

Arrested? What Happens to Your Benefits If You Go to Jail or Prison?

A Guide to Federal Rules on SSI, SSDI, Medicaid, Medicare and Veterans Benefits for Adults with Disabilities

This guide explains what will happen to your federal benefits if you are arrested and held in jail or prison, and how you can get them back when you are released.

It describes federal rules on:

- ◆ Supplemental Security Income (SSI) disability
- ◆ Social Security Disability Insurance Disability (SSDI)
- ◆ Medicaid health and mental health services
- ◆ Medicare health and mental health services
- ◆ Veterans pensions and compensation
- ◆ Veterans health care
- ◆ Temporary Assistance to Needy Families (TANF)
- ◆ Food Stamps

It first explains how and why you may lose these benefits and then how to restart them when you are released from jail or prison. The third section tells how you can make a new application for benefits you didn't have before your arrest.

You can find more information and some application forms through phone numbers and websites listed in the booklet. If you have difficulty getting access to the internet or a phone, a family member, friend or advocate can use this booklet to help you apply or reapply for federal benefits.

Will My Disability Checks Stop When I Am in Jail or Prison?

◆ Supplemental Security Income

SSI disability payments will continue for a while. How long depends on the date you were arrested. You can receive SSI payments until you have been in jail or prison for a full calendar month—from the first of the month through the last day. For example, if you went to jail or prison on March 2, your SSI would continue during March and all of April. April would be the first *full* calendar month you were incarcerated, so payments would not stop until May 1. On the other hand, if you went to jail or prison on March 1, your payments would stop on April 1 because you would have been incarcerated for the full month of March.

◆ Social Security Disability Insurance

SSDI payments will also continue for a while, though SSDI rules are different from the SSI rules. You can receive SSDI benefits until you have been convicted of a criminal offense and spent 30 days in jail or prison. This means that your payments will stop on the 31st day you are incarcerated after a conviction, no matter what day of the month you were arrested. For example, if you were convicted and went to jail or prison on March 3, your SSDI would stop on April 2.

◆ SSI and SSDI — If you receive both an SSI and an SSDI check each month, your SSDI payments will stop after 30 days of incarceration following conviction, but your SSI will continue until you have been in jail or prison for a full *calendar* month (see the SSI explanation above). So, if you were incarcerated on March 2, for example, your SSDI payments

would stop on April 1, but your SSI payments would not stop until May 1.

◆ **Veterans Cash Benefits**

Veterans cash benefits will not change unless you have been convicted of a crime. Even then, full benefits continue for 60 more days.

If you were convicted of a felony and your benefits are disability compensation (resulting from a service-connected disability), they will be reduced beginning with the 61st day of your imprisonment. For example, if your payment was \$188 or more, your new amount will be \$98; if you were getting \$98 before you went to jail or prison, your new payment will be \$49.

If you were convicted of a misdemeanor, your benefits will continue without any reduction.

The VA can take all or part of the amount you no longer receive and provide it to your spouse, children and dependent parents, based on their need. Your family members should contact the nearest VA regional office for information on how to apply.

If your benefits are a pension (a non-service-connected disability), your benefits will be suspended entirely beginning with the 61st day of your imprisonment for either a felony or a misdemeanor.

What Happens to My Medical Care While I Am in Jail or Prison?

Federal health programs will not pay for your care, but jails and prisons are responsible for providing essential health and mental health services to all inmates. You have a constitutional right to treatment while in jail or prison and can request it.

◆ Medicaid

Medicaid does not pay for any services while you are in jail or prison. Many states will take your name off their Medicaid list when you are incarcerated or when they learn that your SSI payments have stopped as a result of your incarceration.

If jail staff took your Medicaid card away with your other personal possessions when you were arrested, you probably will not get the same card back. You will then have to re-apply, as described on page 8.

◆ Medicare

Medicare does not pay for any services while you are in jail or prison.

◆ Veterans Health Care

The Veterans Administration does not pay for medical care while you are in jail or prison.

What Happens to Other Benefits While I Am in Jail or Prison?

◆ Temporary Assistance to Needy Families

TANF is paid to adult caretakers of children who meet certain requirements. States have different policies about when they consider someone who is in jail or prison no longer the child's caretaker. Many states continue benefits until a conviction—sometimes longer if the sentence is short.

If you were a TANF recipient when you were arrested, a member of your family should apply to the local social services office¹ to have the TANF funds sent to the person who will now be the child's caretaker.

◆ **Food Stamps** — You cannot receive Food Stamps while you are in jail or prison.

When I Am Released, How Do I Get My Disability Benefits Back?

