which “countable income” equals or exceeds the amount of benefits otherwise payable for such month. This rule applies regardless of the month in which the income is received.<sup>66</sup>

SSI benefits can remain in suspense for 12 consecutive full calendar months. During the 12-month period, if countable income becomes less than the SSI benefit rate, then the SSI payment will be reinstated.<sup>67</sup> Note. Resumption of payments is not automatic. The SSI recipient or representative payee must contact SSA to provide necessary information to re-establish eligibility before the 12 months expires.

## **B. When will benefits be terminated after they have been suspended?**

In the event that SSI benefits remain in suspense for 12 full and consecutive months, then the SSI benefits will be terminated.<sup>68</sup> This termination is effective with the start of the 13th month after the suspension began.

## **VIII. Important Considerations for Youth Transitioning Out of Foster Care:**

### **A. How far in advance should an SSI application be made for a foster youth in order to ensure that benefits will be in place prior to the youth’s emancipation from foster care?**

SSA takes several months to process SSI applications. According to statistics available on SSA’s website, the average application will be processed in 3-5 months.<sup>69</sup> Thus, in order to ensure that a foster youth has a determination made prior to emancipating, it is important that the application be submitted at least six months in advance of emancipation.

However, SSA will not accept applications for SSI until the month before the month that an individual meets all of the eligibility criteria.<sup>70</sup> This means that a child receiving Title IV-E benefits greater than the SSI benefit rate cannot apply for SSI (because he/she is not financially eligible) until the month prior to the Title IV-E benefits ending (usually when the youth turns 18). If that child applies for SSI more than 30 days prior to her 18<sup>th</sup> birthday, the application will be denied because of his/her receipt of IV-E.<sup>71</sup> However, the SSA regulations and guidance only require that an individual meet all the factors of eligibility in one month during the life of the application.<sup>72</sup> Once eligibility is established, a foster youth remains

---

<sup>66</sup> 20 CFR § 416.1323

<sup>67</sup> 20 CFR § 416.1323

<sup>68</sup> 20 CFR § 416.1335

<sup>69</sup> SSA Publication No. 05-10029, January 2006, ICN 456000; available at <http://www.ssa.gov/pubs/10029.html#part5>.

<sup>70</sup> POMS SI 00601.010; POMS SI 00830.410; POMS SI 00830.170(B); 20 CFR 416.330 and 20 CFR 416.335.

<sup>71</sup> 20 CFR § 416.203(b). The statute states “We determine that you are eligible for SSI benefits for a given month if you meet the requirements in § 416.202 in that month. However, you cannot become eligible for payment of SSI benefits until the month after the month in which you first become eligible for SSI benefits. In addition, we usually determine the amount of your SSI benefits for a month based on your income in an earlier month (see § 416.420). Thus, it is possible for you to meet the eligibility requirements in a given month but receive no benefit payment for that month.”

<sup>72</sup> POMS SI 00601.009; POMS SI 00601.010 (“If the claimant meets all factors of eligibility in any month during the life of the application, the claimant can receive payment without filing a new application.”)

eligible for assistance, even if they are not receiving any SSI benefits, for 12 consecutive months. See the suspension rules *in VI.A*.

Because SSI applications take many months to be approved, a foster child whose application is filed a month in advance of his/her 18<sup>th</sup> birthday will often not begin receiving benefits until months after he/she turns 18.

### **B. Do youth have to reapply for SSI benefits after they turn 18 in order to continue to receive SSI under the adult program?**

The SSA conducts an Age 18 Medical Redetermination during the 1-year period beginning on the youth's 18th birthday or, in lieu of a continuing disability review, whenever SSA determines that the case is subject to redetermination under the Social Security Act, to determine if the youth will remain eligible for SSI benefits under the adult rules.<sup>73</sup> While the SSA is conducting the Age 18 Medical Redetermination, which can take several months, the youth remains eligible for SSI benefits.<sup>74</sup> If the SSA determines that the youth is no longer eligible for benefits, they do not owe back any of the benefits that they received while the Age 18 Medical Redetermination was being conducted.<sup>75</sup> However, if they want their benefits to continue while they appeal the notice terminating their benefits, then they would have to pay back the benefits they receive during the appeals period if they lose the appeal.<sup>76</sup>

California law mandates that counties assist youth through the Age 18 Redetermination by "provid[ing] information 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 [and] assist[ing] the youth, as appropriate in fulfilling the requirements [for establishing continuing disability]."<sup>77</sup>

If, after the Age 18 Medical Redetermination, the SSA determines that the youth is no longer eligible for benefits, then the "normal cessation and termination rules apply. Disability ceases as of the date of the disability redetermination decision. Eligibility ends the last day of the second month following the month of cessation. As usual, benefits are paid for two months following the month of cessation if all other eligibility criteria are met."<sup>78</sup>

### **C. Once a foster youth emancipates, can they begin receiving direct payment of their SSI benefits?**

The SSA determines whether or not a youth can receive direct payment of their benefits. A youth must show that he/she is mentally and physically able to manage or direct the management of benefits payments in order to SSA approve the youth application to be his/her own payee.

