

Obtaining Federal Benefits for Disabled Offenders:

Part 1 — Social Security Benefits

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Authors' note: Points of view expressed in this article do not represent the official position or policies of the U.S. Department of Justice.

The typical offender reentry plan involves, at a minimum, efforts to help the offender secure a job, find affordable and safe housing, and comply with other conditions of release. But reentry plans for offenders who have special needs — who are mentally ill or have HIV/AIDS, for example — can be far more complex.

Corrections staff in most facilities do not typically help inmates apply for federal entitlement programs like Social Security and Medicaid as part of reentry planning. For severely ill inmates, discharge planning that includes assistance in applying for federal disability benefits is still more the exception than the rule.

To understand more about how to plan for reentry of special needs offenders, health care providers and corrections administrators approached the National Institute of Justice (NIJ) and the Centers for Disease Control and Prevention (CDC) to learn about disability benefits and the efficacy of efforts to obtain disability entitlements for soon-to-be-released offenders.

This month's NIJ Update is the first of several that discuss findings from the NIJ/CDC co-funded research. This article describes the results of efforts in Texas and New York to release offenders from prison with social security benefits. Next month's column will describe research that examined the effectiveness of Medicaid in keeping offenders from returning to jail.

The Bottom Line

The sites involved in the NIJ/CDC study maintain that helping offenders obtain federal disability benefits not only can increase their access to community-based care, it can also: 1) reduce the financial burden on state and local governments that fund indigent health care systems and 2) increase the number of disabled offenders who receive treatment. However, the challenges are significant: The process takes a long time; it can be confusing; and there is no guarantee an offender will qualify for benefits.

Obtaining federal disability benefits should be viewed as only one facet of a much broader discharge plan. Even releasees who ultimately qualify for and receive benefits are likely to find it challenging to avoid relapse or recidivism, unless other supports, such as case management services and housing are made available.

Overview

The Social Security Administration administers two programs that provide monthly cash benefits to disabled people who meet certain criteria. The two programs are Retirement, Survivors, and Disability Insurance, commonly referred to as Social Security Disability Insurance (SSDI), and Supplemental Security Income (SSI).

People who acquire a disabling impairment while committing a felony are barred for life from receiving SSDI and SSI benefits based on that impairment, although they may have other impairments that qualify them for benefits. In addition, federal law prohibits payment of benefits to applicants if drug or alcohol abuse is the sole or primary diagnosis.

Social Security Disability Insurance. To qualify for SSDI, an applicant must meet certain nonmedical criteria and must be found to have a physical or mental impairment that either has lasted, or is expected to last, for at least a year or will result in death. The impairment must be so severe that the individual cannot engage in substantial gainful employment. The amount of a person's SSDI payment varies according to how much the person contributed to social security while employed.

Supplemental Security Income. Unlike SSDI, SSI is a means-tested entitlement that is financed, not through worker contributions, but through general tax revenues. It is available to aged, blind or disabled people who have limited assets and income. Recipients must be U.S. citizens or "qualified aliens."¹ Because SSI is considered a benefit of last resort, applicants must agree to apply for all other cash benefits to which they may be entitled (such as pensions, veterans benefits, SSDI) before they receive SSI.

Eligibility. Determining eligibility for SSI and SSDI involves taking several sequential steps that take from 90 to 120 days to complete. The Social Security Administration must determine an inmate's medical and non-medical eligibility status based on a number of criteria.² If an inmate's disability is denied, as are the majority of first-time claims, and appeals are filed, the process can be significantly longer than 120 days. It can take several years in some cases.

Effects of Incarceration on Eligibility for Benefits. People who are receiving SSDI or SSI benefits have their benefits suspended if they are incarcerated for more than 30 days. SSDI benefits are restored upon release if the person files a request

with the Social Security Administration. People who are receiving SSI benefits when they are incarcerated will have their benefits terminated if they are incarcerated for 12 consecutive months. They must reapply and resubmit their application and records upon release in order to regain their benefits.

Texas' Experience

The Texas Correctional Office on Offenders with Medical and Mental Impairments (TCOOMMI) offers institutional and community-based services to juvenile and adult offenders with special needs, including those with mental illness, mental retardation or terminal illness.

Although the Social Security Administration allows residents of public institutions to apply for benefits before they are released, submitting applications early in Texas was typically limited to the few inmates whose work histories allowed them to apply for SSDI or whose illnesses were terminal. Waiting to apply until the inmate was released generally resulted in a three- to four-month delay before inmates knew if their applications were approved. Releasees with severe mental illness were especially vulnerable during this period, frequently failing to stabilize in the community when they lacked an income and medical assistance.