Your SSI or SSDI benefits can be restored after your release and you will receive payment for any day you were eligible. However, your check may be delayed, depending on when you apply for reinstatement and how long Social Security takes to decide your claim.

If you are on SSDI, or if you are on SSI and have been incarcerated less than a year, you can begin the paperwork to restart your checks while still in jail or prison.² If you do, you are more likely to get your check soon after you are released.

If your SSI benefits stopped for more than 12 consecutive months, Social Security has terminated them entirely. This means you have to start the application process over again.

◆ **To restart SSI payments**

You can apply to have your SSI check restarted before the date you expect to be released from the jail or prison. This is called the “pre-release procedure.”

Your first step should be to ask the jail or prison staff whether there is a “Pre-Release Agreement” between the jail or prison and the Social Security Administration. If there is, ask

1 The office where you apply for Medicaid, Food Stamps or TANF may be listed in the phone book as the Department of Social Services or Human Services, or the Welfare Office. We refer to it here as the social services office.

2 Technically, you can restart your SSI checks as long as your SSI has not been suspended longer than 12 consecutive months. Depending on the date of your arrest this can be a little more than one year. However, it can never be 14 months or more.

the staff to help you apply through that agreement. This will make it quicker for you to get a decision from Social Security and to get your check soon after you are released.

If the jail or prison does not have a Pre-Release Agreement, Social Security still has a pre-release procedure you can use. Ask the jail or prison staff if they know how you can restart your SSI checks. If they do not, you can check the information on Social Security's website at www.ssa.gov/notices/supplemental-security-income.

You will need to show Social Security what your income is and what resources you have. You will also be asked who (if anyone) you plan to live with after your release. Then your benefit can be calculated. Social Security will also need to know the date of your release.

You can ask friends or relatives to help you apply. They can do this by making an appointment for themselves with the local Social Security office. They will need the information from you about your income and resources, and where you plan to live. They should ask Social Security ahead of time what papers they should bring with them.

When you apply to restart SSI checks, make sure you ask Social Security to decide at the same time whether you are also eligible for Food Stamps.

On the day you are released, go to your Social Security office with identification and a document from the jail or prison stating that you have been released. Social Security will also need to know where you want the checks mailed.

◆ To restart SSDI checks

If you are on SSDI, you remain on the rolls during your jail or prison term, no matter how long it is, even though the checks

stop. However, you do need to request reinstatement of your cash benefit.

Before the date you expect to be released you can ask to have your SSDI checks restarted. There is no pre-release procedure for SSDI as there is for SSI, but when jails or prisons have Pre-Release Agreements for SSI they can also use them to help SSDI recipients.

Your first step should be to ask the jail or prison staff whether there is such an agreement. If so, ask to apply for SSDI benefits through it. This will make it easier for you to get a decision from Social Security and to get your check soon after you are released.

If the jail or prison does not have a Pre-Release Agreement, ask the staff if they have know how you can restart your SSDI checks. If they do not, you can check the information about SSDI on Social Security's website at www.ssa.gov/disability/.

On the day you are released, go to your local Social Security office with identification and a document from the jail stating that you have been released. Social Security will also need to know where you want the checks mailed.

◆ **To restart Veterans Disability benefits**

You are eligible to receive your VA compensation or pension benefits on the day you are released. However, the VA may decide to schedule you for a medical examination to see whether your disability has improved.

Visit or call your local VA office for help in restarting these benefits. Call 1-800-827-1000 to contact the regional office that handles your benefits. You need to provide a document to the VA stating that you have been released.

Before your release, you can ask jail or prison staff if they can assist you. They should be able to notify the Veterans

Administration of your release. Benefits restart as soon as the VA is aware of your status and approves your benefit. However, your check must still be sent to you and this may take a little while.

How Do I Pay for Medical Care After I Am Released?

◆ To restart Medicaid

You can apply for a new Medicaid card while you are in jail. Medicaid will generally consider your application only if you are likely to be released within 90 days (in some states, 45 days).

If you were on Medicaid before your arrest, there is a very good chance you will be eligible. If you have been on SSI, you may have to wait until Social Security restarts your SSI checks before you are confirmed as eligible for Medicaid.

There are different ways to qualify for Medicaid. You should ask the jail or prison staff for a Medicaid application form and provide the information requested on it. File the form before your release if you can. Then, on the day you are released, go to the local social services office to see if they can give you a card.

Even before you have a card, you should be able to get health and mental health services covered by Medicaid as soon as you are released. You should ask the staff at the social services office how this works.

◆ To restart Medicare

Unless you are 65 or older, if you had Medicare it was probably because you had SSDI. Since you remain on the SSDI rolls while in jail or prison (even though you do not receive checks), you do not lose your Medicare eligibility.

