

public benefits

for low-income individuals and families
applying for and using
public benefit programs

supplemental security income
for children

Center for
Benefits and
Services

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Society | Fighting Poverty
Strengthening
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The Community Service Society of New York, a non-partisan social services agency, has been in the forefront of the fight against poverty for over 150 years. It has pioneered programs for school children, low-income tenants, health care patients, immigrants and poor people of every color and race throughout its history. At the midway point of its second century, CSS continues to do research on the causes and solutions to poverty-induced problems and to provide needy people with direct emergency help. Using advocacy and court challenges, CSS works to effect societal changes to improve the lives of those in poverty and empower them to provide better conditions for their children and communities.

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Supplemental Security Income for Children

CENTER FOR BENEFITS AND SERVICES

A PROGRAM OF THE COMMUNITY SERVICE SOCIETY

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Supplemental Security Income for Children

What is SSI?



SSI stands for Supplemental Security Income. It is a federal welfare program that pays cash benefits, if your child meets all the requirements of the program. The benefit comes from the U.S. Treasury and is called the "federal benefit rate". In some states, including New York, additional cash comes from the state, called the "state supplemental payment".

When your child receives the SSI benefit payment, both federal and state money come as a single payment. When your child gets SSI in NYS they also automatically get Medicaid coverage. Medicaid continues as long as your child is receiving any SSI cash benefit, no matter how small.

Who Operates the SSI program?

The Social Security Administration (SSA) operates the SSI program and determines whether or not your child is eligible for SSI. The SSI program is operated through neighborhood Social Security Administration offices.

How Much Does SSI Pay for Children?

Each year in January, the federal benefit rate is raised based on a cost of living increase. The state supplemental payment, however, does not increase each year. In 2008, the maximum SSI payment, to which a child is entitled, can be as much as the full monthly federal benefit rate of \$637 plus a supplemental payment of \$23, for a total of \$660. The actual amount, however, is based on the amount of other income that is available or deemed available to your child. We will come back to this later.



Who Can Get SSI for Children?

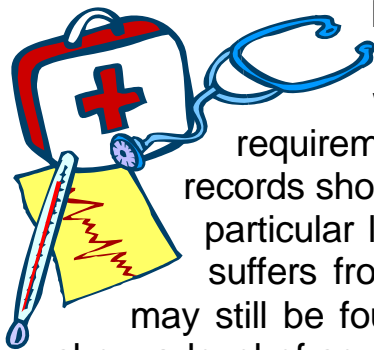
Your child can get SSI if they pass certain eligibility tests, called eligibility criteria. Your child must be disabled, under the age of 18 and meet certain income and resource criteria. These criteria are explained below.

How Does SSA Determine if My Child is Disabled?

Your child must have a medical impairment (injury, sickness or condition), or combination of impairments, that are either medically severe or impose severe limitations in your child's ability to function.

What is a Medical Impairment?

A medical impairment means that your child's medical and other records show that their disability meets a list of about 100 of the most common medical problems children may suffer. The list is called the "Listing of Impairments". For each medical problem that is listed there are certain test results or other signs that show when a child's condition is severe enough to meet the requirements of this listing. If a child's medical and other records show that the child meets the specific levels of illness for a particular listing, then the child will be found disabled. If a child suffers from an illness that is not found in the listing, the child may still be found disabled, if the child's medical and other records show a level of severity or seriousness medically equal to that found in a listing. A child only needs to meet or equal one listing to be found disabled.



What if my child does not have a medical condition that medically meets or equals a listed impairment?

If your child's medical and other records do not show a level of illness that medically meets or equals a listing, you can show that your child is disabled in another way. This way looks at how well your child is actually functioning on a day-to-day basis. If your child has serious problems doing daily activities, he/she may be found to be "functionally equal" to the severity of a medical listing. Many, if not most, children are found disabled using this method.

What information does SSI consider in deciding whether my child is disabled?

- First, SSI will look at your child's medical records including records of being hospitalized; records from the child's treating and examining doctors including their examination notes and test results.

- Second, SSI will look at the opinions that your child’s doctor(s) may have about how sick or how seriously limited your child is.
- Third, SSI will consider information from other treating and non-treating sources, such as therapists, teachers, child care workers, parents and guardians about the difficulties they observe the child has.

What does it mean to be functionally equal to a medical listing?

SSA looks at six different areas of function to determine if a child is functionally equal to a medical listing. Each area is called a "domain." A child's age will be considered in determining how well or how poorly the child is functioning in any domain.



