

Supplemental Security Income (SSI)

OVERVIEW

What is it?

A federal program that provides monthly cash payments to supplement the income of certain blind and disabled individuals and older adults.

Who is it for?

Blind and disabled individuals (as well as adults 65 years or older) who meet financial and other eligibility requirements.

Where are applications taken?

Applications are taken at Social Security Administration (SSA) offices. Applicants can call 1-800-772-1213 to make an appointment, or can apply without an appointment at a local district office of the Social Security Administration.

INTRODUCTION

The Supplemental Security Income (SSI) program began in 1974 as a national program to provide subsistence level income to aged, blind and disabled persons with limited income and resources. The SSI program is an entitlement program, so all eligible individuals who apply will receive benefits (i.e., there are no waiting lists for this program). Children can receive checks if they are disabled or blind and their family meets the income and resource requirements.

The program is administered both nationally and locally by the Social Security Administration. SSI should be distinguished from Social Security benefits, also administered by the Social Security Administration. Social Security benefits, which are more technically known as OASDI (Old Age, Survivors, and Disability Insurance) are not based on financial need, but upon employment and the payment of Social Security taxes. SSI recipients are not required to pay Social Security taxes to be eligible.

BENEFITS/ SERVICES

SSI recipients receive a monthly check. The check supplements any other income available to the recipient, up to a monthly maximum. If the recipient has no other countable income, he or she will get the maximum amount. If the recipient has other income, such as the earnings of parents, then he or she will receive the difference between the countable income (after certain allowable deductions) and the monthly maximum. *Any individual who receives at least \$1 of SSI benefits will automatically receive Medicaid benefits.*

Payment Levels

The maximum benefit amount is adjusted annually, usually in January. The monthly maximum for 1999 is \$500/month for an eligible individual. A family with two or more disabled children can receive a maximum of \$500/month for each disabled child.

Overpayments

Sometimes, SSI recipients receive benefits to which they are not entitled. These payments may later be considered overpayments because the individual was not eligible when the check was received. When Social Security discovers the overpayment, it will send a notice that the overpaid amount must be repaid.

The overpayment may be recovered by reducing future benefits over a period of time or by a refund. The overpayment may be recovered from the child's check or from OASDI benefits payable to the overpaid SSI recipient.

Repayments may be waived by the Social Security Administration if two conditions are met:

- The recipient was found to be “without fault” in causing the overpayment, *and*
- Recovery would “defeat the purpose of the Social Security Act or would be against equity and good conscience.”

An individual will be considered to have fault if he or she knowingly failed to provide required information or knowingly provided incorrect information. Conversely, a person who provided correct information will usually be considered to be without fault, if for example, there was a calculation mistake by the Social Security Administration. Recovery will be found to defeat the purposes of the Social Security Act if it would cause the recipient to be without funds to pay routine expenses, or to drop below the SSI income and assets limit. Recovery is considered to be “against equity and good conscience” if the recipient relied, to his or her detriment, on the correctness of the payments.

In general, if the overpayment is less than \$500, it can be waived administratively without a determination of fault or ability to repay. The overpaid individual must request a waiver to take advantage of this rule.

There is no time limit within which an individual must request that an overpayment be waived. Denial of the request for waiver may be appealed.

When an individual receives notice that an overpayment occurred, two issues should be examined. The first is whether the SSA was correct in determining that an overpayment occurred. If the individual was entitled to receive the payment, then no overpayment occurred. If a mistake was made, and the individual was not entitled to the payment, then the individual's ability to meet the waiver requirements should be examined.

Advance Payment

An emergency grant of up to one month's benefit is available if an applicant is presumptively eligible and has a financial emergency. Presumptive eligibility means there is a strong likelihood that the applicant will be considered disabled and all other eligibility requirements will be met. Financial emergency means that the applicant has insufficient income or resources (assets) to meet an immediate threat to health and/or safety. The

advanced amount is to be recouped in six (or fewer, at the individual's request) equal installments from the SSI payments for the first six months. If the applicant is not ultimately approved for benefits, the amount is considered an overpayment.