Keep your Medicare card or information somewhere safe while you are in jail or prison. Once you are released, you

should be able to receive services and the provider of those services should have no problem billing Medicare.

If you have lost your Medicare card, you can ask Social Security for a new one. If you need it immediately, call Social Security's toll-free number (1-800-772-1213). Social Security can give you proof of your eligibility that you can use until you get a new card. If you can wait 30 days, you can apply for a new card online at www.ssa.gov. It will be mailed within 30 days to the address Social Security has in its records for you.

◆ **To restart Veterans Health Care**

Veterans are eligible for health care from the VA system as soon as they are released from jail or prison. After you are released, you should contact the VA health care facility that you wish to use in order to get your name back into their computer.

How Do I Obtain Other Benefits After My Release?

◆ **To restart TANF**

To restart a TANF benefit, you must resume your role as caretaker for an eligible child and meet other requirements, such as the income limits and work requirements.

You should find out what is required to file your application for TANF benefits while you are still in jail, even though your request cannot be approved until after you are released and again caring for a child. Beginning the application process for TANF while you are still in jail or prison may speed up restarting your benefit.

Often you can use the same application form to reapply for TANF, Medicaid and Food Stamps. Contact your local social services office to find out how to do this.

If you are convicted of a drug felony, you may find that you are no longer eligible for TANF. States can end your TANF benefits permanently in these circumstances and 24 states do so.³ Another 17⁴ have requirements you must meet before TANF benefits can be restored, such as successful completion of a drug or alcohol treatment program.

◆ **To restart Food Stamps**

You can re-apply for Food Stamps while you are in jail, but you will not be eligible for them until you have been released. If you are applying for SSI, you can submit an application for Food Stamps at the same time. Social Security will let you know if you are eligible.

If you do not expect to have SSI after your release, you can re-apply for Food Stamps through your local social services office (see how to apply for Food Stamps, below).

If you have been convicted of a drug felony, you may no longer be eligible for Food Stamps. States can end your Food Stamp benefit permanently in these circumstances and the same 24 states do so.³ The other 17 states⁴ have requirements that must be met before you can get Food Stamps, such as successful completion of a drug or alcohol treatment program.

3 Alabama, Alaska, Arizona, California, Delaware, Georgia, Idaho, Indiana, Kansas, Kentucky, Maine, Massachusetts, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Dakota, Pennsylvania, South Dakota, Tennessee, Virginia, West Virginia and Wyoming.

4 Arkansas, Colorado, Florida, Hawaii, Illinois, Iowa, Louisiana, Maryland, Minnesota, Nevada, New Jersey, North Carolina, Rhode Island, South Carolina,

How Can I Apply for Benefits I Did Not Have Before My Arrest?

Disability Benefits

◆ **SSI and SSDI** — Social Security has a pre-release procedure you can use to apply for SSI benefits while still in jail or prison. You should also check if the jail or prison has a Pre-Release Agreement with Social Security. If so, ask the jail or prison staff to help you apply through it. This will make it easier for you to get a decision quickly from Social Security and to get your check soon after you are released. You can have someone help you with this application.

A decision on a new application takes much longer than restarting a benefit you had before. You should start at least three months before the date you expect to be released.

To make a new claim for SSI or SSDI, you will need to collect medical evidence of your disability. Social Security will ask for:

- ✓ your Social Security number and proof of age;
- ✓ the names, addresses and phone numbers of doctors, hospitals and clinics that have treated you and when;
- ✓ the names of your medications;
- ✓ a summary of where you worked and the kind of work you have done; and
- ✓ a copy of your most recent W-2 tax form.

Social Security will also ask health care providers for your medical records and lab or test results.

For SSI, you will also need to show Social Security that your income and resources are below SSI limits.

You can apply for SSDI benefits (but not SSI) online at www.ssa.gov. For SSI you have to go through the local Social

Security office, either using the pre-release procedure or by having someone you trust visit Social Security on your behalf. You can also apply for SSDI through the local Social Security office if you wish, using form SSA-3368.

◆ **Veterans Disability Benefits** — If you do not receive these benefits and did not receive them before your arrest, you can begin the application process while you are in jail or prison. You use VA form 21-526, Veteran's Application for Compensation and/or Pension, which is available on line.

You can also apply online using the Veterans On-Line Application (VONAPP), at <https://vabenefits.vba.va.gov/vonapp/>.

Medical Care

◆ **Medicaid** — You can apply for Medicaid while still in jail or prison. Ask jail or prison staff for information and application forms, or get them from your local social services office.

