

GUIDEPOST

Government Benefits



Government Benefits

One of the most important components of any plan for an individual with special needs will be the coordination of available government benefits. Sorting through the maze of requirements, forms, and agencies that are involved in government benefits can be challenging to say the least. However, these benefits provide resources and services fundamental to the individual's overall future plans. The available government benefits are loosely categorized as those providing: 1) Income, 2) Healthcare, 3) Housing, and 4) Education. Note that the benefits discussed herein are not exhaustive and every state, and perhaps even localities, may have different and/or additional programs available to people within their borders.

Income

Regardless of age, if a person has a medical disability that prevents him/her from working, he/she may be able to claim income assistance from the Social Security Administration (SSA). The two benefit programs available for disabled persons are Social Security Disability Insurance and Supplemental Security Income.

Social Security Disability Insurance (SSDI)

SSDI is primarily available to individuals who are disabled and have built up sufficient "work credits" with the SSA. Exactly how many credits depends on his/her age and the year he/she became disabled. He/she must have worked some part of five of the last ten years before becoming disabled.

If the application is approved, the amount of SSDI cash payments are determined based on the recipient's personal earnings record. Higher earners who paid higher FICA (payroll) taxes will receive a larger benefit.

After collecting disability benefits for 24 months, the recipient will become eligible for Medicare, regardless of age. In the meantime, if his/her income is low, he/she may qualify for Medicaid.

Additionally, an adult who became disabled before turning age 22 can also qualify for SSDI if he/she has a parent who meets certain qualifications. The "adult disabled child" (the SSA's term for a person with a disability that occurs before age 22) must be:

- Over age 18 and unmarried; and
- Disabled according to the SSA's adult disability standards before the individual turned age 22.

Also, the individual's parent must have earned sufficient work credits with Social Security, and the individual's parent must be either dead, permanently disabled, or receiving Social Security retirement benefits.

If the individual and his/her parent meet each of these qualifications, then the "child" should be eligible to receive SSDI payments. Additionally, the individual does not have to worry about his/her own unearned income or assets, since SSDI does not take these into account. The parent's own retirement benefits are not affected by their child's receipt of SSDI, and the child can still qualify for SSI benefits if his/her SSDI payments, which count as unearned income for SSI purposes, do not disqualify him/her.

Supplemental Security Income (SSI)

SSI is available to disabled or elderly individuals whose income and assets are very low. The SSI program is run by the SSA, but in reality, it is a cooperative program between the SSA and the recipient's state government. That means that eligibility, as well as the amount of benefits, will depend on the recipient's domicile. For federal SSA purposes, however, a recipient must meet all of the following four criteria:

- He/she must be blind, disabled, or age 65 or over;
- He/she must be either a citizen of the United States, or qualify under one of a very narrow group of exceptions;
- He/she must have a low monthly earned income; and

- The property the recipient owns (minus certain items, such as a car, residence, and limited amounts of an ABLÉ account) must be worth less than \$2,000, or \$3,000 for a couple. This includes cash, bank accounts, stocks, U.S. savings bonds, land and personal property, amongst other things. If the individual applying for benefits, or his/her spouse, or a co-owner, gives away a resource or sells it for less than it is worth, the individual may be ineligible for SSI benefits for up to 36 months.

If the application is approved, the SSI benefits will include cash payments of \$914 per month for an individual or \$1,371 per month for a couple (in 2023), less part of received "income." The state may supplement this amount with an additional payment (called the State Supplementary Payment). The federal amount is adjusted in January of each year, depending on the U.S. cost of living.

In most states, a recipient may also automatically become eligible for Medicaid once approved for SSI. His/her eligibility for SSI also can provide access to local Medicaid waiver programs which can provide access to group housing services and/or vocational training.

State Supplements

In many states there is a state supplement, which is added to the federal benefit payment. Every state except Arizona, Arkansas, Mississippi, North Dakota, Tennessee, and West Virginia adds money to the federal SSI payment. The amount of the state supplement varies between states and depends on marital status and the recipient's living arrangements.

Income

Income is any item an individual receives in cash or in-kind that can be used to meet his/her need for food or shelter. Income includes, for the purposes of SSI, the receipt of any item which can be applied, either directly or by sale/transfer, to meet basic needs of food or shelter.

