

SOCAL SECURITY
&
JAILS:
IMPACT ON JAILS & INMATES

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Advisory

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Background

- Social Security Act and related laws have multiple features that can be impacted by incarceration on recipients, beneficiaries and facilities
- SSA provides benefits for:
 - Retirement
 - Disability
 - Survivor Benefits SSI for Disabled
- Can be related to Medicare and Medicaid eligibility & benefits during and after release

Resources

- SSA has several useful publications for facilities & inmates
- All available on line
- May 2021 publication 05-10088- Incentive Payments for State and Local Institutions
- Congressional Research publication dated 6/22/2022- Social Security: Are Benefits Paid to Incarcerated Individuals?
- What Prisoners Need to Know- Publication 05-10133
- No Social Security Benefits for Prisoners Act of 2009

Incentive Payments

- Facility can receive one-time incentive payment for reporting to SSA when recipient is in facility
- If payments suspended facility gets paid \$400.00 if report is made within 15 days of confinement
- In payments suspended after 15 days but within 90 facility gets \$200.00
- Program started in March 1997 and expanded in April 2000

How to participate

- Must sign agreement with SSA Commissioner to participate in incentive program
- Information must be provide electronically to SSA
- Must provide SSN, name, date of birth, date confinement began, conviction date, release date, other identifying information
- Additional information required when first enrolling in programs
- Must report every 15 days

What SSA Does

- When receive report:
- Verify data & confirm SSN matches their records
- Review Payment Records to see if inmate receives payments
- Verify incentive payment eligibility
- Transfer payment by electronic funds to agency designated financial institution
- Send monthly report to participating entity

Resources

- Each Regional Office has a prison coordinator assigned to assist agencies
- Additional resource is at www.ssa.gov
- Phone number (good luck with that): 800-772-1213-7:00 a.m. to 7: p.m. Monday-Friday

What to Do With Funds

- Proceeds from payments are sent to political subdivision
- In most cases that defaults to general fund
- Counties may create dedicated or special accounts to use of funds
- Check with County management/administration/finance for your situation

IMPACT ON INMATES

- Once person qualifies for SSA benefits there are few limits on payments
- One relevant limitation exists for some people who are confined in jails and prison for crimes
- Benefits for some of those people are subject to suspension when SSA learns of status
- Benefits can also be suspended for fugitive felons and people found in violation of probation or parole, especially if a fugitive felon or incarcerated

CONVICTED INMATES

- Social Security benefits suspended when:
- 1) person is convicted of crime and sentenced to confinement in correctional facility,
- And
- 2) person remains confined for more than 30 **continuous days**
- Section 202(x)(1)(A) of Social Security Act

PRE-TRIAL & Other Inmates

- General rule is pre-trial detainees do not lose benefits until convicted & sentenced to disqualifying period of confinement
- Some other inmates not convicted of crime but in custody might be subject to suspension as reflected in next slide
- First 30 days of post-sentencing confinement does not count even if person gets jail credit or credit for time served

Other Prisoners

- Section 202(x)(1)(A) of SS Act states with respect to periods of confinement for more than 30 continuous days no monthly Social Security benefits shall be paid to individuals who are
- confined in jail, prison or other penal institution or correctional facility pursuant to conviction of criminal offense,
- confined by court order in institution at public expense in connection with—
- verdict or finding that individual is guilty but insane with respect to criminal offense,
- verdict or finding that individual is not guilty of such offense by reason of insanity,
- finding that such individual is incompetent to stand trial under allegation of such offense, or
- similar verdict or finding with respect to such offense based on similar factors (such as mental disease, mental defect, or mental incompetence), [or]
- immediately upon completion of confinement as described in *the first condition above* pursuant to conviction of criminal offense element of which is sexual activity, is confined by court order in institution at public expense pursuant to finding that individual is sexually dangerous person or sexual predator or similar finding

Impact on Dependents

- Some people receive survivor or dependent benefits such as spouse or dependent children
- Disqualification of the subject does not disqualify people from receiving those benefits

Restoration Upon Release

- SSA prohibits retroactive payment of suspended benefits
- Generally benefits can be reinstated start of the month after release from incarceration if all other eligibility aspects remain present
- SSA must be notified of person's release from custody
- If inmates was on SSI Disability and incarceration exceeds 12 month they must re-apply as though a new applicant
- Recipient can notify SSA
- Some facilities have formal or informal program where release planners or programmers assist in notification and restoration

Medicaid and Medicare

- Federal law used to require termination of Medicaid benefits while in custody but now states are allowed to suspend which would expedite restoration of benefits upon release
- Medicare Part A (Hospital Insurance) continues while eligible recipient is in custody
- Medicare Part B (Medical Insurance) can continue while in custody but premiums must be paid
- Generally bills not paid while in custody for short-term prisoners may want to pay premiums to maintain coverage
- Feds accept pre-release applications for processing prior to release-program or release planner duty?

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