The six domains are:

- acquiring and using information
- attending and completing tasks
- interacting and relating with others
- moving about and using objects
- caring for self
- health and physical well-being

In order for your child to meet the level of severity required for a finding of functional disability, he/she must have “marked” limitation in two domains or “extreme” limitation in one domain. It is important to understand how SSI defines the words “marked” and “extreme”.

What is Marked Limitation?

A marked limitation can be shown in different ways, as follows:

- your child is unable to start, continue or complete activities, or
- if your child is just under age 3, he or she must be functioning at age 2 or below; or if just under age 2, he or she must be functioning at age 16 months or below, or



- if standardized tests are available, the person who administers the test will be able to interpret if your child meets the standard of marked limitation, or
- your child is experiencing frequent illnesses or periods of worsening illness which occur on average three times a year and last for at least two weeks. More frequent but shorter occurrences or less frequent but longer occurrences may also be considered. This applies only to the domain of health and well-being.

What is Extreme Limitation?

An extreme limitation is more severe than a marked limitation. Only one area of extreme limitation is required for a finding of disability. Extreme limitation does not necessarily mean a total lack or loss of ability to function in a particular domain. SSI defines extreme limitation in any of one of these ways:

- if standardized tests are available, the person who administers the test will be able to interpret if your child meets the standard of extreme limitation, or
- if your child is just under age 3, he or she must be functioning at a level of a 1½ year old or less, or if just under age 2, he or she must be functioning at a level of a 1 year old or less, or
- your child is experiencing frequent illnesses or periods of worsening illness which occur on average greater than those required for marked limitation. This applies only to the domain of health and well being.

What else must SSI consider in deciding how severely impaired a child is?

When relevant, SSI must consider what activities a child is able or not able to perform; which activities are limited compared to other children of the same age who do not have impairments; whether a child has difficulty independently starting, or finishing activities; what kind of help the child needs to do his or her activities, how much help a child needs and how often the child needs the help.

How Much Income Can We Have?

You must have limited income. Income is a recurring payment from any source such as gross wages or net self-



employment income, Social Security, a pension, unemployment insurance, disability benefits, bank interest or any other sources of income, etc.

Whose Income Does SSA Look At?

SSA looks not only at your child's income, but at your income, as the parent, as well. This process of using your income to determine your child's eligibility is known as "deeming."

How does deeming work?

Your income, as the parent or parents, is considered available to your child until he/she turns 18. Not all of your income is counted; only a portion of it will be counted when determining your child's eligibility. Deeming applies to any income you may have, whether it is earned or unearned income. Deeming applies as long as a parent is living in the same household as the disabled child. If a parent leaves that household, deeming ceases but the obligation to pay child support under state law probably continues.

How Does SSA Count Earned Income?

You are allowed to take certain deductions from your earnings before they are considered available to your child. A portion of your earned income is disregarded (the first \$65 plus one-half of whatever earnings remain) and an allowance is made for each parent and each non-disabled minor child (under 21) in the household for their living expenses. Anything left after these deductions will be counted available to your child. If the remaining amount is less than the SSI benefit then your child is paid the difference.



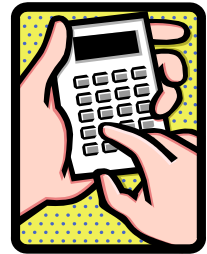
For example, the maximum SSI amount a child is entitled to is \$660 a month. Let's say the income that is available to your child when SSA deems your income is \$335. You would subtract \$335 from \$660 to get your child's SSI benefit. In this example, it would be \$325 per month.

What is Unearned Income?

Unearned income includes any source of income that is not gross wages or net self-employment income. This includes Social Security benefits, workers' compensation, unemployment insurance benefits, private pension benefits, etc.

How Does SSA Count Unearned Income?

The first \$20 of your unearned income, as well as any unearned income your child may have, is disregarded and an allowance is made for each parent and each non-disabled minor child (under 21) in the household for their living expenses. Anything left after these deductions will be counted as available to your child. If the remaining amount is less than the SSI benefit then your child is paid the difference.



How Does SSA Count Child Support Payments?

SSA treats child support payments differently from other sources of unearned income. One-third of child support paid by an absent parent for the benefit of the disabled child is not counted.

For example, Andy is a disabled child living with his mother. Andy's father does not live with Andy but pays \$300 per month for Andy's support. SSA would count only \$200 of the child support payments, not all \$300. So Andy would only be able to receive \$460 (\$660 - \$200).

What If My Disabled Child Is Earning Money?

