

**A GUIDE TO UNDERSTANDING**  
**CHILDHOOD SUPPLEMENTAL**  
**SECURITY INCOME**

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Presented by:

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## **Legal Disclaimer**

The purpose of this booklet is to give general information only. It is not meant to provide legal advice. You should consult an attorney to obtain legal advice about your specific situation or issue.

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**SSI BENEFITS FOR CHILDREN**  
**FROM START TO FINISH**

I. **INTRODUCTION**

- A. A child under the age of 18 may qualify for supplemental security income (SSI) if he or she meets social security's definition of disability for children and if his or her income and resources fall within the eligibility limits. Must meet both income and resource limits and medical disability requirements to be eligible.
- B. While the application process can be started online, it must be completed with an appointment/interview at your local social security office.
- C. There are five main levels of the appeal process, the hearing in front of an Administrative Law Judge is at the third level.
- D. All childhood claims are reviewed/evaluated under a three step sequential evaluation process. Your child's impairment must either meet, medically equal, or functionally equal a Listing of Impairments for children. There are six domain areas of functioning and your child must either have two marked or one extreme limitation in the six domain areas to be approved for benefits.
- E. There are certain conditions that may result in immediate SSI payments to your child.
- F. There is a maximum monthly amount of SSI benefit that your child can receive. Your child will automatically get medical assistance (Medicaid/ Title 19) if your child is approved for benefits. A representative payee will have to be appointed to manage your child's benefits, usually a parent, guardian or outside organization.

## II. DEFINITION OF DISABILITY FOR CHILDREN

A medically-determinable Physical and/or Mental Impairment which results in Marked and Severe Functional Limitations and can be expected to result in death and/or has lasted or can be expected to last for a Continuous Period of Not Less than 12 Months.

- It has to be a medically determinable impairment (supported by a medical diagnosis) and the impairment can be either physical or mental;
- The impairment has to result in marked and severe functional limitations; and
- The impairment has to last for least a continuous period of not less than 12 months. It is not meant for short term disability.

### III. INCOME AND RESOURCE LIMITS

#### A. Resources

1. Resources Are Things That You Own Such As:
  - Cash;
  - Bank Accounts;
  - Stocks;
  - U.S. Savings Bonds;
  - Land;
  - Life Insurance;
  - Personal property;
  - Vehicles;
  - Anything else you own which could be changed to cash and used for food or shelter; and
  - Deemed Resources.
2. Countable resource limit is \$2,000 for an individual (if child under age 18 lives with one parent) and \$3,000 for a couple (if child lives with two parents.)
3. Resources Not Counted For SSI:
  - The home you live in and the land it is on;
  - One vehicle regardless of value;
  - Household goods and personal effects, e.g., wedding and engagement rings;
  - Burial spaces for you or your immediate family;
  - Burial funds for you and your spouse, each valued at \$1,500 or less;
  - Life insurance policies with a combined face value of \$1,5000 or less;
  - One vehicle, regardless of value, if it is used for transportation for you or a member of your household;
  - Retroactive SSI or social security benefits for up to nine months after you received them; and
  - Grants, scholarships, fellowships or gifts set aside to pay educational expenses for nine months after receipt.

#### B. Income Limit

1. SSA takes into account parents' income, plus income of everyone in the household and income of a child (if he works) to determine if he/she

qualifies to receive SSI benefits. If a child does not live at home, then only his or her income is taken into consideration.

2. If a child is working, the child may not be earning more than \$1,040 per month. If so, then child is engaging in SGA and cannot be found disabled.
3. If a child is under the age of 18, not married, and lives at home with parent(s) who do not receive SSI benefits, a portion of the parents' income and resources are counted as if they were available to the child. This is called "deeming." After deductions are taken, the remaining amount is used to decide if the child meets the SSI income and resource limitations for monthly benefits.
4. There is a deeming eligibility chart for children that gives the highest amount of gross monthly income for 2013 (before taxes are withheld) that a parent(s) can earn or receive and still have a child qualify for SSI. There are exclusions to when deeming does not apply.

C. **Miscellaneous**

- **State Supplement**. The SSI benefit rate can also be supplemented in Wisconsin by additional monthly payments called the "state supplement." The amount varies. The SSI state supplement payment for 2013 is approximately \$83.
- **Medicaid**. Children who get SSI benefits can also get Medicaid. In Wisconsin, Medicaid is automatically provided with no waiting period.