Payments of up to six months of regular benefits may be paid pending a final determination to an applicant who is presumptively blind or presumptively disabled, and who is eligible in all other respects. Presumptive disability or blindness means a high degree of probability that the person will be determined to be blind or disabled. These prepayments, too, are recouped from the applicant's benefits once the application is approved. If the application is eventually denied, the benefits will not need to be repaid unless the applicant was denied for reasons other than disability (such as excess income or resources), or the amount of the payment was computed in error.

APPLICATIONS

To apply for SSI, an applicant may choose any of three options:

- 1) Call the Social Security Administration at 1-800-772-1213 to request an appointment at the local office;
- 2) Walk in to a local Social Security district office (or another office designated by SSA to receive applications) and request an opportunity to apply; or
- 3) Call either the toll-free number or the local district office and request an appointment for a phone application. After a phone interview, the applicant will be mailed the application form. The applicant must sign it and return it to the local district office.

Usually, the filing date is the date the application is signed. Payment of benefits will be retroactive to the first of the month following the month in which the application is made, if the applicant is eventually determined to be eligible. The date of an initial phone inquiry about SSI can be considered the filing date if a written application is submitted within 60 days of that date. An applicant is wise to make a record of the date of the initial phone call and confirm it in writing if there is some reason to believe that Social Security is using some other date.

The following information is generally required for the application:

- Social Security number;
- Names, addresses, phone and fax numbers of doctors, clinics, hospitals, etc.;
- Medical records from doctors, therapists, hospitals, clinics, and caseworkers (the Social Security Administration will obtain copies of the applicant's past medical records after receiving a signed release form from the applicant);
- Any laboratory test results;
- Names of all medications; and
- School records regarding the child's disability.

In addition, the Social Security Administration may schedule the applicant for a consultative examination to help determine whether the applicant meets the Social Security disability or blindness definitions. These examinations will be scheduled at no cost to the family.

The average SSI application takes between two-to-four months to make the disability determination. Depending on the complexity of the case, processing can take even longer. If an application is being delayed, the applicant should call the district office to determine the reason for the delay. Applicants should keep written notes of the phone calls.

ELIGIBILITY REQUIREMENTS

General Eligibility Requirements

To receive SSI benefits, an applicant must be:

- Blind, disabled or aged (65 or older),
- A US citizen residing in the US, a certain eligible immigrant or a child living overseas with a parent in the armed services,
- Have countable income that is less than the maximum monthly payment amount, and
- Have countable resources that are less than the maximum resource limit.

Individuals who are residents of public or private institutions are generally not eligible to receive SSI payments (with certain exceptions). A child is only eligible for \$30 monthly SSI payment if he or she lives in an institution where private health insurance or Medicaid pays for the care.

Blindness

For SSI purposes, a person who is considered blind has:

- Best corrected vision of no better than 20/200 in the better eye,
- Tunnel vision in the better eye with a field of vision restricted to less than 20 degrees, or
- A combination of poor visual acuity and tunnel vision.

Disability

To be considered “disabled” for SSI purposes, an individual must have a severe mental or physical impairment that:

- Can be verified by a doctor on the basis of lab tests, physical examination, or other objective medical procedures;
- Has lasted or is expected to last a minimum of twelve consecutive months or result in death; and
- Prevents the individual from doing his or her previous work or any other substantial gainful activity (defined as earning at least \$500 per month in 1999 for a person with disabilities or \$1,110 per month for a person considered blind). In determining whether a person can engage in substantial gainful activity, factors such as age, education, and work experience may also be taken into account.

Disability Definition for Children

On August 22, 1996, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 changed the definition of disability for children under the SSI program. The new definition requires a child to have “a physical or mental impairment which can be medically proven and which results in marked and severe functional limitations,” and which can be expected to result in death, or which has lasted or can be expected to last, for a period of not less than 12 months.

Children with certain severe health problems may qualify if their health condition meets one of the Social Security Administration’s “listings of impairment.” Other children may qualify even if their condition does not meet a prescribed listing, if their functional limitations are disabling. For example, a child will be considered disabled if his or her functional limitations are the same as a disabling functional limitation(s) caused by a listed impairment. The Social Security Administration will also look to see whether a combination of limitations, episodic impairments or impairments which may be compounded by treatment or medication effects constitute a marked and severe functional limitation that would be the same as a functional limitation caused by a listed impairment. A child may also be considered disabled if he or she has a *extreme limitation*¹ in one broad area of development or functioning, such as social, motor, or personal functioning, or a *marked impairment*² in two broad areas of development.

