



January 31, 2024

# Supplemental Security Income During and After Incarceration

## Background

Certain people who are incarcerated are not eligible for Supplemental Security Income (SSI) payments but may be able to receive them once released. There is congressional interest in ensuring that eligible people—including eligible individuals with disabilities and low incomes leaving prison—are able to access SSI payments if they meet program rules while also making sure that SSI payments are made only to those who qualify for them. This In Focus explains how incarceration affects eligibility for SSI and the process for starting or resuming SSI payments following incarceration.

The SSI program—administered by the Social Security Administration (SSA)—provides monthly cash payments to people who (1) have qualifying disabilities or blindness or are age 65 or older; (2) have little or no income and resources; and (3) meet certain other eligibility criteria in federal law. SSI is intended to provide eligible individuals with a guaranteed minimum income for meeting basic needs, such as food and shelter. There are no work or contribution requirements to qualify for SSI payments. However, because the program is based on need (i.e., means-tested), it is restricted to people whose countable income and resources are (and remain) below statutorily prescribed limits.

## Can People Receive SSI While Incarcerated?

Although there are some exceptions for certain medical facilities, individuals are generally ineligible for SSI in any calendar month during which they reside for the entire month in public institutions. Public institutions are certain facilities operated or controlled by government entities that typically serve four or more individuals and provide some treatment or services in addition to food and shelter. Public institutions include federal, state, and local jails and prisons, as well as certain facilities operated by private entities acting as agents of federal, state, or local penal authorities, such as private prisons, “halfway houses,” and juvenile treatment centers.

Because SSI payments are designed to provide individuals with a minimum income to meet their basic needs for food and shelter, individuals residing in public institutions that provide them with food and shelter have been determined not to require SSI payments under current law. As such, individuals cannot receive SSI payments if they are incarcerated for at least one full calendar month—for example, from May 1 through May 31. Individuals incarcerated for less than one full calendar month are eligible for SSI, provided they meet all other program rules. SSI-eligible individuals incarcerated for more than 30 or 31 continuous days that occur in two different months—for

example, from April 29 through May 30—remain eligible for SSI until they have been continuously incarcerated from the first day of a month through the last day of the same month.

Individuals are also generally ineligible for SSI in any month during which they are fleeing to avoid prosecution, custody, or confinement for a felony (or an attempt to commit a felony). Under current policy, SSA does not suspend or deny SSI payments based solely on a probation or parole violation.

## What Happens to Recipients’ SSI Payments When They Are Incarcerated?

Individuals receiving SSI payments at the time they are incarcerated will have their SSI payments suspended on the first day of the month after the first full calendar month that they are incarcerated. For example, if an SSI recipient is incarcerated on May 1 and is still incarcerated on May 31, the recipient’s SSI payments would be suspended on June 1. After 12 consecutive months of SSI payment suspension, SSI recipients are generally terminated from the program and would need to reapply to resume SSI payments after incarceration. Incarcerated SSI recipients who have their payments suspended for fewer than 12 consecutive months can generally have their SSI payments reinstated—on the earliest day of the month in which they are released from incarceration and meet all other eligibility requirements—without having to reapply for SSI. If—after a period of ineligibility that is less than 12 months—individuals regain SSI eligibility partway through a month, their SSI payments are sometimes prorated from the date their eligibility resumes until the end of the month.

SSI recipients are prohibited from receiving any past-due SSI payments (i.e., underpayments) while they are incarcerated. For example, if—before being incarcerated for more than a full calendar month—a former SSI recipient received a lower monthly SSI payment than was owed in any month, the individual cannot be repaid the underpaid benefits until being released from incarceration.

## How Does SSA Know When an SSI Recipient Is Incarcerated?

Because SSI is a means-tested program, individuals’ SSI eligibility is periodically redetermined—and their monthly payments may be adjusted—based on changes in their income, resources, living arrangements, and certain other factors. SSI recipients are responsible for reporting to SSA any changes in their circumstances that might affect their eligibility for SSI or their monthly payment amounts, including admission to public institutions.

