

Social Security and Health Care Benefits for the Incarcerated

This fact sheet describes (i) income support through the Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI) programs, and (ii) health coverage under Medicaid and Medicare, which together can enable someone with mental illness to transition successfully from jail or prison to community life.

Income Support Benefits through Social Security

People with disabilities, including those with a severe mental illness, may be entitled to monthly income-support payments through two different federal programs:

1. **Supplemental Security Income, or “SSI”**
 - SSI is a federal income supplement program funded by general tax revenues (not Social Security taxes).
 - SSI is designed to help the elderly and people with disabilities who have little or no income.
 - Eligibility for SSI depends on one’s income or assets—a person with income or assets above a certain amount will not be eligible.
 - SSI provides cash to meet basic needs for food, clothing, and shelter.¹
2. **Social Security Disability Insurance, or “SSDI”**
 - SSDI pays benefits to people who cannot work because they have a medical condition that is expected to last at least one year or result in death.²
 - SSDI pays benefits to individuals and certain of their family members if they are “insured,” meaning they worked long enough and therefore paid Social Security taxes.³
 - There are no income or asset eligibility requirements for SSDI.

Many people who qualify for SSDI but receive only a low monthly payment can also collect SSI (called “concurrent benefits”).⁴

These federal disability benefits are linked with health care coverage:

- In most states, SSI recipients automatically have Medicaid coverage. Where they do not, a separate application will enable most to secure Medicaid.⁵
- All SSDI recipients are granted Medicare coverage after a 24-month wait.⁶

When Inmates Lose SSI

People who have been getting SSI or SSDI payments may lose their benefits when they are incarcerated.⁷ SSI payments stop after a person has been in jail or prison for thirty days.⁸

Generally, the length of time a person is incarcerated determines how SSI benefits will be affected. If incarceration is for less than 12 consecutive months, SSI payments should resume soon after the person is released—as long as SSA is informed of the release and establishes with SSA that he or she remains eligible.⁹

If the individual is confined for 12 consecutive months or longer, the person must file a new application for benefits after being released.¹⁰ In this situation, a decision about the person's disability and a reinstatement of SSI benefits could take three to five months.¹¹

When Inmates Lose SSDI

SSDI benefits stop following a conviction and incarceration for more than 30 continuous days.¹² In order for SSDI payments to resume after incarceration, SSA must verify that the person is no longer in a correctional facility and may have to review the person's medical condition.¹³

A person's dependents, such as a spouse or child, sometimes receive SSDI. These payments will continue, even when the incarcerated person loses benefits.¹⁴

Qualifying for SSI or SSDI for the First Time on Release from Incarceration

Inmates who were not receiving benefits at the time of incarceration can file an application under SSA's pre-release procedure for SSI and SSDI while still in jail or prison.¹⁵ Normally, review of an application takes months, so an inmate should apply as long as possible before his or her release date.¹⁶ SSA will assess eligibility based on the application. If it is approved before the inmate's release, SSI payments begin as of the first day of the calendar month following release.¹⁷

Pre-Release Agreements

Jails and prisons can enter into pre-release agreements with the local Social Security office, which will help the facility's staff learn the rules for pre-release processing of applications and reinstatements for SSI and SSDI.¹⁸ When such an agreement exists, SSA processes claims more quickly, inmates have assistance in gathering the information needed to support their application, and benefits are often payable immediately upon release or shortly thereafter.¹⁹

Health Care Coverage

Medicaid and **Medicare** are two government health care programs. Low-income individuals qualify for Medicaid in various ways; in most states anyone who qualifies for SSI is covered.²⁰ People entitled to SSDI are covered by Medicare after a 24-month wait.²¹ Medicaid generally provides more comprehensive mental health care coverage than Medicare.²²

Medicaid

Medicaid is a joint federal-state program.²³ To qualify, a person must fall into one of several eligibility categories.²⁴ Once eligible, the individual is covered for a package of services defined by the state under broad federal requirements.²⁵ Federal law requires some services to be available, such as physician services and general hospital care.²⁶ Others are offered at the

state's option, including certain community-based mental health clinic and rehabilitative services.²⁷ As a result, Medicaid coverage varies from state to state.²⁸