The Social Security Administration will need a complete medical and functional history of the child. Parents can expedite the process by collecting the child’s health records (from doctors, clinics, mental health professionals or other health care providers), school records that describe the child’s activities and limitations (including results of school evaluations), and written reports or letters from other people who see the child regularly. In addition, parents may want to keep a diary of their child’s activities, problems, pain or other difficulties. The Social Security Administration can assist parents in preparing the SSI application.

Children who were receiving SSI payments may have had their benefits terminated based on this new “marked and severe functional limitations” definition. The Social Security Administration agreed to review cases around the country where children lost SSI benefits as a result of this new law. Any family whose child’s SSI benefits were cut-off as a result of this new law should contact the Social Security Administration to file an appeal or to file a new claim. *If an appeal is filed, benefit continuation may be requested.* A family may also want to obtain advice from or be represented by a trained advocate (such as a lawyer, paralegal, or other representative) who specializes in Social Security law.

¹ An extreme limitation is a valid standardized test score three standard deviations or more below the norm for the test; or for children birth through age 2, functioning at one-half chronological age or less; or from age 3 to age 18, a limitation that prevents meaningful functioning in an area of function.

² A marked impairment is a valid standardized test score two standard deviations or more below the norm for the test; or from children birth through age 2, functioning at more than one-half but not more than two-thirds of chronological age; or from age 3 to age 18, a limitation that interferes seriously with the child’s functioning.

Note: Children who are terminated from SSI on the basis of the new disability definition are still entitled to continue receiving Medicaid.

Continuing Disability Reviews

The Social Security Administration will review the cases of all children under age 18 who are receiving SSI payments for conditions that are likely to improve. In general, these continuing disability reviews are conducted at least once every 6-to-18 months if the condition is expected to improve, or at least once every three years if medical improvement is possible. The Social Security Administration also reviews the cases of children when medical improvement is not expected. These reviews are scheduled no less frequently than once every seven years, but not more frequently than once every five years. In addition, all children will have their disability determination reviewed after the child turns 18, to determine if the child meets the adult disability rules.

Citizenship/Immigration Status

The welfare reform bill that was signed into law on August 22, 1996 made most immigrants ineligible for SSI benefits. Although there are some exceptions, many noncitizen children with disabilities are no longer able to receive SSI benefits.

There are several important groups who still can qualify for SSI benefits. These include:

- Certain children of permanent resident aliens, if the parents have a substantial work history in the US (must have “40 quarters” of qualifying work).
- Unmarried dependent children (under age 21) of US armed forces veterans who were honorably discharged or active duty military personnel.
- Refugees, asylees, those granted withholding of deportation, Cuban/Haitain entrants and Amerasians for their first seven years after admission to the US
- American Indians born in Canada and other tribal members born outside the US Members of Hmong/Laotian tribes, their spouses, widows and unmarried dependent children are also eligible.
- In addition, those qualified immigrants (including legal permanent residents) who were in the US on August 22, 1996 and who were either receiving SSI or who become disabled at a later date, are now eligible for SSI. Although these individual were initially cut off by the welfare reform bill, they were later made eligible by the Balanced Budget Act which was passed in August 1997.
- Immigrants who were “permanently residing in the US under color of law” (PRUCOL) who were receiving SSI benefits on August 22, 1996 can also receive SSI benefits indefinitely.

It does not matter if the parents or representative payees are immigrants. Only the beneficiary's immigration status matters. Children who were born in the US, even those born to immigrant parents, are citizens and thus are eligible for SSI benefits if they otherwise

qualify. Immigrant parents may serve as the representative payees for their citizen children.

Income Eligibility

In order to be “income eligible” for SSI, the applicant must have net countable income of less than the monthly SSI benefit.

Because most children do not have a separate source of income, the child’s eligibility is usually based on the income of the parent(s). A portion of the parent(s) income is “deemed” available to the child. In addition, any income that the child receives directly will be counted in determining eligibility (unless the income is specifically excluded from the eligibility determination).