Believing strongly that inmates who received medical and cash assistance shortly after release would be less likely to require emergency hospitalization or commit new crimes to obtain income, the TCOOMMI staff approached the Texas Legislature for authorization to launch a program to aid inmates with benefits applications prior to release. In 1999, the Legislature authorized a pilot project that lets TCOOMMI process inmates' prerelease applications 90 days before an inmate is scheduled to be released and allows inmates to receive medical approval of their applications before they are released.

The pilot project targets adult inmates with special needs. Twelve full- or part-time benefits eligibility specialists assist inmates eligible for benefits. Up to 120 days prior to an inmates' projected release date,

the staff contact the Social Security Administration to verify the inmate's current benefits status and begin meeting with the inmate to determine if he or she will have difficulty finding and keeping a job. Staff receive the inmate's permission to initiate the benefits application and obtain necessary signatures to release information. The eligibility specialists file the paperwork, track decisions and keep the Social Security Administration informed regarding the inmate's release status. When inmates are released, their files are transferred to the state or local mental health or human services agency nearest to their residence. In most cases, an eligibility specialist or caseworker at that location continues monitoring the offender's application.

Effects of The Texas Project

Texas' data show that the pilot project has succeeded in helping inmates obtain social security benefits, but the task is challenging. Of 1,686 individuals referred to benefits eligibility specialists in the first nine months of fiscal year 2002, 1,076 (64 percent) did not submit applications to the Social Security Administration. Most of the inmates who were referred but did not apply, refused to apply; reportedly, some believed they were capable of working, others did not feel they were ill enough to warrant receiving benefits and still others did not want the perceived stigma of being welfare recipients. However, once they were released, many applied for benefits because they realized that their expectations were unrealistic or their views were naïve. Unfortunately, they had lost precious time and money because of the delay.

Of the 610 individuals who did apply for benefits, 49 percent were approved, 38 percent were denied, and 13 percent were awaiting a decision at the time the data was collected. The data also revealed that the success rate for applications varied among benefits eligibility specialists. One specialist had a 92-percent approval rating. The keys to his success seemed to have been his attention to detail, ability to obtain

supporting medical examinations or documentation, and responsiveness to requests for additional information.

New York's Experience

New York, like Texas, has established a memorandum of understanding with the Social Security Administration to file prerelease applications for severely mentally and medically ill inmates housed in state prisons. New York's division of parole estimates that between 200 and 400 prerelease applications are submitted annually; about 31 percent of these initial claims for SSI are approved. The State Division of Disability Determination reports that it only initially approves 38 percent of claims from the nonincarcerated applicants statewide.

In New York, common reasons inmate claims are denied include:

- Applicants do not maintain contact (e.g., they move or fail to appear before their parole officer);
- Applicants are not qualified aliens;
- Medical records are not complete enough to determine disability. (Many inmates cannot remember their medical or mental health histories and do not have their records.); and
- Applicants whose initial claims are denied may refuse to appeal, preferring instead to apply for state-funded public assistance, which is available to some people who have been denied SSI.

The New York Division of Parole is working to improve its initial claim approval rate by addressing some of these issues. It has sent out written directives to all institutional and field agents re-emphasizing the importance of the prerelease application process. In addition, it has designated staff in its central office to assist the Social Security Administration with location issues and is developing medical and mental health protocols for prison staff to ensure that examinations and the corresponding documentation meet the requirements of the State's Division of Disability Determination.

Summary

Filing applications prior to release means more inmates now have benefits when they leave institutions. Having dedicated eligibility specialists prepare applications and gather medical records has reduced the burden on prison medical staff that once had sole responsibility for preparing the applications and sometimes felt overwhelmed at having benefits tasks added to their numerous treatment responsibilities.³

ENDNOTES

¹For more information about the term “qualified alien,” see Social Security Administration, 2002. *Understanding Supplemental Security Income*. Washington, D.C.: Social Security Admin-

istration. Available online at www.socialsecurity.gov/notices/supplementalsecurityincome/textunderstandingssi.htm.

² See *How to Apply for Social Security Disability Benefits* on the Social Security Administration Web site. Available online at www.ssa.gov/disability.html.

³ For more information about the benefits programs described in this article, see Conly, Catherine H. 2005. *Helping inmates obtain federal disability benefits: Serious medical and mental illness, incarceration, and federal disability entitlement programs*, Final Report for contract no. 99-C-008 2002TO097 000. Washington D.C.: U.S. Department of Justice, National Institute of Justice. (June). Available online at www.ncjrs.gov/pdffiles1/nij/grants/211989.pdf.

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