#### IV. APPLYING FOR CHILDHOOD BENEFITS

- A. To apply for childhood SSI benefits, you can do the following:
- Complete the childhood disability report either online at [www.socialsecurity.gov](http://www.socialsecurity.gov) or [www.ssa.gov](http://www.ssa.gov) and schedule an appointment with your local social security office to complete the SSI childhood application; or
  - Schedule an appointment with your local social security office to complete the application process. The toll free number for the Racine Social Security Office is 1-866-270-8629.
- B. While you can complete the childhood disability report online, the SSI application cannot be completed online, then you must contact your local social security office to complete the SSI Application.
- C. The Childhood Disability Report asks for the following information:
- Section 1 - Information about the child.
  - Section 2 - Contact Information.
  - Section 3 - The child's illness, injuries or conditions and how they affect him/her.
  - Section 4 - Information about the child's medical records.
  - Section 5 - Medication.
  - Section 6 - Tests.
  - Section 7 - Additional information.
  - Section 8 - Education.
  - Section 9 - Work history.
  - Section 10 - Date and remarks.
- D. You will also need the child's birth certificate and the parents' and child's social security numbers.

## V. DIFFERENT LEVELS OF THE APPEAL PROCESS

### A. Initial Application

- Complete the childhood disability report and schedule an appointment at your local social security office to complete the SSI application. You will also sign medical and hospital health care authorizations to obtain records.
- If you have any records supportive of your child's claim, then bring them with you at the time of the application. Social security will gather the child's medical, hospital, school and other relevant records and evidence.
- It generally takes three-five months for the social security office to make a decision on an application.

### B. Request for Reconsideration

- If denied, the second step is to file a Request for Reconsideration. The Request for Reconsideration must be filed within sixty (60) days (60 days plus 5 additional days for mailing). Use a Request for Reconsideration form, complete an updated Childhood Disability Report and sign additional medical and hospital authorizations.
- The Request for Reconsideration is a re-review of your child's claim. Claims are usually sent to the Disability Determination Bureau ("DDB") in Madison to do a medical review. The process generally takes about the same time as the initial application.
- You will also likely have to complete additional forms such as Function Reports, Questionnaires for Children Claiming SSI Benefits, etc.
- The child may also be sent for a consultative examination ("CE") by a specialist hired to do an evaluation for social security.

### C. Request for Hearing

- If denied, you must file a Request for Hearing form. Also, fill out the same forms as before. The same sixty (60) day (60 days plus 5 additional days for mailing) applies for the deadline. Once a Request for Hearing is filed, the child's claim is then transferred to the Office of Disability Adjudication & Review ("ODAR").
- The Office of Disability Adjudication & Review is the hearing office where hearings are held. It is located at 310 West Wisconsin Avenue, Suite 300W, Milwaukee, Wisconsin 53203. If you live in southeastern

Wisconsin, then your hearing will likely be held at ODAR in Milwaukee. There are several administrative law judges ("ALJs") that hear cases. The longest step in the process and right now taking approximately 12 to 15 months to get a hearing.

- The ALJ will hear your child's case at the time of the hearing. Be sure that the file is completely updated with all updated medical, hospital, school and other pertinent records and reports. After hearing, the ALJ will issue a written decision and time periods can vary depending upon the individual ALJ, but an average time frame is generally sixty (60) days to receive a decision.

D. **Appeals Council**

- If your child does not receive a favorable decision, the next step in the process is to file an appeal with the Appeals Council. Use Request for Review of Hearing Decision/Order form. The deadline is the same sixty (60) day deadline as before. When you file your appeal to the Appeals Council, you state the specific reasons why you disagree with the ALJ's decision. No hearing with the Appeals Council, but an appeal based upon the evidence of record.
- If Appeals Council grants your child's Request for Review, then your child's case is usually sent back for a new hearing and usually sent back to the same ALJ that denied the case. It will be sent back with a detailed explanation of what the ALJ must do at the new hearing.
- The Request for Review form can be filed at any local social security office, the hearing office, or directly with the Appeals Council located at Office of Hearings and Appeals, 5107 Leesburg Pike, Falls Church, Virginia 22041-3255.
- While waiting for the Appeals Council to review your child's claim, if you have any new and material evidence that relates to the issues at the hearing and to the period on or before the date of the decision, then send it to the Appeals council.

E. **Federal Court Judicial Review**

If the Appeals Council denies or dismisses your Request for Review, your next step is to file a civil lawsuit in federal district court. If you reside in southeastern Wisconsin, then this is done in the Eastern District of Wisconsin, United States District Court. This is the last level of the appeal's process. The same general sixty (60) day deadline applies. District Court decides the case based upon briefs filed by the parties.

