

# Reentry and Older Adults: Accessing Income and Health Care Benefits

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November 9, 2022

# JUSTICE IN AGING

FIGHTING SENIOR POVERTY THROUGH LAW

Justice in Aging is a national organization that uses the power of law to fight senior poverty by securing access to affordable health care, economic security, and the courts for older adults with limited resources.

Since 1972 we've focused our efforts primarily on fighting for people who have been marginalized and excluded from justice, such as women, people of color, LGBTQ individuals, and people with limited English proficiency.

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# Justice in Aging's Commitment to Advancing Equity

To achieve Justice in Aging, we must:

- Advance equity for low-income older adults in economic security, health care, housing, and elder justice initiatives.
- Address the enduring harms and inequities caused by systemic racism and other forms of discrimination that uniquely impact low-income older adults in marginalized communities.
- Recruit, support, and retain a diverse staff and board, including race, ethnicity, gender, gender identity and presentation, sexual orientation, disability, age, and economic class.

# Today's Presenters

- Trinh Phan, Director, State Income Security
  - Justice in Aging
- Georgia Burke, Director, Medicare Advocacy
  - Justice in Aging
- Amelia Fay-Berquist, Director, Benefits Advocacy Services
  - Los Angeles County Department of Health Services



# Income Benefits

# Key Takeaways

- Connecting older adults to SSI and Social Security is a critical way to ensure a baseline of economic security.
- Re-connecting individuals who were receiving SSI prior to incarceration can be challenging.
- For older adults who do not yet qualify based on age, the process of applying for disability benefits can pose many obstacles.

# Income Security

- SSI, SSDI, retirement, and survivors' benefits
- Pensions
- Nutrition: SNAP, senior nutrition programs
- Utilities: LIHEAP, ACP
- Employment
- Unemployment and state disability benefits
- Workers compensation
- Credit and debt issues, fines and fees

# Social Security and SSI

Social Security	SSI
“Insured” individuals with sufficient work history	Individuals with limited or no work history
Provides retirement, survivors’ and disability (SSDI) benefits to the worker and certain dependents	Provides age-based benefits to individuals age 65 or older, and disability benefits to individuals under 65.
Not means-tested	Means-tested (asset limit, benefit reduced if receiving other income like Social Security retirement)
Maximum benefit for an individual: \$4,194 Average benefit: \$1,530	Maximum benefit for an individual: \$841 (plus state supplement in some states)

# Limited Work History

- Individuals who have been exonerated may have been incarcerated for some or much of what would have been their core working years, leading them to either not qualify for Social Security benefits based on their earnings, or to qualify for a lower benefit.
- **Policy idea:** Explore ways to mitigate the harm to Social Security entitlement due to wrongful incarceration.

# Awareness of Benefits

- Social Security includes “derivative” benefits
  - Spouse and widow(er) benefits. Includes divorced spouse if marriage lasted at least 10 years
  - Minor child, and spouse/widow(er) caring for minor child
  - Adult child who became disabled before age 22
  - Dependent parent of a deceased worker

# Applying for Age-Based Benefits

- Typically a straightforward process because there is no need to go through the disability process
- Screen individuals for these benefits
  - For example, someone who receives a small Social Security retirement benefit may qualify for a partial SSI benefit to bring them up to the SSI maximum benefit.
  - Social Security derivative benefits

# Disability Benefits and Older Adults

- Complex and lengthy disability application process
- In addition to common challenges with access to identity documents and other needed documentation for an application
- Exacerbated for individuals experiencing housing instability and homelessness
- Exacerbated by challenges obtaining medical care (and documentation of that care)

# Re-connecting to SSI and Social Security benefits

- Existing rules allow individuals who qualified for SSDI or SSI disability prior to incarceration to quickly reconnect to these benefits after release.
- But the reconnection rule for SSI is limited, leading some individuals to need to apply anew for SSI disability.
  - SSI is critical for individuals with limited work history

# SSI Suspension Versus Termination of Benefits

- **Suspension** means that the individual's underlying eligibility continues. Once the specific issue that caused suspension is resolved, the person's benefits can be **reinstated** immediately.
- **Termination** means the individual's underlying eligibility ends. In order to receive benefits again, the person will need to apply anew.