All states, however, cover a significant array of mental health services for people with severe mental illnesses.²⁹ Inmates with severe mental illnesses may have incomes below the Medicaid limit and meet general eligibility requirements. Usually their eligibility for SSI is what qualifies them for Medicaid.³⁰

Some low-income individuals do not receive SSI or SSDI disability benefits, either because their disability is not severe enough to meet strict federal standards or because they have not applied. But they may still be eligible for Medicaid. Some states cover people who become "medically needy" when their income is reduced by high health care expenses.³¹ Medically needy individuals can still become eligible by "spending down" the amount of income that is above a particular state's medically needy income standard.³² Medicaid then pays the medical costs that exceed what the individual had to pay in order to become eligible.³³ Thirty-six states and the District of Columbia have medically needy programs.³⁴ Information about eligibility rules can be obtained from each state's Medicaid agency.

Medicaid Rules for Inmates in Correctional Facilities

Generally, health care and mental health services furnished to inmates must be funded by correctional systems or state or local mental health systems, not by Medicaid.³⁵ But federal law does not require states to terminate inmates' Medicaid eligibility, and inmates may remain eligible for Medicaid even though services received while in jail or prison are not covered.³⁶ Accordingly, someone who had a Medicaid card when incarcerated may be able to use it again immediately after release to obtain needed services and medication. Each state has the flexibility under federal law to suspend or terminate an inmate's Medicaid eligibility status during incarceration.³⁷ As of May 2016, thirty-one states and the District of Columbia had policies to suspend Medicaid coverage upon incarceration. Fifteen states suspend coverage for a specific time period, such as the first thirty days or the first year of incarceration, and sixteen states plus the District suspend coverage for the full duration of time spent in correctional facilities. The remaining nineteen states terminate coverage upon incarceration.³⁸

The situation for inmates who qualify for Medicaid through their eligibility for SSI can be complicated. When suspension/termination of SSI occurs, Medicaid agencies are obligated to conduct a redetermination to evaluate other bases for eligibility.³⁹ Under federal rules, eligibility should be reinstated upon release unless the person is no longer eligible.⁴⁰

There is one exception to the rule that Medicaid does not cover services for inmates. When someone is transferred from a jail or prison to a hospital for inpatient health services for twenty-four hours or longer (for example, an appendectomy), the hospital can claim federal Medicaid reimbursement for this service.⁴¹

Federal Rules on Medicaid Reinstatement

Per federal rules, state Medicaid agencies must accept applications from inmates to enroll in Medicaid or renew Medicaid enrollment during the time of their incarceration—in other words, incarceration does not preclude an inmate from being determined Medicaid-eligible, even if coverage is excluded. If the individual meets all applicable Medicaid eligibility requirements, the

state must enroll or renew the enrollment of the individual effective before, during, and after the period of time spent in the correctional facility. Once enrolled, however, the state may suspend coverage. The suspension must be promptly lifted when the inmate exclusion no longer applies (e.g., upon release, or when the individual is admitted as a patient for inpatient treatment in a medical facility).⁴²

Medicare

Medicare will not pay for services while an individual is incarcerated.⁴³ Medicare has four parts. Part A covers inpatient hospital care or skilled nursing facility care.⁴⁴ Part B covers outpatient services, including mental health services.⁴⁵ Part C authorizes Medicare recipients to sign up for Medicare managed care plans (Medicare Advantage).⁴⁶ Part D covers prescription drugs through private plans.⁴⁷

Although Medicare will not pay for services during incarceration, some forms of Medicare coverage can be maintained during incarceration, so that Medicare can be used as soon as an inmate is released.⁴⁸ Medicare Part A (hospital insurance) eligibility continues uninterrupted during incarceration.⁴⁹ Medicare Part B (medical insurance) will terminate if an incarcerated individual fails to pay monthly premiums while in jail or prison.⁵⁰ If an inmate is disenrolled from Part B for failure to pay premiums, he/she may have to wait several months until the next General Enrollment Period to re-enroll.⁵¹ This means the individual may go months without coverage after release.⁵² If disenrolled, the individual may also face lifelong premium penalties that will make Medicare coverage more expensive.⁵³