If your disabled child is able to work and earns \$940 or more per month when he/she applies for benefits, he/she will be found not disabled because of his/her earnings. However, if he/she has earnings lower than \$940 he/she may be found disabled. Again, certain deductions are made and SSA will determine if your child meets the income criteria.

Eligibility Chart

The deeming process is a complicated formula. Listed below is an income eligibility chart that may assist you in determining whether your child might meet the income criteria for SSI.

This chart assumes there is one disabled child in the household. If there is more than one disabled child in the household, this chart does not work. The number of ineligible children means the number of brothers and/or sisters (under 21) living in the household with your disabled child.

If your gross monthly income is less than the income levels listed below, your child may meet the income criteria for SSI. The amount of your child's SSI benefit payment will depend on how much income is deemed to your child. This chart just shows you whether your child might meet the income levels, not how much SSI he or she might get.

| Parent to Child Deeming 2008 | | | | |
|---|---------------|-------------|-----------------|-------------|
| Number of Ineligible Children | Earned Income | | Unearned Income | |
| | One Parent | Two Parents | One Parent | Two Parents |
| 0 | \$2,663 | \$3,285 | \$1,309 | \$1,620 |
| 1 | \$2,974 | \$3,596 | \$1,620 | \$1,931 |
| 2 | \$3,285 | \$3,907 | \$1,931 | \$2,242 |
| 3 | \$3,596 | \$4,218 | \$2,242 | \$2,553 |
| 4 | \$3,907 | \$4,529 | \$2,553 | \$2,864 |
| 5 | \$4,218 | \$4,840 | \$2,864 | \$3,175 |

Might my child be eligible even if our income is more than what is listed above?

Yes, your child may still be income eligible even if your gross monthly income is above the listed amount. This can occur when some other special deeming rules apply in a particular set of circumstances. Consequently, this chart should only be viewed as a guideline. When in doubt, apply for SSI for your disabled child.

How Many Resources Can We Own?

You, your spouse and your child can only have limited resources. Resources are assets or possessions that you own or have a partial interest in, such as a half-share in a house. The resources of both the parents and the disabled child are counted. When a parent lives apart from a disabled child, the resources of the separated parent will not be counted as available to the child. Any resources non-disabled children have will not be counted.

What Are the Maximum Resource Amounts We as Parents Can Have?

As a single parent you are allowed \$2,000. If you are married you are allowed \$3,000. The resources of a parent who is not living in the same household as the child are not counted available.

What are Exempt Resources?

Exempt resources are resources SSI does not count. These are examples of exempt resources:

- the value of house the family lives in, if they own it
- household furnishings
- one car in each household.
- a retirement account (IRA) owned by the parent(s).

There are other resources that SSI does not count. This list is just a sample of the most common resources that SSI does not count.



What Are the Maximum Resource Amounts my Disabled Child Can Have?

A child is allowed to have additional resources of \$2,000. Any amount over that will make your child ineligible for SSI.

Where Must My Child Live?



Your child must live in the United States to receive SSI benefits. The United States includes the 50 states, D.C., and the Northern Mariana Islands. It does not include Puerto Rico, Guam or the U.S. Virgin Islands.

What if my Child Leaves the Country?

If your child leaves the country for any reason, including vacation, for 30 days or more, they are no longer eligible for SSI benefits. Your child must live in the U.S. for 30 days again before he or she can begin receiving SSI once again. .

What if we are living outside the U.S. because we are Military Personnel?

Children of military personnel stationed outside the U.S. can continue to receive benefits if they meet all the other criteria of the program. Additionally, the child of U.S. military personnel who becomes disabled outside the U.S. is eligible for SSI, if they meet all the other criteria of the program.

Must My Child be a U.S. Citizen?

No, your child can be an immigrant and still get SSI. However, with the passage of a welfare reform law in 1996, only certain kind of immigrants, known as qualified aliens might be eligible for SSI.

What is a Qualified Alien?

Qualified aliens include legal permanent residents, refugees, asylees, those who have withholding of deportation, parolees who have been admitted to the U.S. for at least one year, Cuban/Haitian entrants, and Amerasians, victims of trafficking. If you are not in one of these immigration statuses you probably are not eligible to receive SSI. However, you may want to check with an agency to make sure.

If my child is a qualified alien, can he/she get SSI?