**VI. THREE STEP SEQUENTIAL EVALUATION PROCESS IN A CHILDHOOD CLAIM**

A. There is a three step sequential evaluation process that Social Security uses in a childhood SSI claim. They are as follows:

1. **Is the Child Engaging in Substantial Gainful Activity?**

In other words, is the child working? Substantial gainful activity in 2013 is \$1,040. If the child is working and earning more than \$1,040 per month, then the child will generally not be found disabled. The amount usually changes each year.

2. **Is the Child's Medical Condition "Severe"?**

The child must have a severe medically determinable impairment. This means the child must have a physical or mental condition that can be established through medically acceptable diagnostic techniques and that is more than mild or slight.

3. **Does the Child's Impairment Meet, Medically Equal or Functionally Equal the Severity of a Listing of Impairments for Children?**

a. The Listing(s) of Impairment(s) for a childhood claim are as follows:

- 100.00 - Growth Impairment
- 101.00 - Musculoskeletal System
- 102.00 - Special Senses and Speech
- 103.00 - Respiratory System
- 104.00 - Cardiovascular System
- 105.00 - Digestive System
- 106.00 - Genitourinary Impairments
- 107.00 - Hematological Disorders
- 108.00 - Skin Disorders
- 109.00 - Endocrine Disorders
- 110.00 - Congenital Disorders that Affect Multiple Body Systems
- 111.00 - Neurological
- 112.00 - Mental Disorders
- 113.00 - Malignant Neoplastic Diseases
- 114.00 - Immune System Disorders

b. To functionally equal the listings, the child's impairment must be of listing level severity, which means that it must result in "**Marked**" limitations in two domains of functioning or an

"**Extreme**" limitation in one domain. Social Security considers the following **Six Domain Areas of Functioning**:

- **Acquiring and Using Information** - consider how well child acquires or learns information, and how well child used the information learned;
  - **Attending and Completing Tasks** - consider how well child is able to focus and maintain attention, how well child is able to begin, carry through, and finish activities, including pace and ease at which activities are performed and changed;
  - **Interacting and Relating with Others** - consider how well child initiates and sustains emotional connections with others, develops and uses the language of community, cooperates with others, complies with rules, responds to criticism, and respects and takes care of possessions of others;
  - **Moving About and Manipulating Objects** - consider how well child moves body from one place to another and how child moves and manipulates things, which are called gross and fine motor skills;
  - **Caring For Self** - consider how well child maintains a healthy emotional and physical state, including getting physical and emotional wants and needs in appropriate ways, how child copes with stress and changes in environment, and whether child takes care of own health, possessions and living areas;
  - **Health and Physical Well-Being** - consider the child's cumulative physical effects of physical and mental impairments and associated treatments or therapies on a functioning level.
- c. Social Security evaluates the "**Whole Child**" when making a finding regarding functional equivalence. The SSA compares the functioning of the child in all settings of these domains to the functioning of other children his or her age. Social Security then considers what domains are involved in performing the activities and to what degree the impairment limits the child's ability to function age-appropriately in each domain.
- The critical element in evaluating the severity of a child's limitations is how appropriately, effectively, and independently the child performs age-appropriate activities.

- A "**Marked**" limitation means a limitation that is "more than moderate" but "less than extreme." A "marked" limitation in a domain occurs when your child's impairment interferes seriously with his or her ability to independently initiate, sustain, or complete activities.
- An "**Extreme**" limitation means a limitation that is "more than marked." An "extreme" limitation is the rating given to the worst limitations. However, an extreme limitation does not necessarily mean a total lack or loss of ability to function. A child has an "extreme" limitation in a domain when his or her impairment interferes very seriously with a child's ability to independently initiate, sustain or complete activities.
- Evidence of child's functioning can come from a wide variety of sources. Some relevant sources include:
  - IEP Reports;
  - Teacher Questionnaires addressing the six domain areas of functioning;
  - Any IQ Testing;
  - Any speech, language, and other evaluations;
  - Any other educational records and reports.
  - Medical Records; and
  - Childhood Disability Reports completed by your child's doctors addressing limitations of functioning in the six domain areas.
- The "**Whole Child**" approach requires the SSA to look at the child in all activities and all settings (at home, at school and in the community) and consider all domains that are involved in doing these activities.