Under current law, SSA also makes payments to certain state or local correctional institutions that provide SSA with timely information about incarcerated SSI recipients that results in their benefit suspension. SSA pays each eligible institution a one-time payment of up to \$400 per SSI recipient suspended based on information provided by the institution within a specified number of days after the SSI recipient's confinement.

### Can People Apply for SSI Before Being Released from Incarceration?

Section 1631(m) of the Social Security Act directs the commissioner of Social Security to develop a system under which people can apply for SSI before they are released from public institutions. Per its policy, SSA can process an SSI application under its prerelease procedure if an individual who is incarcerated appears likely to meet the criteria for SSI eligibility upon release and is scheduled to be released within a certain period of time after filing an application. While individuals can generally apply for SSI before their release from incarceration, SSI payments cannot begin until after individuals are released.

SSA has prerelease agreements with some public and private prisons (including a national agreement with Federal Bureau of Prisons [BOP] institutions) to facilitate processing SSI prerelease applications and reinstatements so payments can begin as soon as possible after individuals are released from incarceration. Prerelease agreements are optional and non-binding and can be written or verbal. If there is a prerelease agreement, a representative of the institution (or the individual) can contact SSA before the individual's scheduled release date. Among other responsibilities, an institution participating in a prerelease agreement might also notify SSA when an individual is released. For information about facilities that have prerelease agreements with SSA, see *Transitioning from Incarceration: Statewide Prerelease Agreements*.

Individuals who are incarcerated can submit SSI applications to SSA under the prerelease procedure regardless of whether their confining institutions have prerelease agreements with SSA. If there is no prerelease agreement, individuals must contact SSA to provide their anticipated release dates. Individuals must also notify SSA when they are released and provide official prison release documents.

According to SSA's policies, the time frame for beginning to process SSI prerelease claims under the prerelease procedure varies by type of penal institution (i.e., BOP or non-BOP) and SSI claim (i.e., disability, blindness, or age 65 or older; see **Table 1**). SSA may begin processing an SSI disability or blindness prerelease claim received from a BOP institution 120 days before the applicant's anticipated release. SSA may begin processing an SSI disability or blindness prerelease claim received from a non-BOP institution when the applicant's expected release date is within 30 days of the estimated time for getting a disability determination (made by state agencies). For example, if it takes 90 days, on average, for the state agency to make a disability determination, SSA may begin processing a prerelease claim 120 days before the applicant's anticipated

release date from a non-BOP institution. SSA may begin processing an SSI age 65 or older prerelease claim 30 days before an applicant's expected release date regardless of whether the applicant is confined to a BOP or non-BOP institution.

**Table 1. Time Frame of When SSA Can Begin Processing an SSI Prerelease Claim**

SSI Claim Type	BOP Institutions	Non-BOP Institutions
Disability or blindness claim	120 days before expected release date	When expected release date is within 30 days of disability determination average processing time
Age 65 or older claim	30 days before expected release date	30 days before expected release date

### What Happens If an Individual Is Found Not Guilty?

Ineligibility for SSI payments because of incarceration is related to an individual's residence in a public institution that supplies food and shelter; it does not necessarily depend on the individual's conviction. Thus, individuals who are found not guilty but have been held in correctional institutions for longer than one full calendar month—for example, those confined while awaiting trial and not convicted—are not eligible to receive SSI payments until they are released and meet all other eligibility criteria. Alternatively, individuals found guilty but confined for less than one full calendar month or sentenced to home confinement for at least one full calendar month generally remain eligible for SSI payments, assuming they meet all other program rules.

### Additional Resources

SSA provides resources on its website about SSI payments after incarceration. See *Benefits After Incarceration: What You Need to Know*. This webpage provides links to SSA publications, answers to frequently asked questions, and links to other (non-SSA) websites that provide a range of other resources.

For additional information on the SSI program, see CRS In Focus IF10482, *Supplemental Security Income (SSI)*. Also see CRS Report R44948, *Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI): Eligibility, Benefits, and Financing*.

This In Focus does not address how incarceration affects Old-Age, Survivors, and Disability Insurance—commonly referred to as Social Security—benefits. For information on Social Security benefits during and after incarceration, see CRS In Focus IF12138, *Social Security: Are Benefits Paid to Incarcerated Individuals?*

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