California law mandates that counties assist youth in receiving direct payment of their SSI or RSDI benefits by "provid[ing] information to the youth regarding the process for becoming his

---

<sup>73</sup> 20 CFR § 416.987

<sup>74</sup> 20 CFR § 416.987(e).

<sup>75</sup> 20 CFR § 416.987(e)

<sup>76</sup> SSA Publication No. 05-10041, January 2006 ICN 459260, POMS DI 28080.100

<sup>77</sup> W&IC § 13753(a) and (c).

<sup>78</sup> POMS DI 23570.020

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 [and] assist[ing] the youth, as appropriate in [becoming his or her own payee].”<sup>79</sup>

**D. If there are benefits available in a youth’s dedicated account and/or maintenance account at the time of emancipation, how are those benefits transferred to the youth?**

In most cases, the SSA requires that a payee return the conserved benefits to the SSA, and the SSA will reissue them to the successor payee or directly to the beneficiary<sup>80</sup> Further, if a social agency is the payee and has served in that capacity for less than 12 months, the social agency is required to make a final accounting of the benefits to the SSA, including informing the SSA as to how the funds were used and whether there are any conserved funds left for the youth.<sup>81</sup>

The SSA requires that a payee return the conserved benefits to the SSA, and the SSA will reissue them to the successor payee or directly to the beneficiary.<sup>82</sup> Further, if a social agency is the payee and has served in that capacity for less than 12 months, the social agency is required to make a final accounting of the benefits to the SSA, including informing the SSA as to how the funds were used and whether there are any conserved funds left for the youth.<sup>83</sup>

**IX. YOUTH IN THE JUVENILE JUSTICE SYSTEM**

**A. What happens to a youth’s SSI or RSDI benefits if they are incarcerated?**

Individuals who are incarcerated generally lose their SSI benefits. SSI benefits must be suspended once an individual has been incarcerated for one full calendar month. SSI benefits remain in suspense until the individual has been incarcerated for 12 full calendar months, at which point SSA terminates the benefits. If an individual is released prior to serving 12 months, the SSI benefits will be restored once the individual is released from jail or prison and determined by SSA to still meet the financial-eligibility requirements. Individuals who serve 12 or more months and have their SSI benefits terminated must reapply for benefits by completing a new application and going through a new disability determination.

Individuals who receive RSDI benefits also lose their benefits while they are incarcerated. As with SSI benefits, RSDI benefits are suspended after 30 days of incarceration. However, RSDI benefits remain in suspense for the entire period of incarceration, regardless of the amount of time served, and are reinstated upon release, to begin the month after the month of release.

Even in instances when benefits are not terminated, reinstatement of social security benefits can take weeks. When benefits are terminated and a new application is required, reinstating benefits can take months.

---

<sup>79</sup> W&IC § 13753(a) and (c).

<sup>80</sup> POMS GN 00605.350

<sup>81</sup> POMS GN 00605.380

<sup>82</sup> POMS GN 00605.350

<sup>83</sup> POMS GN 00605.380

**B. If a youth is incarcerated, are there any procedures in place that would allow the youth's SSI or RSDI benefits to start again immediately upon release, or does the youth have to wait until they are out of detention or prison before submitting a new application?**

SSA has established procedures enabling local SSA offices to provide support to public institutions in assisting individuals in applying for benefits while still incarcerated. SSA will accept and process inmates' applications months before the anticipated release date, and make prospective determinations of potential eligibility. This process is facilitated by a pre-release agreement between SSA and the corrections facility; although, an inmate is permitted to apply and have the application handled expeditiously without such an agreement.

A pre-release agreement is established, either formally or informally, between a corrections facility and SSA when both parties commit to engaging in certain activities to expedite the review of inmates' Social Security applications. Under a pre-release agreement, the corrections facility agrees to:

- Identify individuals who could be released within 30 days after potential eligibility has been established;
- Refer only individuals who appear to meet the SSI categorical and income and resource criteria;
- Provide nonmedical information necessary for development of potential SSI eligibility;
- Provide current medical evidence for the blind and disabled consistent with the guidelines in [SI 00520.920 B.](#) and local Disability Determination Services (DDS) suggestions resulting from experience with the institution's previous evidence submittals. This should include a statement of the claimant's ability to handle funds;
- Provide the field office with the anticipated release date and any change which would result in release over 30 days after notice; and
- Notify the field office as soon as the individual is released. (SI 00520.910)

In return, SSA agrees to:

- Provide guidelines for the information requested from the institution ([SI 00520.930](#), Exhibit 2);
- Help institutional and social services staff learn how to use the prerelease procedure;
- Provide an field office contact to assist the institution in applying prerelease procedures;
- Process claims and reinstatements timely in the field office, and identify cases to the Disability Determination Services (DDS) for prompt handling;
- Notify the institution of the determination promptly.