Medicaid can review your application and approve it before your release. When you are released, you will have to go to your local social services office to finish the application and receive your Medicaid card.

You may be eligible for Medicaid if you are found eligible for TANF benefits, but you probably have to apply separately. You should ask how to apply for Medicaid when you apply for TANF at your local social services office.

If you apply for SSI benefits and are approved, you will generally become eligible for Medicaid. In some states, you will be enrolled automatically. In most states, however, you need to fill out an application at the social services office before you can receive a Medicaid card.

◆ **Medicare** — You can be eligible for Medicare coverage only if you are 65 or older or if you have been eligible for SSDI disability benefits for the previous two years. You should first apply for SSDI, and then wait for two years to be covered by Medicare.

◆ **Veterans Health Care** — To receive Veterans Health Care benefits you must enroll with an initial application. All veterans are encouraged to enroll, even if they are automatically eligible due to a disability.

To apply, complete VA form 10-10EZ, which you can obtain by visiting, calling or writing any VA health care facility or benefits office or by calling the toll-free number 1-877-222-8387. You can also find this form online by pointing your browser to www.va.gov/1010ez.htm.

Other Benefits

◆ **TANF** — To apply for TANF benefits upon release, go to your local social services office. You will need to show that you are eligible because you are caretaker to a child and your income and resources are below the TANF limits.

◆ **Food Stamps** — Food Stamps are awarded to “households,” but that can mean one person.

Each state has a Food Stamp Information Hotline. You can find your state’s number online at www.fns.usda.gov/fsp/contact_info/hotlines.htm. Each state has its own application form, and some states have them on the state’s website. Otherwise, you can apply at your local social services office.

Food Stamp applications include an interview. If you have a disability, the interview may be conducted by telephone.

If you want to complete the application process before

you are released from jail or prison, you can authorize another person to apply and be interviewed on your behalf. You must designate this authorized representative in writing.

The Department of Agriculture has information about eligibility requirements that will help you learn if you may be eligible for Food Stamps, online at www.fns.usda.gov/fsp/applicant_recipients/eligibility.htm

For Help in Applying for Benefits

You can have assistance to apply for any of these benefits. The agencies that run these programs will often work with your family, close friends or lawyer, if you authorize them to do so. This can be very helpful if you are still in jail or prison.

Another source of assistance may be community mental health programs. These agencies have information about benefit programs and their staff can help you apply. If you wish to use public mental health services, contact your local community mental health agency—listed in the phone book—to ask for assistance.

If you are turned down for benefits, you may want to contact an advocacy program. Lawyers and advocates with the following groups can help you appeal:

✓ **Protection and Advocacy Systems** — Each state has a Protection and Advocacy (P&A) system for people with disabilities. These agencies have information about benefit programs and can provide assistance if you have difficulty getting the benefits to which you believe you are entitled.

To find the P&A in your state, check online at www.napas.org and click on “about P&As/CAPS.”

✓ **Legal Services** — Legal services programs in every state provide legal assistance in civil (not criminal) issues to people who cannot afford a lawyer. They can help you appeal a denial of benefits if you qualify as low income after your release. To find the program in your state, go online to www.lsc.gov and click on “Get Legal Assistance.”

For More Information

For more information about the benefit programs listed here, you can contact the federal agencies:

✓ **The Social Security Administration** can answer questions about SSI, SSDI and Medicare. Their 24-hour automated toll-free number is 1-800-772-1213. You can speak to a representative on weekdays between 7 a.m. and 7 p.m. Or go online at www.ssa.gov. Through this website you can also identify the Social Security office nearest to you.

✓ **The Veterans Administration** has information on its disability benefits and health care programs online at www.va.gov. Use “search” and type in “incarceration” to get information about benefits for veterans who are incarcerated in jail or prison.

For information on health benefits, go to www.va.gov/elig or click on “Health” at the VA’s home page. Or you may call 1-877-222-8387 for more information on health benefits. To talk to someone about any of your VA benefits, call your VA Regional office (you can reach this by dialing 1-800-827-1000).

✓ **Food Stamps** — Information about Food Stamps is online at www.fns.usda.gov. For assistance, contact your local office, listed

in the phone book under Food Stamps, Social Services, Human Services, Public Assistance or a similar title.

✓ **Medicaid and TANF** — Contact your local social services office, listed in the phone book.

The Bazelon Center for Mental Health Law (which produced this booklet) has more information about all of these programs in two publications. Both are available online at www.bazelon.org/issues/criminalization/publications/

◆ *A Better Life—A Safer Community: Helping Inmates Access Federal Benefits*

◆ *Finding the Key for Successful Transition from Jail to Community for People with Serious Mental Illness*