# Reinstatement Policy

SSDI	SSI
Benefits are suspended if convicted and confined for more than 30 days based on the conviction. <a href="#">GN 02607.160</a>	Benefits are suspended if an individual is a resident of a penal institution throughout a month. <a href="#">GN 02607.050</a>
Considerations for judicial process and what qualifies as confinement. <a href="#">GN 02607.200</a>	Considerations for what qualifies as a "penal institution." <a href="#">SI 00520.009</a>
Benefits can be reinstated at any time. <a href="#">GN 02607.840</a>	Benefits can be reinstated within 12 months of the suspension. <a href="#">SI 02301.205</a>
No "termination" of eligibility.	"Termination" of eligibility after being incarcerated for more than 12 months.

# Reinstating SSI After Incarceration

- Currently, someone who was receiving SSI disability before incarceration can go to SSA to reinstate their SSI upon release, if it has been 12 months or less since the SSI benefits were suspended. If it has been more than 12 months, they must reapply for SSI disability.
- **Policy idea:** Use the SSDI rule. Allow SSI recipients to restart benefits regardless of the length of the individual's incarceration.

# Facilitating Cross-Program Disability Applications

- Currently, someone who receives SSI disability or SSDI and wants to apply to receive the other disability benefit must get a new disability finding, if they were found disabled due to HIV or a mental disorder. Someone in that same situation with a different disability can simply apply and receive the other disability benefit.
- **Policy idea:** Remove this “collateral estoppel” restriction. Allow cross-program disability applications to use existing disability findings for all disabilities.



# Health Care

# Health Profile of Older Adults Leaving Incarceration

- Physically older than their years---50 is the new 65
- Compared to their peers, greater incidence of chronic conditions, need for help with activities of daily living, mental health concerns

# Challenges in Navigating Health Care Programs

- Low health literacy, education level
- Distrust, trauma
- Practical issues in navigating health care—internet, transportation
- Medicare-Medicaid combination is complex for anyone
- Medicare is choice-based

# Medicare Enrollment

- Medicare—almost everyone 65+
- If already enrolled, Part A suspended while “in custody.” Lose Part B unless pay premiums
- Medicaid—suspended while “in an institution.” Majority of Medicare-eligibles reentering also qualify for Medicaid

# Medicare Enrollment BIG NEWS!!!

Starting January 1, 2023:

- A new 12 month special enrollment period (SEP) to enroll, or re-enroll in Medicare starting on release date
- SEP starts on date of release from “custody”
- No late enrollment penalties
- Effective date is month after enrollment
- Option to make enrollment retroactive back to the month of release

# Medicare Enrollment—Nuances

- Paying premiums—Sometimes SSA benefits do not start immediately upon leaving incarceration.
- 12 month SEP allows waiting until SSA benefits are in place so individual has resources to pay premiums.

# Medicare Enrollment— Coordination with Medicaid

- States can enroll individuals in Medicaid before reentry
- Medicaid benefits are suspended until release date
- Medicaid can start as of release date
- With new SEP, Medicare enrollment can also retroactively start at same date

# Complicating Factor: Medicare Definition of Custody

- Under arrest
- Incarcerated
- Imprisoned
- Escaped from prison or jail
- Under supervised release
- On medical furlough
- Required to live in a mental health facility
- Required to live in a halfway house
- Under home detention
- Confined completely or partially in any way under a penal statute or rule

# Medicaid Depends on Whether in an “Institution”

- Clearer and more limited than Medicare
- Does not include:
  - Home confinement
  - Supervised release
  - Halfway house if freedom of movement

# Policy Goal: Harmonize Medicare and Medicaid definitions

The problem:

- Gap in coverage, denial of claims
- If have Medicaid, confusion and delay in access to services

Send us your stories!