Individuals in jail or prison are not eligible for Medicare Advantage or Medicare Part D.⁵⁴ Upon release, individuals have a Special Enrollment Period (SEP) to join a Part D prescription drug plan or a Medicare Advantage Plan.⁵⁵ The SEP begins the month before release and ends two months after the individual is no longer in custody.⁵⁶

Resources

Individuals and their families may seek assistance to apply for these benefits or get further information about the effects of incarceration on benefits. The following resources may be able to help:

- Social Security Administration, 1-800-772-1213 (TTY 1-800-325-0778)
- Your [state Medicaid office](#)
- The [State Health Insurance Assistance Program](#) for your state
- The [Protection & Advocacy organization](#) for your state
- A local [Legal Aid organization](#)

¹ *Supplemental Security Income Homepage—2017 Edition*, SOC. SEC. ADMIN., <https://www.ssa.gov/ssi/> (last visited June 20, 2017).

² *Disability Benefits*, SOC. SEC. ADMIN. 1 (Jan. 2017), <https://www.ssa.gov/pubs/EN-05-10029.pdf>.

³ *Benefits for People with Disabilities*, SOC. SEC. ADMIN., <https://www.ssa.gov/disability/> (last visited June 20, 2017).

⁴ *Example of Concurrent Benefits with Employment Supports* (2017), SOC. SEC. ADMIN., <https://www.ssa.gov/redbook/eng/supportsexample.htm>. SSDI benefit amounts depend on wages and length of time employed. For more information on the complex eligibility rules for SSI and SSDI, contact a local Social Security Office or call 1-800-772-1213.

⁵ *Medicaid Information*, SOC. SEC. ADMIN., <https://www.ssa.gov/disabilityresearch/wi/medicaid.htm> (last visited June 16, 2017). The following jurisdictions use the same rules to decide eligibility for Medicaid as the Social Security Administration (SSA) uses for SSI, but require the filing of a separate application: Alaska, Idaho, Kansas, Nebraska, Nevada, Oregon, Utah, and the Northern Mariana Islands. The following States use their own eligibility rules for Medicaid, which are different from SSA's SSI rules. In these States, a separate application for Medicaid therefore must also be filed: Connecticut, Hawaii, Illinois, Indiana, Minnesota, Missouri, New Hampshire, North Dakota, Ohio, Oklahoma, Virginia. *Id.*

⁶ *Disability Benefits*, SOC. SEC. ADMIN. 12 (Jan. 2017), <https://www.ssa.gov/pubs/EN-05-10029.pdf>.

⁷ Notably, correctional facilities have an incentive to inform SSA that a person is confined because they receive federal payments when they supply information about an inmate that results in suspension or termination of that inmate's SSI or SSDI benefits. The institution receives \$400 when this information is sent within 30 days of an inmate's confinement and \$200 if it is sent within 90 days. *See* 42 U.S.C. § 1382(e)(1)(I) (2012), as amended by Public Law 104-193, the Personal Responsibility & Work Opportunities Reconciliation Act of 1996 (SSI-incentive effective for reporting individuals whose confinement began after March 1, 1997); 42 U.S.C. § 402(x) (2012) as amended by Public Law 106-170, the Ticket to Work & Work Incentives Improvement Act of 1999 (SSDI-incentive effective for reporting individuals whose confinement began after April 1, 2000).

⁸ *Can Prisoners get Social Security or Supplemental Security Income (SSI) payments?*, SOC. SEC. ADMIN. (Dec. 2016), <https://faq.ssa.gov/link/portal/34011/34019/Article/3844/Can-prisoners-get-Social-Security-or-Supplemental-Security-Income-SSI-payments>.

⁹ *Entering the Community After Incarceration—How We Can Help*, SOC. SEC. ADMIN. 2 (Nov. 2015), <https://www.ssa.gov/pubs/EN-05-10504.pdf>.

¹⁰ *What Prisoners Need to Know*, SOC. SEC. ADMIN. 3 (June 2015), <https://www.ssa.gov/pubs/EN-05-10133.pdf>.