Not necessarily. Just because your child is a qualified alien does not mean they meet this eligibility test. Only certain qualified aliens are eligible and include:

- Refugees, within the first nine years after entering the country
- Asylees, within the first nine years of receiving asylee status



- Persons granted withholding of deportation, within the first nine years of receiving this status
- Victims of trafficking, within the first nine year of receiving this status
- Qualified aliens who were lawfully residing in the U. S. before 8/22/96 and who are now blind or disabled
- Qualified aliens who are on active duty in the U.S. armed forces, or honorably discharged veterans and their dependents
- Legal permanent residents (these are people with a “green card”) who have 40 quarters of coverage under the Social Security system.
- Legal permanent residents who entered the U.S. on or after 8/22/96 are ineligible for SSI for 5 years, even if they have 40 quarters of coverage with Social Security

How Does My Child Get 40 Quarters of Coverage with Social Security?

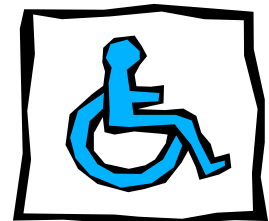
When you, the parent, work, both you and your employer pay FICA taxes. These taxes go into the Social Security Trust Fund, which is your contribution to the Social Security system. In 2008, when you earn \$1050 you receive one quarter of work coverage with Social Security. You can receive a maximum of 4 quarters a year. Under the SSI rules, legal permanent residents must have 40 quarters of work under Social Security, to be eligible to receive SSI. U.S. citizens do not need any work quarters to receive SSI.

Your child will be able to use the combined quarters of coverage you and your spouse have earned. Any quarters of coverage you have on your record, before or after your child was born, count. The quarters, however, must have been earned before your child's 18th birthday.

How Do I Apply for My Child?

Where Do I Go to Apply for SSI?

As the parent or guardian you must fill out and submit an *SSI Childhood Disability* application form at the local SSA office. Applications can be obtained from any Social Security office. Workers at Social Security or a friend or relative can assist you to complete the application papers.



What Information Do I Need to Complete the Application?

You should have available the names and addresses of all the places where your child has been or is being medically evaluated or treated. You should also bring with you the name and address of the child's school or other places that know your child and can tell Social Security about your child's problems.

What kind of documents will I need?

You must be able to prove all the statements you made on the application, including proof of identity, proof of income, proof of resources, proof of residency, proof of age, disability or blindness, proof of citizenship/immigration status.

Should I take any medical records?

Yes. You must also provide medical records from doctors who have treated and/or evaluated your child for physical, mental or emotional problems. This includes medical records from hospitals, clinics, individual doctors or psychologists. For children who are mentally retarded or developmentally disabled it can include tests performed by school psychologists.



Once a medical diagnosis has been made by appropriate medical tests, additional information from non-medical sources can be helpful. For instance, anyone who has worked with the child in a school, pre-school, after school, camp or any other setting that has provided the person with an opportunity to observe the child, may offer information to document the level of severity of the child's particular problems. This can include teachers, teaching assistants, tutors, counselors, day care workers, therapists of any kind, parents, friends and relatives of the child.

SSA is not tied to any specific time limit in making a decision.

How Soon Will I Receive a Decision?

Once you have filed your application, SSA must make a decision on your child's claim and send you a copy of that decision in writing.

What happens if my child wins SSI benefits?

If you are notified that your child's claim is approved, you may receive back benefits from the time you first applied, especially if you have won on appeal. There are special rules if your child receives any back benefits.

If your child is entitled to more than twelve months of back benefits, the law requires that all the benefits be deposited in a special bank account called a "dedicated savings account."

The money in this account cannot be used for ordinary living expenses like rent, food or clothing. It can only be used for things related to the child's special needs, such as medical care, education or vocational training, or sometimes for emergency situations (such as an eviction). Regular SSI monthly benefits should be used for ordinary living expenses such as food, clothing and shelter and anything else your child needs.



Will this savings account be counted as a resource?

A dedicated savings account is never counted as a resource for SSI purposes, even after your child reaches age 18 and is no longer considered a child. If the funds are left in the account they continue to be invisible for purposes of determining your child's financial eligibility. If, however, after the child reaches age 18, he or she begins to use the money in the dedicated account, the whole amount in the account will count as a resource.

What is a representative payee?

When someone is unable to manage their SSI benefits, SSA chooses someone else to manage the benefits for them. This person is known as the "representative payee." The representative payee is responsible for making sure the SSI benefits are spent for the needs of and in best interest of the person receiving SSI.

Must my child have a representative payee?

Yes. Generally, SSA considers a child under 18 unable to manage his/her own SSI benefits. Usually a parent is chosen as the representative payee.