Types of income for SSI purposes:

- **Earned income** is primarily (though not exclusively) wages and net earnings from self-employment. If a recipient earns income, he/she is allowed to deduct a certain amount of the income before reducing SSI payments. The income deduction is determined by subtracting \$65 of earned income, plus another \$20 for earned or unearned income, and half of the remainder. Only the remainder of the income will be subtracted from the SSI payment.
- **Unearned income** is all income that is not earned, such as Social Security benefits, pension income, state disability payments, unemployment benefits, interest income, dividends and cash gifts from friends and relatives.
- **Direct distributions and in-kind support and maintenance (ISM)** is cash or gift cards (from an individual or trust) provided directly to the recipient (for any purpose), or food or shelter received for free or for less than its fair market value. Every dollar of unearned income received results in the same amount in reduced SSI benefits for that month. If an individual or trust provides an SSI benefits recipient with shelter and/or food for which he/she does not pay, the SSA will count this as income and subtract it from his/her SSI payment. In other words, it reduces the monthly SSI payment to account for this in-kind support and maintenance, since the SSA considers the individual to not need the full SSI payment since he/she is receiving some food or shelter for free.
- **Deemed income** is the part of the income of an individual's spouse with whom he/she lives, parent(s) with whom he/she lives, or a sponsor (if he/she is a resident alien), which is used to compute the SSI benefit amount.

Trusts to Protect SSI Eligibility

The SSA will usually count the assets in a trust against a person when determining SSI eligibility. For example, all the assets in an individual's revocable living trust would be counted against him/her. In an irrevocable trust, the portion of the trust that could be used to make payments to him/her would be counted against him/her.

Fortunately, the SSA allows for the creation of specific trusts that allow for exceptions to these general rules. These are known as "special needs" trusts or "supplemental needs" trusts. Special needs trusts generally should not be used to buy

necessities like food or shelter, nor should they be used to provide the disabled person with the assets needed to buy food or shelter as that is considered ISM (see above).

However, trust disbursements (as long as not cash to the individual), including payments made directly to third-party vendors, that are not for ISM expenses are NOT considered income. Examples include clothing, physical therapy, entertainment, education, and travel.

Healthcare

Medical care can be one of the biggest expenditures for someone with special needs. The cost of care to provide for the individual's therapies, medication, doctor visits, and other forms of assistance can be expensive. However, Medicare and Medicaid are two different government programs which can be utilized to help cover all or a portion of the individual's medical care costs if they qualify.

Medicare

Medicare is a federal health insurance program for people with disabilities, those 65 and older, as well as those with permanent kidney failure or amyotrophic lateral sclerosis (ALS). Because Medicare is administered by the federal government, the eligibility rules are the same regardless of the applicant's domicile. The various parts of Medicare and the services provided are:

- Medicare Part A (hospital insurance) helps pay for inpatient care in a hospital or skilled nursing facility (following a hospital stay). Part A also pays for some home health care and hospice care.
- Medicare Part B (medical insurance) helps pay for services from doctors and other health care providers, outpatient care, home health care, durable medical equipment, and some preventive services.
- Medicare Part C (Medicare Advantage plans) are a type of plan offered by a private company contracted through Medicare to provide participants with their Part A and Part B. Some plans include Medicare prescription drug coverage (Medicare Part D) and other extra benefits and services.
- Medicare Part D (Medicare prescription drug coverage) helps cover the cost of prescription drugs.

In order to qualify for Medicare, the individual must meet one the following criteria:

- Age 65 years old or older;
- Under 65 and received SSDI for more than 24 months or for ALS; or
- Under 65 with permanent kidney failure.

Medicaid

Medicaid is a joint federal and state program that provides health coverage to millions of Americans. In order to participate in Medicaid, federal law requires states to cover certain groups of individuals including low-income families, qualified pregnant women and children, and individuals receiving SSI. States have additional options for coverage and may choose to cover other groups.

Under Medicaid, states are required to cover mandatory benefits and may choose to cover optional benefits. However, the breadth of coverage (i.e., amount, duration, and scope) varies by state. Amongst the mandatory services that must be provided, the following could be especially beneficial for an individual with special needs:

- Certified pediatric or family nurse practitioner services;
- Non-emergency transportation to medical care;
- Early and periodic screening, diagnostic, and treatment services for individuals under age 21;
- Family planning services and supplies;

- Nursing facility services (for ages 21 and over);
- Federally qualified health centers;
- Outpatient hospital services;
- Physician services;
- Home health services;
- Rural health clinic services;
- Inpatient hospital services; and
- Laboratory and X-ray services.

In order to qualify for Medicaid, the individual must meet the following criteria:

- Meet the financial eligibility rules based on modified adjusted gross income or “MAGI” (expressed as income relative to the federal poverty level) or qualify based on blindness, disability or age (65 or older); and
- Be a resident of the state in which they’re receiving Medicaid.

Housing

As life expectancy and quality of life have improved for individuals with special needs, the desire to live as independently as possible has become one of the most important goals shared by them and their families/caregivers. Depending upon the level of care the individual requires, there are programs designed to provide them with the support they need. The first step in finding a residential solution is to understand the options.