Income is defined as anything received in-cash or in-kind in a calendar month that can be used to meet food, shelter or clothing needs. However, not all income is counted and certain deductions apply.

Excluded Income

Certain income is excluded from the eligibility determination. These exclusions generally apply whether the child or the parent(s) receive the money. The following are some of the most common income exclusions:

- Income excluded by federal laws;
- Any public income maintenance payments such as Work First (or income used to determine the amount of payment) will be excluded when determining countable income of an ineligible spouse or parent subject to deeming rules;
- Earnings of a blind or disabled child who is a student in a school, college or university, or in a vocational or technical training program (if the school or agency states the course includes some formalized instruction). The earnings exclusion is limited to \$400/month or no more than \$1,620 per year;
- SSI payments made to eligible parents;
- Any portion of a grant, scholarship or fellowship used to pay tuition or fees;
- Foster care payments for a SSI-ineligible child;
- The value of Food Stamps or surplus commodities;
- Home products used by the household, i.e., agricultural products grown and consumed by the household;
- Home energy assistance payments;
- Tax refunds on income, real property or food purchased by the family;
- Income used to fulfill an approved plan for achieving self-support;
- Court-ordered support paid for children in another family;
- The value of in-kind support and maintenance (excluded when determining countable income of an ineligible spouse or parent subject to deeming rules);
- Disaster assistance;
- Irregular or infrequent income (no more than \$10 per month of earned income or \$20 per month of unearned income);
- Work expenses if the parent is blind;
- Income that a governmental program paid to provide an eligible child with

- chore, attendant or homemaker services;
- Certain support and maintenance assistance that the parent receives;
- Payments related to subsidized housing, such as utility allowances or HUD Section 8 payments;
- Earned Income Tax Credit;
- Victims assistance payments;
- Relocation assistance;
- Impairment related work expenses (if the parent receives disability payments);
- Interest earned on excluded burial funds;
- Cash received from the sale of a resource (this is considered a resource);
- The proceeds of a loan;
- The value of social services furnished by any government or private agency;
- Amounts paid by a third party for bills owed by the recipient or parent, unless the bill is for food, clothing or shelter;
- Rebates or refunds; and
- VA payments that a parent receives that are directly based on need.

Countable Income

Most of a parent(s) income will be counted in determining the child's eligibility for SSI. Countable income includes earned income from a job or self-employment, unearned income such as public or private retirement or disability checks, and in-kind income. In-kind is non-cash support given by someone who has no obligation to support the parent or recipient.

Earned income include:

- Gross wages, tips, commissions, etc., prior to any deductions;
- Net earnings from self employment (gross income minus operating expenses);
- Wages from work in a sheltered workshop; and
- In-kind payments in lieu of wages.

Unearned income includes:

- Social Security benefits, Veterans benefits or any other type of public or private pension;
- Annuities, payments from insurance companies that individuals receive based on policies for which they paid;
- Worker's Compensation;
- Unemployment Insurance;
- Railroad Retirement benefits;
- Proceeds from a life insurance policy payable as a result of another's death, or other death benefit, minus the expenses of the deceased's last illness and burial expenses if paid by the recipient;
- Gifts, inheritances, prizes or awards;
- Child support (a child receiving SSI is entitled to have one-third of any payment received for his or her support from an absent parent excluded);
- Alimony or spousal support, received in-kind or in cash;

- Rental income, minus operational expenses; and
- Dividends, interest or royalties.

Deemed Income

The Social Security Administration will count a portion of the parent(s) income (and resources) in determining the child's eligibility for SSI and the amount of benefits to be awarded. (This deeming rule only applies to children under age 18, or students under age 22 who are regularly attending school or college or training that is designed to prepare them for a paying job and who are neither married or the head of a household.) Only the income of a natural or adoptive parent and his or her spouse who live in the same household with the child will be considered.

Not all of a family's income is deemed available to the disabled child. Some types of income and resources are totally excluded from consideration, such as the value of food stamps, home energy assistance payments and federal student loans (see excluded income above). Also, the deeming rules permit some income to be allocated (set aside) to meet the food, clothing and shelter needs of other children in the household.