How will I prove I have spent my child's SSI in their best interest?

Probably once a year SSA will ask you to report on how you spent the money as well as your management of the dedicated savings account. If you use any money for inappropriate reasons, SSA will charge you with misapplication of funds. SSA will then hold you responsible for repaying whatever amount was improperly used. For this reason, it is a good idea when considering using funds in a dedicated saving account to obtain SSA's permission in writing before spending such money.

How Do I Keep SSI for My Child?



You have to continue to prove that your child meets all the eligibility criteria even after he/she is first approved for SSI. SSA will periodically redetermine both your child's financial and medical eligibility. Financial eligibility of a child is likely to be performed about once each year and is called a "redetermination." Medical reevaluation is required to be performed at least once every three years and is called a "continuing disability review."

What happens when my child reaches age 18?

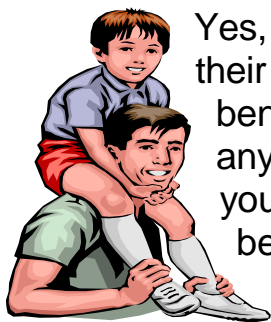
When your child turns 18 two things will happen. First, your income and resources are no longer deemed available to your child. They will determine your child's financial eligibility using his/her income only. Second, within 12 months of your child's 18th birthday, SSA will reevaluate your child based on the adult disability standard.

Does my child's SSI stop if they do not meet the adult disability standard?

If your child does not meet the adult disability standard, their benefits stop. If

SSA decides to stop benefits, they must send a written notice. That notice will tell you that if you disagree with the decision you can file an appeal. If you file an appeal within 10 days, you can ask for continuing benefits during the appeal. Benefits can continue until the ALJ hearing decision.

Do I need to tell SSA about any changes that happen before my child's redetermination?



Yes, once your child receives SSI, any changes that might affect their eligibility to receive a benefit, or the actual amount of the benefit they get, must be reported immediately to SSA. Therefore, any changes in the child's living arrangement, moving away from you to live on his or her own, moving into a group home, etc. must be reported to SSA. Changes in your income or resources or the child's income and resources must also be reported to SSA.

What happens if I don't report any changes to SSA?

If you fail to report any changes as soon as they occur, you can be charged with an overpayment (or underpayment) of benefits. The longer a change goes unreported the bigger the overpayment (or underpayment) grows.

What Happens When My Child Receives an Overpayment?

If your child receives an overpayment, SSA will attempt to get the money back that they overpaid your child. If they are still receiving SSI, SSA will usually ask for a refund. If you cannot pay the refund, you can ask to pay back on an installment plan. SSA can only take a maximum of 10% of your child's SSI benefit. If your child is no longer receiving SSI, and your child is working, SSA can take a portion of their wages, withhold any tax refunds, seek the help of collection agents and report the debt to credit reporting agencies. They can also file a civil (or in some instances a criminal fraud) action in federal court.



What should I do if I think SSA is wrong?

If you think SSA is wrong, that is, you believe the amount of the overpayment is more than your child owes, or you believe your child was not overpaid at

all, you can file an appeal. You must file the appeal within 60 days from the date you received notice of the overpayment.

If you think that you probably were overpaid but it was not your fault, you can request a waiver. A waiver can be requested any time. You must show both that you were not at fault in causing the overpayment and that you cannot afford to repay the money. In other words, forcing you to pay would make you unable to pay all your child's living expenses.

What is an administrative waiver?

SSA will automatically give up any claim for overpayment if you request an administrative waiver. You can only ask for an administrative waiver if you have an overpayment that is \$500 or less.

What are My Rights?

When your child's application has been denied, you have the right to file an appeal. This begins what can be a lengthy, multi-step appeal process. Each step must be taken in the correct order and you cannot avoid taking any step if you wish to keep your claim active in the hope of eventually winning SSI benefit eligibility.



What are the time limits for filing an appeal?

All appeals must be filed within 60 days of receiving a denial notice. SSA adds on 5 days for mail delivery. If you miss that deadline you must show that you had good cause for late filing or you will have to start over again by filing a new application. Good cause means that you were very sick during the appeal period and could not contact SSA in time, or that you had a death in your close family, or that you received wrong information from someone at SSA or from some other official government source about the filing requirements, or that you have a severe physical or mental impairment or language problem that prevented you from understanding how to file an appeal.

But if a claim is denied, and children's claims often are denied, an appeal must be filed to keep the claim alive. Often it pays to appeal denials. A high percentage of claims are approved on appeal.