Section 8

The Section 8 program provides vouchers to assist individuals who are low-income earners to obtain housing in the community. Many individuals with special needs who receive SSI or SSDI benefits as their sole/primary source of income will likely qualify to participate in the Section 8 program. In general, a Section 8 recipient must pay a portion of his/her monthly income towards rent, and the voucher pays for the rest. The portion of subsidized rent is based upon a sliding scale that considers family size and income (generally approximately 1/3 of his/her monthly income). The portion of the payment paid by the Section 8 voucher is not considered ISM for SSI purposes.

Group Homes/Supportive Housing

Depending upon the circumstance of the individual with special needs, he/she may choose to live in a supportive group home with other individuals with similar needs. Though the specific details of the program may vary, in general, these homes could be staffed with counselors and other workers who help the residents live on their own, or, in some cases, the residents live without live-in assistance. Group homes come in many varieties and can be paid for in many ways, including private payment or state programs for people with disabilities. There are many state/local programs available to assist with paying for the cost of such homes.

Assisted Living Facilities

Some individuals with special needs, especially elderly ones, live in assisted living facilities. Although the term “assisted living” has come to mean many things, in general, assisted living facilities house residents in their own apartments within a building or complex of buildings. The residents can cook in their units or eat in a communal dining hall, and they receive non-skilled care in their units, including assistance with bathing, cleaning and sometimes administration of medicine. Some assisted living facilities specialize in treating people with dementia or other neurological conditions. In many states, Medicaid coverage can assist in paying for the facility.

Skilled Nursing Facilities (Nursing Homes)

If an individual with special needs requires around-the-clock skilled medical care, he/she may need to live in a skilled nursing facility if it is impossible to receive that level of care at home. Although nursing homes are the last resort for most families, in some cases they can be the most appropriate option for an individual with severe special needs because there is constant supervision of care.

Skilled nursing facilities tend to be very expensive. Again, depending on state and individual circumstances, Medicaid coverage could be available to pay for a skilled nursing facility.

Additional Resources

Utilities-Related Assistance

There also are federal and state programs available to help low-income individuals meet basic housing expenses, such as utilities. The Low Income Home Energy Assistance Program (LIHEAP) is a federal program that provides funding to states to assist with energy costs. The LIHEAP provides federally funded assistance in managing costs associated with home energy bills, energy crises intervention, and weatherization and energy-related minor home repairs.

Legal Protection

In addition to the various housing options available, federal law provides the following rights to persons with disabilities regardless of whether they live in private or public housing:

- Prohibits discrimination against persons with disabilities;
- Requires housing providers to make reasonable accommodations for persons with disabilities;
- Requires housing providers to allow persons with disabilities to make reasonable modifications;
- Requires that new covered multifamily housing be designed and constructed to be accessible; and
- Prohibits local governments from utilizing land use and zoning policies to keep persons with disabilities from locating to their area.

Education

The U.S. Department of Education (DOE) offers educational and vocational rehabilitation programs for individuals with disabilities. The DOE supports state efforts in providing special education and related services to individuals from birth to age 21 under two major pieces of legislation – the Individuals with Disabilities Education Act, and Section 504 of the Rehabilitation Act of 1973.

Individuals with Disabilities Education Act (IDEA)

The IDEA requires public schools to provide to all eligible children with disabilities a free appropriate public education (FAPE) in the least restrictive environment appropriate to their individual needs and ensures special education and related services to those children.

The IDEA controls how states and public agencies provide early intervention, special education, and related services to eligible infants, toddlers, children, and youths with disabilities. The IDEA is segmented as follows:

- Infants and toddlers (birth through age 2) with disabilities and their families receive early intervention services under IDEA Part C.
- Children and youth ages 3 through 21 receive special education and related services under IDEA Part B.

IDEA requires public school systems to develop an appropriate Individualized Education Program (IEP) for each child. The specific special education and related services outlined in each IEP reflect the individualized needs of each student. Each student's IEP must be developed by a team of knowledgeable persons and must be reviewed annually.

The parent or caregiver of the child and a team of qualified professionals must determine if the child needs special education. Eligibility for IDEA is based on a wide variety of information obtained from testing, teacher recommendations, and parent input.

Section 504 Rehabilitation Act

Section 504 of the Rehabilitation Act covers qualified students (including those that may not qualify under the IDEA) with disabilities who attend schools receiving federal financial assistance. Under Section 504, a school district is required to provide a FAPE to each qualified student with a disability who is in their jurisdiction, regardless of the nature or severity of the disability. This education must be delivered in a manner equivalent to the way students without disabilities are educated. Section 504 does require development of a plan (not necessarily an IEP), although this written document is not mandated. Like IDEA, evaluation and placement procedures under Section 504 require that decisions are made by a group of persons knowledgeable about the student, evaluation data, and placement options.

Section 504 has a much broader definition of a disability than the IDEA. Students may be protected under Section 504 if they are found to:

- Demonstrate a mental or physical impairment that significantly limits one or more life activities, such as concentrating or reading;
- Have a record of such impairment; and
- Have an impairment or significant difficulty that is not temporary.

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