



SOCIAL SECURITY ADMINISTRATION ISSUES NEW RULES FOR CHILDREN'S SSI PROGRAM

The Social Security Administration (SSA) has released new interim final regulations for the children's Supplemental Security Income (SSI) program. The new rules (printed in the Federal Register on February 11, 1997) were required by the new welfare law signed by President Clinton on August 22, 1996 and became effective immediately.

Of the one million children now receiving SSI, approximately 263,000 are affected by the new eligibility rules. SSA estimates that 135,000 children will lose benefits—almost half of the children to be reviewed over the next six months will no longer qualify. SSA estimates that another 45,000 children will lose access to benefits by the year 2002, making a total of 180,000 children affected by the changes. However, some advocates believe that these numbers are very low estimates of the number of children who will lose benefits or will not be eligible in the future. Based on the SSA estimates, \$4.7 billion will be cut from the program over the next six years.

KEY PROVISIONS INCLUDE THE FOLLOWING:

1. New definition of childhood disability. To qualify for disability benefits, children must have a physical or mental condition that can be medically proven and that results in "marked and severe functional limitations" of substantial duration.

2. Individualized Functional Assessment eliminated. The Individualized Functional Assessment (IFA), established after the 1990 U.S. Supreme Court's *Zebley v. Sullivan* decision, is eliminated. The IFA supplemented the listing of impairments by allowing state disability examiners to assess individually how children's disabilities affected their ability to function in various areas of daily activity.

3. References to "maladaptive behavior" are removed from functional standards in the childhood mental impairment listings. The new area of "personal function" indicates a child's ability to perform selfcare activities—to do what is expected in areas such as personal needs,

health and safety (this includes avoiding self-injurious actions). The rules clarify "social function" to include a child's capacity to form and maintain relationships with parents, other adults and peers. The new regulations make it clearer that behavioral problems, such as physical aggression or avoidance of interpersonal activities, will be evaluated as part of a child's social functioning.

4. Loss of Medicaid coverage. Children who lose their SSI benefits will continue to receive Medicaid if they can remain eligible on other grounds, such as their age and their family's low income. Coverage of low-income children through age 13 is now guaranteed and mandatory coverage of older children is being phased in through 2002. However, it is estimated that up to 50,000 of the children who lose SSI eligibility will lose Medicaid. The President's budget proposes that Congress allocate funds to continue Medicaid to children who lose their eligibility because of the SSI program changes. This may help children who are not eligible for Medicaid through other categories. State medical assistance agencies have been instructed to continue Medicaid while SSA reviews a child's SSI eligibility and throughout the appeal process if a child challenges the denial of SSI benefits.

5. More frequent case reviews and new treatment requirement. The new regulations require children to have their cases reviewed more frequently and, at the review, to show proof of treatment that is "medically necessary" and "available." Children will have their cases reviewed every three years, unless their condition is not expected to improve. Children who qualify because of their low birthweight will be reviewed 12 months after birth. Children who turn 18 will be reviewed under adult eligibility criteria within one year after their 18th birthday.

6. Benefits paid pending appeal of SSI denials. Children who are told that they do not qualify under the new standard may appeal. In most cases, benefits will continue throughout the appeal process until the child's representative presents his or her case in person before an administrative law judge. In addition, children are entitled to receive Medicaid pending their SSI appeal.

7. Dedicated savings accounts are required. Parents (or representative payees) must establish a dedicated savings account for any back benefits that exceed six times the maximum monthly payment. This money may be used only to cover specific expenses, including education or job skills training, personal needs assistance, special equipment or housing modifications, medical treatment, therapy or rehabilitation.

8. Smaller benefit for children with private health insurance. Children who are hospitalized and have private insurance to cover their medical care will receive the same \$30 monthly SSI benefit that is paid to children whose medical bills are covered by Medicaid. The law requires SSA to complete the redeterminations by August 22, 1997. Current recipients will continue receiving benefits until either July 1, 1997 or the date of redetermination, if it is later.

SOURCE:

Bazelon Center for Mental Health Law, 1101 15th Street N.W., Suite 1212, Washington, D.C. 20005-1212; (202) 467-5730 (voice); (202) 467-4232 (TDD); (202) 223-0409 (fax).