**VII. SITUATIONS WHERE SSA MAY MAKE IMMEDIATE SSI PAYMENTS TO YOUR CHILD**

- A. As it can take three to five months for an initial social security decision to be made if your child is disabled, for some medical conditions, Social Security may make SSI payments right away and for up to six months while Social Security decides if your child is disabled.

The following are some conditions that may qualify:

- Total blindness;
- Total deafness;
- Cerebral Palsy;
- Down Syndrome;
- Muscular Dystrophy;
- Severe Intellectual Disorder (child age 7 or older);
- HIV Infection; and
- Birth Weight below 2 pounds, 10 ounces.

- B. If your child has one of the qualifying conditions, he or she will get SSI payments right away. However, if Social Security decides that your child's disability is not severe enough for SSI, you will not have to pay back the SSI payments that your child received.

## VIII. MISCELLANEOUS CONSIDERATIONS

### A. Maximum Payment Amount

The SSI monthly payment amount maximum is \$710 per month for 2013. There is also a Wisconsin state supplement in some cases.

### B. Representative Payee

Every child who is approved for SSI benefits will have a representative payee. The representative payee is usually a parent, guardian, or in some cases, an organization such as Society Assets.

### C. Restrictions On Spending Child's SSI Back Payments/Regular Monthly Payments

If your child is due a back payment of benefits (which generally will be broken up into installments six months apart if the back benefit award is greater than three times the monthly amount), then you will be required to open a dedicated bank account for the funds and the use of those funds will be subject to very specific restrictions.

- The dedicated account must be a separate checking, savings or money market account from the one that is used for standard monthly SSI benefits.
- The funds in this account must be maintained separately from all other funds, including monthly benefit deposits from SSI.
- Funds from your child's dedicated account can be spent only on the following:
  1. Medical treatment and related expenses;
  2. Educational expenses, including, job and skills training costs;
  3. Special equipment, skilled nursing assistance, home modification costs, and rehabilitation or therapy expenses; and
  4. Legal fees due to the attorney that assisted in your child's SSI claim.

### D. Regular Monthly Benefit Payments

1. Your child's regular monthly SSI payments can be deposited into your standard savings, checking, or money market account, but you will still need to accurately track the manner in which those funds are spent and report that information to the SSA as required.

Monthly benefit payments can be spent on everyday living expenses and daily support needs. These can include any and all of the items listed under the authorized dedicated account spending, as well as the following:

- Food
- Clothing
- Shelter
- Insurance costs
- Medical care
- Child care expenses
- Furnishing
- Personal comfort items

2. These items can only be used for the child who receives the benefits, not for you or other family members. Social Security will require to keep reporting/accounting of how you are spending your child's benefits and this typically happens once a year.

E. **Medical Assistance in Wisconsin**

If your child receives SSI payments then he or she is automatically qualified for medical assistance (Medicaid/Title 19). A separate Medicaid application is not necessary and you will be given a Medicaid card, called a Forward Card.

F. **Continuing Disability Review**

1. Once your child starts receiving SSI benefits, the law requires Social Security to do a continuing disability review (CDR) to determine whether or not the child is still disabled. The CDR must be done:
  - At least every three years for recipients under age 18 whose conditions are likely to approve;
  - Not later than twelve (12) months after birth for babies whose disability is based on their low birth weight.
2. Social Security may also perform CDRs even if your child's condition is not expected to improve.
3. When a CDR is done, you must present evidence that your child is and has been receiving treatment that is considered medically necessary for your child's medical condition.

G. **Redetermination at Age 18**

Any person who is eligible as a child before age 18 must have his or her eligibility redetermined when he or she turns 18 years old. The adult disability rules are used to decide whether your 18 year old is disabled. This can result in many cases of a child's SSI benefits being terminated. This is called Cessation of Benefits. You can appeal this denial, but only have a short period of time to elect to continue the benefits (only ten days) which is significantly shorter than the sixty (60) days to file an appeal.

H. **Attorneys Fees**

The fee that an attorney can charge is set by social security law and regulations. At the present time, it is the lower of: (1) Twenty five percent (25%) of the past due benefits, (2) with a sum not to exceed six thousand dollars (\$6,000). Attorneys fees cannot be charged on a time and hour basis. Social security will review and determine what amount it approves in attorneys fees if your child is awarded benefits. Attorneys fees will be paid directly by Social Security out of the child's back award. You may also have to pay your attorney costs and expenses if your child is approved for benefits, which is typically the cost of getting medical records and reports in preparation for your hearing.

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