

Reentry Webinar Series FAQ

Introduction

The FAQ below was developed as part of a [Justice in Aging webinar series](#) on supporting older adults who are reentering the community after incarceration. The questions and answers are meant to provide advocates with concrete tips and resources for serving the reentry community.

Reentry Community

What resources are available for advocates interested in better supporting older adults reentering the community?

Advocates interested in better supporting older adults reentering their communities should familiarize themselves with trauma-informed and culturally competent practices. Due to the extreme racial disparities in incarceration in the United States, people of color, especially black people, are overrepresented in the reentry community. It is therefore important for advocates to commit themselves to culturally competent and trauma-informed practices to be able to properly serve these communities and combat the impacts of incarceration on the individual and their community.

Advocates can start with trainings on trauma and trauma-informed practices and understanding the demographics of those incarcerated in their communities. Advocates should also look to resources on integrating the reentry community into their organizations by engaging and hiring those who have previously experienced incarceration. The lived experiences of those who have been formerly incarcerated are important in shaping welcoming spaces and encouraging reintegration into communities. Below are some additional resources:

- Prison Policy Initiative, [Beyond the count: A deep dive into state prison populations](#), April 2022
- Justice in Aging, [Reducing Barriers to Reentry for Older Adults Leaving Incarceration](#), May 2022
- [NCLER Trauma-Informed Lawyering Training](#)
- The Fortune Society, [Employing Your Mission: Building Cultural Competence in Reentry Service Agencies Through the Hiring of Individuals Who are Formerly Incarcerated And/Or in Recovery](#)

Is there any data on the number or percentage of incarcerated individuals who are experiencing dementia?

There are some recent studies and literature reviews that document this growing problem. For example, a recent Scientific American article by Sara Novak entitled *Dementia in Prison is Turning into an Epidemic*:

the U.S. Penal System is Badly Unprepared, cited the Federal Sentencing Reporter: “[a]s the number of aging prisoners balloons, so, too, do instances of dementia.

An article authored by Rachel E. López from the June 2020 issue of *Federal Sentencing Reporter* projected that [between 70,341 and 211,020](#) of the estimated 400,000 incarcerated elderly in 2030 will develop dementia. Alzheimer’s disease is the most common diagnosis, but dementias that involve Lewy bodies, the vascular system and Parkinson’s disease are also on the list.

Housing

Are people with felony convictions excluded from Housing and Urban Development (HUD) housing and the Veterans Affairs Supportive Housing (VASH) program?

The VASH program does not have a blanket admissions ban on people with felony convictions. In terms of criminal history, only people who are subject to a lifetime registration as a sex offender are excluded (and registration requirements vary by state). More on VASH screening policies can be found in [Section 4.1 of the HUD VASH Guidebook](#).

Federally-subsidized housing programs should not have blanket bans on people with felony convictions, with limited exceptions (such as, like the VASH program, if someone is subject to lifetime registration under a state sex offender program. Convictions involving drugs may also raise legal complications, and applicants with such convictions should seek the advice of an attorney if they are denied federally-subsidized housing). Under HUD fair housing guidance, Public Housing Authorities and owners of federally assisted housing should be making decisions on a case-by-case basis and looking at factors like the seriousness of the offense, how long ago the conviction was, whether there are any mitigating factors (like whether the offense was connected to a mental health disability that the person is now getting treatment for, etc.). Unfortunately, however, many housing providers fail to actually follow this guidance. If you encounter a housing provider that seems to be automatically excluding anyone with a felony conviction, you can [contact a Fair Housing Initiatives Program \(FHIP\) organization](#), which can investigate further and determine whether the housing provider may be violating the Fair Housing Act.

What is the appeal process if an individual’s application for subsidized housing is denied by the local Public Housing Authority (PHA)?

An applicant whose name has come to the top of the list and is being denied admission to public housing or a Section 707 (Massachusetts state) or Section 8 (federal) housing voucher on the basis of their prior criminal record or incarceration has the right to appeal that determination, and have a hearing.