¹¹ *Entering the Community After Incarceration—How We Can Help*, SOC. SEC. ADMIN. 3 (Nov. 2015), <https://www.ssa.gov/pubs/EN-05-10504.pdf>.

¹² *What Prisoners Need to Know*, SOC. SEC. ADMIN. 3 (June 2015), <https://www.ssa.gov/pubs/EN-05-10133.pdf>.

¹³ *What Prisoners Need to Know*, SOC. SEC. ADMIN. 4 (June 2015), <https://www.ssa.gov/pubs/EN-05-10133.pdf>. SSA reviews the medical conditions of individuals receiving SSDI from time to time to make sure they continue to have a qualifying disability. The frequency of reviews depends on the nature and severity of the medical condition and whether it is expected to improve. If improvement is expected, the first review generally will be six to 18 months after the date the person became disabled. If improvement is possible, but cannot be predicted, SSA will review the case about every three years. If improvement is not expected, SSA will review the case every seven years. *See Reviewing Your Disability*, SOC. SEC. ADMIN. 1 (Nov. 2015), <https://www.ssa.gov/pubs/EN-05-10068.pdf>.

¹⁴ 20 C.F.R. § 404.468(a) (2017).

¹⁵ *Entering the Community After Incarceration—How We Can Help*, SOC. SEC. ADMIN. 3 (Nov. 2015), <https://www.ssa.gov/pubs/EN-05-10504.pdf>.

¹⁶ *Id.*

¹⁷ 20 C.F.R. § 416.211 (2017).

¹⁸ Pre-Release Procedure for the Institutionalized, authorized under Section 1631(m) of the Social Security Act, 42 U.S.C. § 1383(m) (2012). *See* POMS SI 00520.900-930.

¹⁹ *Id.*

²⁰ *Medicaid Information*, SOC. SEC. ADMIN., <https://www.ssa.gov/disabilityresearch/wi/medicaid.htm> (last visited June 16, 2017).

²¹ *Disability Benefits*, SOC. SEC. ADMIN. 12 (Jan. 2017), <https://www.ssa.gov/pubs/EN-05-10029.pdf>.

²² *Behavioral Health Services*, MEDICAID.GOV, <https://www.medicaid.gov/medicaid/benefits/bhs/index.html> (last visited June 16, 2017).

²³ *Eligibility*, MEDICAID.GOV, <https://www.medicaid.gov/medicaid/eligibility/index.html> (last visited June 21, 2017).

²⁴ *Id.*

²⁵ *Benefits*, MEDICAID.GOV, <https://www.medicaid.gov/medicaid/benefits/index.html> (last visited June 16, 2017).

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Behavioral Health Services*, MEDICAID.GOV, <https://www.medicaid.gov/medicaid/benefits/bhs/index.html> (last visited June 16, 2017); *State Medicaid & CHIP Profiles*, MEDICAID.GOV, <https://www.medicaid.gov/medicaid/by-state/by-state.html> (last visited June 16, 2017).

³⁰ 42 C.F.R. § 435.541 (2017).

³¹ 42 C.F.R. § 435.300 (2017).

³² *Eligibility*, MEDICAID.GOV, <https://www.medicaid.gov/medicaid/eligibility/index.html> (last visited June 21, 2017). Individuals spend down by incurring expenses for medical and remedial care for which they do not have health insurance. *Id.* Once an individual's incurred expenses exceed the difference between the individual's income and the state's medically needy income level (the "spenddown" amount), the person can be eligible for Medicaid. *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ 42 C.F.R. § 435.1009(a) (2017).

³⁶ Centers for Medicare & Medicaid Services, Letter to State Health Officials, "To Facilitate Successful Re-entry for Individuals Transitioning From Incarceration to Their Communities" 6 (Apr. 28, 2016), <https://www.medicaid.gov/federal-policy-guidance/downloads/sho16007.pdf>.

³⁷ *How and When Medicaid Covers People Under Correctional Supervision: New Federal Guidelines Clarify and Revise Long-Standing Policies*, THE PEW CHARITABLE TRUSTS (Aug. 2, 2016), <http://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2016/08/how-and-when-medicaid-covers-people-under-correctional-supervision>.

