

**NORTH CAROLINA DIVISION OF SOCIAL SERVICES
CHILD WELFARE SERVICES SECTION
SUPPLEMENTAL SECURITY INCOME
BENEFITS FOR CHILDREN IN FOSTER CARE (TITLE XVI)**

Q 1. What is SSI?

- A. SSI benefits are authorized under Title XVI of the Social Security Act. SSI benefits are available for certain children with disabilities if their families have low incomes and minimal assets. SSI benefits are paid out of general revenues. It provides cash to meet basic needs for food, clothing and shelter.
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Q 2. Who is eligible for SSI?

- A. In order to qualify for SSI benefits, the child must meet the statutory definition of disability, and the income and resources of the family must fall below certain limits.

A child is considered disabled for the purposes of SSI eligibility if that child meets each of the following three conditions:

- the child must have a physical or mental impairment that results in “marked and severe functional limitations;”
 - the child must have a condition that has lasted or is expected to last at least 12 months or result in death; and
 - the child must either earn less than the substantial gainful activity amount (\$940 per month for 2008) or not work.
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Q 3. Is the family’s income counted when the child is in foster care?

- A. For children in foster care, their parent’s income and resources are not counted against them when determining SSI eligibility.
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Q 4. What is the resource limit for children in Foster Care?

- A. The countable resource limit for SSI eligibility is \$2,000 for individuals. If this limit is exceeded, the child will lose SSI eligibility. These limits are set by law, are not indexed for inflation, and have been at their current levels since 1989. Children living in foster care are considered to be living on their own and the resources and income of the household they are living in are not considered when determining their SSI eligibility.
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Q 5. How does receipt of SSI Benefits affect Medicaid?

- A. A child that receives SSI Benefits is automatically eligible for Medicaid, without regard to income or resources.
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Q 6. Is the local DSS agency always designated as the Representative Payee for a child in foster care?

- A. Social Security policy advises that the social service agency should not be routinely appointed as representative payee, and that SSA employees should consider a number of factors in assigning a payee:

- how the social services agency became responsible for the child;
 - whether the child is expected to return to the custody of a parent, and if so, when;
 - the source of the child's support;
 - who has physical custody of the child;
 - the nature and extent of the child welfare agency's care;
 - whether the agency has temporary or permanent custody;
 - whether parental rights have been terminated; and
 - whether there are concerned relatives and friends.
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Q 7. How is a Representative Payee assigned?

A. It is the responsibility of Social Security Administration to select the person or organization who will serve as a representative payee. The regulations provide for an "Order of Selection" to guide the agency in selecting a payee. The "Order of Selection" is just a guide and in all cases the best interests of the beneficiary are to be considered when assigning a representative payee. The "Order of Selection" for children receiving benefits is as follows (relatives are given preference):

- First: A natural or adoptive parent who has custody, or a legal guardian.
 - Second: A natural or adoptive parent who does not have custody, but who is contributing to the support of the child and is demonstrating a strong concern for the well being of the child.
 - Third: A natural or adoptive parent who does not have custody, and who is not contributing to the support of the child but is demonstrating a strong concern for the well being of the child.
 - Fourth: A relative or stepparent who has custody of the child.
 - Fifth: A relative or stepparent who does not have custody, but who is contributing to the support of the child and is demonstrating a strong concern for the well being of the child.
 - Sixth: A relative or close friend of the child who does not have custody but is demonstrating concern for the well being of the child.
 - Seventh: An authorized social services agency or custodial institution.
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Q 8. What are the responsibilities of a Representative Payee?

A. Federal regulations require that a representative payee "use the payments he or she receives only for the use and benefit of the beneficiary in a manner and for the purposes he or she determines ... to be in the best interests of the beneficiary." The regulations then define the concept of "use and benefit of the beneficiary" by stating:

We will consider that payments we certify to a representative payee have been used for the use and benefit of the beneficiary if they are used for the beneficiary's current maintenance. Current maintenance includes costs incurred in obtaining food, shelter, clothing, medical care, and personal comfort items.

The regulations also include rules regarding the payment of debts to creditors and specify that "A payee may not be required to use benefit payments to satisfy a debt of the beneficiary, if the debt arose prior to the first month for which payments are certified to a payee.

If the debt arose prior to this time, a payee may satisfy it only if the current and reasonably foreseeable needs of the beneficiary are met.”

Information on the responsibilities of an Organizational Representative can be found at <http://www.ssa.gov/payee/NewGuide/toc.htm>

Q 9. May a portion of the benefits be conserved?

- A.** If any money is left after meeting the beneficiary’s day-to-day and personal needs, it must be saved. The preferred ways of saving are U.S. Savings Bonds or an interest-paying bank account that is insured under either federal or state law. Interest earned belongs to the beneficiary. Any account used to hold beneficiaries’ funds must be set up and titled so that it is clear that the representative payee holds the funds in trust for the beneficiary and that the representative payee has only a fiduciary interest in the account. The beneficiary must not have direct access to the account. The representative payee must keep beneficiary funds in an account that is separate from other organizational funds, and keep records that enable tracking of each beneficiary’s Social Security or SSI income, use of his/her funds, and remaining balances.

The SSI resource rules make it difficult for beneficiaries to accumulate assets while receiving benefits. Children who receive SSI benefits cannot build up savings for use during adulthood or to pay for post-secondary education expenses without jeopardizing their eligibility for SSI benefits. Like other children who receive SSI benefits, beneficiaries in foster care cannot retain eligibility for those benefits if they build up a pool of money in excess of \$2,000 to assist in their transition into adulthood and independent living.