While an attorney is not needed to go to a housing authority appeal, there are some complex legal issues that could benefit from a lawyer. The best resource for finding legal assistance for older adults throughout the U.S. is the [Administration for Community Living’s Eldercare Locator](#). You can use this online resource to find legal services in your area that can assist an older adult in their housing appeal.

The National Housing Law Program’s [Green Book](#), is another resource for appealing determinations based on criminal conviction. Section 2.5.3.6 describes the local housing authority’s need to adopt clear standards,

and the bases for an appeal when one of the non-mandatory categories of criminal activity is the basis for rejection for admission, or eviction.

If a local PHA uses a broad ban on all criminal convictions, or all felony convictions, the policy may violate the Fair Housing Act's prohibition on discrimination based on race. While the PHA may not intend to discriminate, the use of broad criminal bans that don't directly connect to ability to be a good tenant can have a disproportionate negative effect on African Americans, Latinos, or other groups that face higher rates of arrest, conviction, and incarceration than the general population.

Health Care

My client turned 65 while incarcerated and was told at the time that it was not possible to apply for Medicare while incarcerated. Six years later, the client was released and, shortly thereafter, applied for Medicare. The client was penalized for late enrollment into Part B and has been unable to challenge the penalty. Can my client apply for a Special Enrollment Period (SEP) now?

The answer is unfortunately, no, the new SEP will not apply to anyone who had a release date prior to January 1, 2023. The commentary accompanying the new regulation was explicit in cutting off the option of revisiting the Late Enrollment Penalty.

The only avenue of relief would be if the client qualifies for any Medicaid, which erases the late enrollment penalty so that, if the client later fails to meet Medicaid eligibility criteria, they will then start with a clean slate.

Where can the text of the new regulation for the SEP for persons leaving incarceration be found?

The final regulation and accompanying commentary were published in the Federal Register at [87 Fed. Reg. 66454 \(Nov. 3, 2022\)](#).

The Medicare definition of “custody” is broad and includes home confinement, supervised release, and living in a halfway house. How do individuals who have returned to the community know whether their Medicare continues to be suspended because of the broader definition of “custody” in Medicare?

Often the first time individuals learn that their Medicare is suspended is when a pharmacy or provider runs an electronic coverage verification. The response will show that Medicare enrollment is “inactive,” but will not provide the reason. The individual can call 1-800-Medicare to learn if continued “custody” is the reason. Contacting the Social Security Administration (SSA) as well may be advisable because sometimes the problem is simply a time lag in a state's reporting of a release date. SSA is better able to investigate whether that is the case. [See MLN, Patients in Custody Under a Penal Authority.](#)

Income Security

What is the average age under which someone can qualify for Supplemental Security Income (SSI)?

Someone of any age can qualify for SSI. For persons from birth to age 64, they must qualify for SSI based on disability. Someone age 65 or older can qualify for SSI simply based on their age as well as income and resources.

The biggest age group for SSI applications is adults age 18-64. And in practice, the largest age subgroup within this is older adults who are not yet 65 applying for SSI based on disability. These charts from the Social Security Administration show the age breakdowns of SSI applications in 2021. [See in particular the age breakdowns in Table 59 for adults age 18-64.](#)

How can someone get their benefits back after a long incarceration?

It depends on whether the benefit that was suspended during the incarceration was Social Security Disability Insurance (SSDI) or SSI. If it was SSDI, then incarceration will cause suspension of the benefit, but not complete termination. Once a person is released, they can go to SSA and ask to restart the SSDI benefit, no matter how many years it has been.

If it was SSI, then a long incarceration will cause complete termination of the SSI benefit. When someone loses SSI, the benefit actually goes into suspense for up to 12 months, after which the SSI benefit terminates. If they return within 12 months, they could just go to SSA and ask to restart the benefit. If it has been longer than that, then they would need to apply anew for SSI, including going through a new disability determination if they are under age 65.