To determine the amount of the parent(s) income that is considered available to the child, the Social Security Administration will first determine the parent(s) earned and unearned income. Then, it will subtract the following from the parent(s) countable income.

- An allocation for each ineligible child, unless the child is receiving public assistance payment (in which case, there is no allocation). The 1999 allocation for each ineligible child is \$251. The amount of each ineligible child's allocation is reduced by any income the child receives.
- An allocation for the ineligible parent(s). Parent(s) can deduct the following amounts from their earned and unearned income before deeming the rest as available to the child.
 - \$20 from unearned cash income or from earned income if there is less than \$20 in unearned income;
 - \$65 plus one-half the remainder of the earned income; and
 - An amount equal to the federal benefit rate for a couple (if both parents live in the home) or an individual (if only one parent lives in the home). The 1999 federal benefit rate is \$751/month for a couple, and \$500/month for an individual.

After deducting exclusions and allocations, SSA calculates the parents' countable income and resources. Anything above the allowable limit is deemed available to the child and thus is counted as the child's income. If there is more than one eligible child in the house, the parent(s) income will be divided among all the eligible children. Parental income and resources that are deemed to the child are added to any income and resources that the child may have of his or her own to determine the child's financial eligibility.

Adding the Deemed Income to the Child's Direct Income

The parent's income will be added to any independent income that the child receives to determine the child's income eligibility for SSI. Children are also entitled to certain deductions from income. Social Security will deduct the following amounts from the child's independent income:

- \$20 from unearned cash income or from earned income if there is less than \$20 in unearned income;
- Up to \$400 per month, but not more than \$1,620 in a calendar year from the earnings of a blind or disabled student child (under age 22);
- \$65 plus one-half the remainder of the earned income; and
- The cost of any work expenses for a blind recipient.

Example: Henry, a disabled child, lives with his mother and father and a 12-year-old ineligible brother. His mother receives a pension (unearned income) of \$365 per month and his father earns \$1,465 per month. Henry and his brother have no income. First, SSA will deduct an allocation of \$251 for Henry's brother from the unearned income. This leaves \$114 in unearned income. SSA reduces the remaining unearned income further by the \$20 general income exclusion, leaving \$94. SSA will reduce the earned income of \$1,465 by \$65 leaving \$1,400, and will then subtract one-half the remainder, leaving \$700. To this, SSA will add the remaining unearned income of \$94, resulting in \$794. From this, SSA will subtract the parent allocation of \$751 (the federal benefit rate for a couple), leaving \$43 to be deemed as Henry's unearned income. Henry has no other income. SSA will apply Henry's \$20 general income exclusion which will reduce his countable income to \$23. Since that amount is less than the \$500 federal benefit rate for an individual, Henry is eligible. Henry will receive \$477 in SSI payments.

Some children will have their benefits reduced by up to one-third of the federal benefit rate if they are living with their parents and another person who provides food and shelter, or when a non-household member buys food, clothing or shelter for the household. This reduction will not apply in certain instances, such as when everyone in the household is a recipient of public assistance, or the parents pay the family's pro rata share of food and shelter expenses. If the full one-third reduction applies, then the child will have their benefit reduced by \$166.66 per month. Children can have a smaller benefit reduction, for example, if the parent makes a partial contribution for the child's share of food and shelter expenses.

There are also special deeming rules that apply to the income of an immigrant's sponsor, if the child is an eligible immigrant. Contact the nearest Social Security office for more information if the child is an eligible immigrant.

Resource Eligibility

In addition to meeting the income test for SSI, a potential recipient must also meet a resource test. Resources are defined as personal or real property that an individual, spouse or parent:

- Owns; and
- Has the right, authority or power to convert to cash (if it is not already cash); and
- Is not legally restricted from using for his/her support and maintenance.

A SSI recipient may not own more resources than the limit. The maximum allowable resource limit for a one-parent household is \$2,000; for a two-parent household, the maximum limit is \$3,000. The values of any non-excluded resources that exceed this amount are deemed to be available to the child seeking SSI benefits. A child is eligible for SSI if the child's own resources, including any of the parent's resources deemed to be available (thus any amount over \$2,000 or \$3,000 depending on whether the child lives with one or two parents) is less than \$2,000.