If the DSS agency stops being the representative payee for the child (for example when the child exits care for any reason), any benefits, including money in a savings account, must be returned to the Social Security Administration. The funds may then be reissued to the beneficiary or to a new payee.

Q 10. What are the policies and procedures when a child is eligible for both SSI and IV-E?

- A.** There are three options when a child is eligible for both IV-E and SSI. They are as follows:

1. Concurrent receipt of IV-E and SSI.

In this situation, the requirement of the Social Security Administration is that the SSI check amount must be reduced dollar for dollar by the amount of the foster care payment. Thus if a child’s total monthly foster care maintenance payment is \$634 (and that maintenance payment is in part paid with federal Title IV-E dollars) then the child’s SSI benefit would be reduced by \$634. If the amount of the foster care payment is greater than the SSI payment amount (this would occur most frequently with CPA foster homes and in Child Caring Institutions), then the SSI check must be suspended (SSI may be suspended up to 12 months) or terminated.

2. Apply SSI payment to the cost of care, but draw down no IV-E maintenance funds.

In this situation, on the 5094 the DSS agency should put the child’s SSI amount in field 56 (resources) and check “state” in field 55, so that any amount of the cost of care above the SSI amount would be reimbursed by state funds. If the child’s cost of care is less than the SSI amount, any remainder may be conserved (refer to question 8 on responsibilities of a representative payee and question 9 on conserving benefits). If the child is in a licensed placement, day sheet time may be coded to IV-E even though IV-E is not being used for maintenance costs. Document on the 5120 that the child’s eligibility is IV-E, but the agency has chosen to use IV-E only for administrative costs and are using SSI for maintenance costs. This would be a good choice when the child is expected to exit care in the next 12 months so that the SSI payments would be available to the child’s parent or placement provider when he/she exits care.

3. Suspend or Terminate the SSI payment and pay for the cost of care with IV-E funds.

If a county DSS chooses to claim IV-E foster care reimbursement to pay for a child's cost of care, rather than utilize SSI payments, the county DSS may request from the local Social Security office that the child be placed on inactive status. A child may be placed on inactive status for up to one year, without having to re-qualify for SSI. Having the SSI payment reinstated without reestablishing the child's SSI eligibility is particularly advantageous for children who are being reunited with their families, who are being placed with relatives or kin, or who are being emancipated prior to their eighteenth birthday. The child's resources do NOT affect eligibility for programming paid through IV-E Independent Living Funds.

Note that if the child is in a residential facility where Medicaid is paying more than half the cost of care, the SSI payment is usually reduced to \$30 per month.

The county DSS may choose to use either IV-E or SSI to fund the child's cost of care. The difference between title XVI (SSI) and title IV-E should be considered carefully by the decision maker when choosing whether to apply for either or both title IV-E or SSI benefits on behalf of the child. Information regarding the benefits available under each program should be carefully considered so that an informed choice can be made in the child's best interest. To achieve this goal, local DSS agencies should exchange information regarding eligibility requirements and benefits with local Social Security district offices and establish formal procedures to refer clients and their representatives to the local Social Security district office for consultation and/or application when appropriate.

When a child is IV-E eligible, the agency must use the child's resources as part of the cost of care and the agency's IV-E claim for reimbursement must be reduced by the amount of the resource. For a child who is State Foster Home Fund (SFHF) eligible, the child's resources may be used as part of the cost of care.

Q 11. What are the benefits of SSI for a child whose permanent plan is adoption?

- A. For a SSI eligible child in DSS custody whose permanent plan is adoption, the only eligibility requirement for IV-E adoption assistance eligibility is that the child must meet the Special Needs definition as specified in 10A NCAC 70M .0402(b).

Q 12. Where can additional information on SSI be found?

- A. Information on Supplemental Security Income can be found at [Social Security Online](#).

**Social Security Benefits for Children in Foster Care (Title II)
(often referred to as SSA benefits)**

Q 13. What other benefits are provided by Social Security?

- A. Social Security benefits (formerly called Old-Age, Survivors, and Disability Insurance benefits (OASDI)) may be paid to the children of workers who have retired, become disabled, or died.

Q 14. How do these benefits affect a child's eligibility for IV-E or State Foster Care Funds?

- A. When determining a child's eligibility for IV-E foster care maintenance payments, SSA payments are counted as unearned income, and therefore may affect the child's eligibility for IV-E. Income and resources do not affect State Foster Care Fund eligibility.

Q 15. What are the requirements for using Social Security Benefits for a child in Foster Care?

- A. When a child is IV-E eligible, the agency must use the child's resources, including Social Security Benefits, as part of the cost of care and the agency's IV-E claim for reimbursement must be reduced by the amount of the benefit. For a child who is State Foster Home Fund (SFHF) eligible, the child's Social Security Benefits may be used as part of the cost of care. The amount of the child's benefit that is paid toward a child's cost of care should be entered in Field 56 of the DSS 5094.
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Q 16. How does receipt of Social Security Benefits affect Medicaid.

- A. Social Security Benefits (other than SSI) are counted as unearned income and any amounts conserved would count as a resource. If the child's receipt of these benefits results in Medicaid's income or resource limits being exceeded, then the child would be ineligible for Medicaid. The resource limit for most children in foster care is \$3,000. If this amount is exceeded, then the child would no longer be Medicaid eligible.
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Q 17. Where can additional information on Social Security Benefits be found?

- A. Information on Social Security Benefits can be found at [Social Security Online](#).