³⁸ *Id.*

³⁹ *Medicaid Eligibility and Enrollment for Justice-Involved Populations*, MEDICAID AND CHIP LEARNING COLLABORATIVE 11 (Feb. 19, 2015), <https://www.medicaid.gov/state-resource-center/mac-learning-collaboratives/downloads/justice-involved-populations.pdf>.

⁴⁰ Centers for Medicare & Medicaid Services, Letter to State Health Officials, "To Facilitate Successful Re-entry for Individuals Transitioning From Incarceration to Their Communities" 8 (Apr. 28, 2016), <https://www.medicaid.gov/federal-policy-guidance/downloads/sho16007.pdf>.

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- ⁴¹ *How and When Medicaid Covers People Under Correctional Supervision: New Federal Guidelines Clarify and Revise Long-Standing Policies*, THE PEW CHARITABLE TRUSTS (Aug. 2, 2016), <http://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2016/08/how-and-when-medicaid-covers-people-under-correctional-supervision>.
- ⁴² Centers for Medicare & Medicaid Services, Letter to State Health Officials, “To Facilitate Successful Re-entry for Individuals Transitioning From Incarceration to Their Communities” 6 (Apr. 28, 2016), <https://www.medicare.gov/federal-policy-guidance/downloads/sho16007.pdf>.
- ⁴³ See 42 C.F.R. 411.4 (2017); 42 C.F.R. 411.6 (2017); 42 C.F.R. 411.8 (2017); see also *Medicare Coverage of Items and Services Furnished to Beneficiaries in Custody under a Penal Authority*, DEPARTMENT OF HEALTH AND HUMAN SERVICES: CENTERS FOR MEDICARE AND MEDICAID SERVICES 2 (July 2016), <https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/Downloads/Items-Services-Furnished-to-Beneficiaries-in-Custody-Under-Penal-Authority-Fact-Sheet-ICN908084.pdf>.
- ⁴⁴ *What Part A Covers*, MEDICARE.GOV, <https://www.medicare.gov/what-medicare-covers/part-a/what-part-a-covers.html> (last visited June 19, 2017).
- ⁴⁵ *What Part B Covers*, MEDICARE.GOV <https://www.medicare.gov/what-medicare-covers/part-b/what-medicare-part-b-covers.html> (last visited June 19, 2017).
- ⁴⁶ *How Do Medicare Advantage Plans Work?*, MEDICARE.GOV, <https://www.medicare.gov/sign-up-change-plans/medicare-health-plans/medicare-advantage-plans/how-medicare-advantage-plans-work.html> (last visited June 19, 2017).
- ⁴⁷ *Drug Coverage (Part D)*, MEDICARE.GOV, <https://www.medicare.gov/part-d/> (last visited June 19, 2017).
- ⁴⁸ *Introduction to Medicare and Incarceration*, MEDICAREINTERACTIVE.ORG, <https://www.medicareinteractive.org/get-answers/medicare-and-other-types-of-insurance/medicare-and-incarceration/introduction-to-medicare-and-incarceration> (last visited June 20, 2017).
- ⁴⁹ *What Prisoners Need to Know*, SOC. SEC. ADMIN. 6 (June 2015), <https://www.ssa.gov/pubs/EN-05-10133.pdf>.
- ⁵⁰ *Id.*
- ⁵¹ *Introduction to Medicare and Incarceration*, MEDICAREINTERACTIVE.ORG, <https://www.medicareinteractive.org/get-answers/medicare-and-other-types-of-insurance/medicare-and-incarceration/introduction-to-medicare-and-incarceration> (last visited June 20, 2017).
- ⁵² *Id.*
- ⁵³ *Id.*
- ⁵⁴ *If You Have a Medicare Advantage Plan or a Part D Plan Before Your Incarceration*, MEDICAREINTERACTIVE.ORG, <https://www.medicareinteractive.org/get-answers/medicare-and-other-types-of-insurance/medicare-and-incarceration/if-you-have-a-medicare-advantage-plan-or-a-part-d-plan-before-your-incarceration>.
- ⁵⁵ *Id.*
- ⁵⁶ *Id.*