Valuation of Resources

Resources are evaluated as of the first moment of the first day of the month. *If the person is under the limit on the first moment of the month, he or she will be eligible for the entire month. Likewise, if the individual is over the limit on the first moment of the month, he or she is ineligible for the entire month.*

Resources are considered to be worth their equity value, which means the price the item can reasonably be sold for on the open market, minus encumbrances (i.e., loan balances, taxes due). The Social Security office may assign a value to a resource based on the tax value, but that value can be rebutted with evidence of current market value and/or some kind of encumbrance against the property.

The Social Security Administration allows families with excess resources to dispose of their excess resources so that a child may become eligible. Proceeds from the sale must be used to repay benefits paid by the Social Security Administration; the remaining proceeds are considered liquid assets (and will be counted in the resource determination).

Excluded Resources

Not all of a person's resources are counted for SSI purposes. The following are the main types of resources that are not counted.

- The home where the individual resides, together with all the land it sits on and related buildings;
- Funds obtained from the sale of a home, if used within three months to buy another home;
- Household goods and personal items, up to a limit of \$2,000 in resale value;
- One wedding ring and one engagement ring per person;
- Medical or rehabilitation equipment;
- Real property co-owned with others if the sale of the property would cause a loss of housing to a co-owner;
- Real property that an individual has made a reasonable effort to sell during a nine-month period of conditional benefits, so long as the property remains on the market;
- Certain Indian lands;

- Any automobile necessary for employment, necessary to obtain medical care, modified for transportation of a person with disabilities, or necessary for the performance of essential daily activities. If no automobile is excluded under those circumstances, then one automobile is excluded up to a market value (regardless of encumbrances) of \$4,500;
- The cash surrender value of life insurance policies, if the total face value of all policies does not exceed \$1,500;
- \$1,500 each, for the recipient (and spouse, if an adult), in separately identifiable burial funds, which can include cash, revocable burial contracts or trusts, bank accounts, or other financial instruments;
- One burial space (or agreement which represents the purchase of a burial space) for the recipient and each member of the immediate family;
- Up to \$6,000 of an individual's equity in business or trade property which is necessary to self-employment. This exclusion applies to both real property (such as land on which the business sits) and personal property, including tools, equipment, supplies, motor vehicles, etc.;
- Other income producing property with an equity value of not more than \$6,000 and a rate of return of at least six percent per year;
- Resources set aside by a blind or disabled individual necessary to participate in a Plan for Achieving Self-Support (PASS);
- Awards of retroactive SSI or Social Security benefits, for a period of six months following receipt;
- Federal disaster assistance; and
- Cash or other resources received for the repair or replacement of lost, stolen, or damaged excluded resources, for a period of nine months after receipt.

Countable Resources

Any other property owned by the child or parent, or sponsor of an alien is counted toward the limit. The following are the most common types of countable resources:

- Real property not used as the home,
- Cash or bank accounts,
- Stocks, bonds, mutual funds, or other investments,
- Promissory notes, loans and property agreements,
- Cash value of life insurance when the face value exceeds \$1,500,
- Cash received from the sale of a resource, and
- Vehicles not otherwise excluded.

Jointly owned financial resources are counted if it can be converted to cash without the consent of the other joint owner. However, jointly-owned resources are not counted if they cannot be converted to cash without the consent of the co-owners.

There is no penalty for transferring resources to become eligible for SSI, but before an individual gives away anything, he or she should be thoroughly familiar with how the transfer could affect other benefits, such as Medicaid or Food Stamps.

NUMBERS SERVED

There were 28,893 blind and disabled children receiving SSI in North Carolina at the end of 1997.

**PRIORITIZATION
SYSTEM**

Because SSI is an entitlement program, all eligible children who apply will receive assistance.

APPEAL RIGHTS

Decisions by the Social Security Administration regarding eligibility, payment, overpayment, and most other issues affecting SSI may be appealed. SSA provides written notification of its decision and spells out the individual's right to appeal. There are several levels in the appeals process: reconsideration, hearing, Appeals Council review, and judicial review.