What can I do while we wait during the appeal process?

Appeal of a disability denial can take a long time. Your child's age category may change while you await a decision on appeal. For example, the rules that apply to children under age 3 may no longer apply if during the appeal process your child's third birthday occurs. Thus, during the appeal process the child must remain in treatment appropriate to his or her condition. This is because new medical evidence will be needed during the course of the appeal process.

What are the steps in the appeals process?

Generally, if an SSI application is denied, the appeal process is composed of two steps. At any point in this process the denial of a claim might be reversed in your favor. The steps must be taken in the following order:

- Request for an Administrative Law Judge hearing
- Request for Appeals Council review

What is an Administrative Law Judge (ALJ) hearing?



If a child is initially denied, you should request an ALJ hearing. Most ALJ hearings have to do with the denial of a disability claim. However, ALJ's can consider any issue that is properly appealed. Generally, the ALJ will ask you to bring the child with you to the hearing. This is important, especially if your child is old enough to answer questions or if the child, no matter what age, has a visible defect that the judge can observe. For example, if your child has a withered arm or leg, or a severe stammer, or is hyperactive and cannot sit still, the judge should be able to observe and experience these things.

At an ALJ hearing you, as the parent or guardian, can testify about the child's condition. The child can testify if he or she is old enough to communicate, and you can bring witnesses to testify about the child's problems. You can submit new evidence about your child's medical or functional problems. You can ask the ALJ to issue subpoenas for any records that you cannot obtain by any other means. The ALJ may also have a medical expert come to the hearing to testify about a variety of topics having to do with your child's

medical condition. A tape recording is made of everything said during the hearing.

After the hearing it may take several weeks to several months for the ALJ to issue his or her decision, which will be in writing. If the ALJ approves your claim you need not do anything further. If the ALJ denies your claim, and you wish to continue pursuing it, you must file a request for Appeals Council review within 60 days of receiving the ALJ denial notice.

From the time you ask for an ALJ hearing until the hearing is scheduled can take as long as a year.

What is an Appeals Council Review?

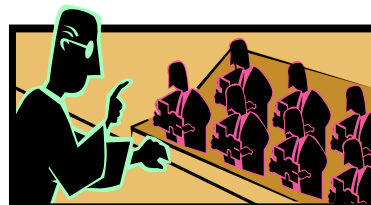
The Appeals Council is a body that is located in Falls Church, Virginia. It is the final step in administrative review of SSI claims. Unfortunately, the Appeals Council takes even longer than ALJ hearings to decide cases. However, any additional evidence collected while you wait can be submitted to the Appeals Council as long as the evidence is related to something that the ALJ considered, not a totally new condition. Additionally, while you are waiting for the Appeals Council to consider and decide your case, you can also file a new application at your local Social Security office.

What happens after an Appeals Council denial?

If the Appeals Council continues to deny the child's claim there is the possibility to taking the case to federal court. This is called "filing a civil action." If you want to file a civil action you must do this within 60 days of the date on which you received the notice of the Appeals Council denial. You may file a civil action by yourself by going to the court clerk and asking for a "pro se" complaint form, and the clerk of the court may help you complete the complaint form. Or, better, you should seek legal representation (see below).

Do I need a lawyer?

The SSI childhood disability standard is not easy to meet. It can help at any point in the appeal process to have assistance from an attorney or paralegal that knows SSI rules and regulations. It can be especially helpful to have a representative at an



ALJ hearing. A good representative will assist you to collect medical and other important documents; will prepare you and your child to testify at the hearing; will make arguments on the child's behalf and will cross examine any expert the ALJ calls to attend the hearing. A lawyer can also help you decide whether to file further appeals.

Where Can I Turn for Help?

Representation can be found at many Legal Services and Legal Aid offices around NYC for individuals seeking SSI. For individuals seeking both Social Security Disability Insurance and SSI, you may not qualify for free legal assistance. However, private attorneys can charge a fee only if you win, and SSA must approve the fee before it can be paid. Some private attorneys and paralegals in private practice also handle SSI only cases. Any fee they charge must be approved by SSA. You can get a listing of attorneys from SSA.

Find a lawyer

www.Lawhelp.org

Legal aid Society

www.legal-aid.org

Urban Justice Center

Mental Health Project

(646) 602-5600 x64

Social Security Administration

(800) 722-1213

www.socialsecurity.gov

Center for Benefits and Services (***Legal assistance not provided***)

(212) 614-5552

www.cssny.org/pbrc