# Medicare Grace Period: Premiums Owed (1 of 2)

- Enrolled in Medicare when entering incarceration:
- Medicare suspended; SSA payments stop
- Part B payment responsibility continues
  - **Voluntarily disenroll, or get grace period and SSA disenrolls you**
- Unless voluntarily disenroll, liable upon re-enrollment for back premiums during grace period

# Medicare Grace Period: Premiums Owed (2 of 2)

- Immediate issue:
  - Tell client to disenroll
  - If client faces premium liability, ask SSA for extended payment plan
- Policy fix: Change in SSA policy manual to eliminate grace period for incarcerated individuals.

Send us your stories!

# Post-Enrollment: Choosing Coverage Options

- Need for assistance on plan choice
  - SHIP counselors
- Need to understand Medicare benefits
- Need to understand how Medicare and Medicaid work together
  - Original Medicare
  - D-SNP option



# C.B.E.S.T.

COUNTYWIDE BENEFITS ENTITLEMENTS SERVICES TEAM

**JUSTICE IN AGING**  
FIGHTING SENIOR POVERTY THROUGH LAW

**50** ADVANCING EQUITY  
BUILDING JUSTICE  
*years*

# Case Example



Mr. W

- 65-years-old
- Released from prison 1-year prior
- Wheelchair-bound, quickly decompensating
- Residing in supportive housing funded by the LACO Office of Diversion & Reentry
- SSA denies SSI claim, stating client resides in a public institution
  - Medicare and Medi-Cal denied for same reason
- **Implications**
  - Lack of housing and food security, locked out of receiving timely health care, unable to afford basic needs, including medicines and prescriptions → **increased risk of premature death**

# Challenges

## Social Security Administration & Disability Determination Services

- Very limited willingness to partner together
  - Lack of accountability and leadership
  - Inconsistent operations across field offices
  - Significant processing delays
- \*These issues persist despite multi-year DHS pilot program with SSA that preceded CBEST\*

## Current Issue Examples

- SSA, applicants in diversion programs blocked from accessing benefits
- Cognitively impaired individuals and process for serving this population – especially relevant for older adult population

## SSA Vulnerable Populations Initiative

- Result of 2020 data and lowest rate of award in SSI in 20-years and 30% decrease in disposed cases
- CBEST seeing benefit from this initiative albeit slow

# Who and What is CBEST, Anyway?

# L.A. County Strategies to Combat Homelessness

In February 2016, the Los Angeles County Board of Supervisors approved strategies for increasing income for disabled Angelenos: C4, C5, and C6



# CBEST Scope of Work

- Collaborate with existing systems of care, including Homeless, Older Adult, Transition Age Youth, Health and Mental Health
- Provide intensive case management services and housing placement
- Gather and summarize current and historical medical evidence
- Submit full and complete disability benefits applications to SSA, Veterans Administration, and DPSS (CAPI\*) for screened in clients
- Full scope legal services for appeals and post-award suspensions and terminations
- Immigration legal services
- Link clients to representative payee programs

# CBEST Structure



# How CBEST is Funded

## Federal

- Community Service Block Grant-Health Related (CSBG-HR)
  - Funds intended to reduce poverty in the U.S.
  - U.S. Dept. of Health and Human Services

## State

- Housing and Disability Assistance Program (HDAP)
  - Funds intended to provide benefits advocacy and supportive services to people experiencing homelessness in California
  - California Department of Social Services

## County/Local

- Measure H
  - 1/4-cent sales tax approved by voters in March 2017
  - Intended to address and prevent homelessness countywide
- Los Angeles County Dept. of Public Social Services
  - Funds intended to reduce poverty countywide

# CBEST Outcomes

- 2017-Present:
  - 5,399 submitted applications
  - 3,280 represented appeals
  - 89%: Overall approval rate
    - ~10% persons experiencing homelessness (PEH) who apply on their own
  - **\$17,490,628**: total retro benefits
    - **\$945.12\***: average monthly benefit



# Questions?

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