An individual may be represented during the appeals process by a representative. Representatives do not need to be lawyers in the first three appeal stages, but should be specialists in SSI representation. Only a lawyer can represent the individual if the case is appealed to federal court. Because of the complexity of the system, it is often advisable to obtain the services of a representative before the case is scheduled for a hearing.

Reconsideration

An applicant has 60 days from the receipt of a notice of the Social Security Administration decision to file a request for reconsideration. The request must be in writing, but often a claims representative will accept a request by telephone and confirm the request with a written form. Recipients who have their SSI benefits terminated, reduced or suspended can also file an appeal; and in certain situations, the benefits can be continued pending the appeal. To have the benefits continued, the recipient must file an appeal within 10 days of the receipt of the notice of adverse action, and the recipient must specifically request that the benefits be continued. Any payments that the child receives while on appeal will be considered overpayments if the child ultimately loses his or her appeal. However, people who can show that they appealed the termination or reduction of SSI benefits "in good faith" do not have to repay the benefits.

Reconsideration means that Social Security Administration will review the case and make a new decision. The appealing party can choose a case review (one worker reviews the file and considers new evidence), or an informal conference (appealing party can present testimony of witnesses and SSA provides an informal summary). In the appeal of a termination, suspension or reduction of benefits, the appealing party has the additional option of requesting a formal conference (including witnesses, cross-examination, and subpoenas).

The Social Security Administration has no binding time limits for issuing a decision on reconsideration.

Hearing

If the individual disagrees with the decision after Reconsideration, he or she has 60 days from the receipt of the notice of decision to request a hearing before an Administrative Law Judge (ALJ). All benefits will continue pending the hearing if the issue is the cessation of disability and the request is filed within 10 days of the notice.

The hearing is run by the ALJ who both represents the Social Security Administration and decides the case. The appealing party or his or her legal representatives may

review and copy the documents in the SSA file ahead of time (without charge). New evidence can be submitted at the hearing, and sometimes, at the discretion of the judge, the record can be held open for submission of documents after the hearing. The ALJ may question witnesses and listen to oral argument. The hearing is recorded, and, together with the documents in the file, is the official record of the case if it is appealed further.

The ALJ will issue a written decision after the hearing and mail it to the appealing party and his or her representative. There are no binding time limits within which the ALJ must decide the case, and it often takes several months.

Appeals Council Review

If the hearing decision is unfavorable, the individual has 60 days to request review by the Appeals Council. Sometimes the Appeals Council reviews the ALJ's decision without a request. There is only one Appeals Council for the entire country. The review at this stage is done based on the record and written legal arguments; there is almost never an oral presentation.

The Appeals Council will issue a written decision and mail it to the parties involved. There are no binding time limits within which the Appeals Council must make a decision, and it often takes several months.

Judicial Review

If the Appeals Council decision is unfavorable, the individual may file an appeal in Federal District Court within 60 days of the notice of the Appeals Council decision. The case will be reviewed by a judge or federal magistrate based on the evidence already submitted during the agency appeal process. The court's duty is to determine if the law was properly applied and if the Social Security Administration decision was based on "substantial evidence" in the record.

FINANCING The program is financed solely by the federal government.

ADMINISTRATION The program is administered on the national level by the Social Security Administration within the US Department of Health and Human Services. Disability determinations are made by the Disability Determination Section, within the NC Department of Health and Human Services.

SOURCES OF LAW Federal statute: 42 USC 1381 et. seq.
PL 104-193 Sec. 211(b)(1996 Personal Responsibility and Work Opportunity Act) which changed the definition of disability for children
Federal regulations: 20 CFR 416 et. seq.
20 CFR 416.911 et. seq. (new regulations dealing with Children's disabilities)

Federal policy: Social Security Program
Operations Manual System (POMS)

**FOR MORE
INFORMATION**

Social Security Administration
US Department of Health and Human Services
300 N. Greene St.
Baltimore, MD 21201

Technical information is available by calling the Social Security Administration at: 1-800-772-1213 from 8:00 am to 8:00 pm

The ARC has useful information on the child's disability process:
<http://thearc.org/faqs/SSIQA.html>

