

A Guide to Understanding SSI and the DCF/KLS Contract

A child can get benefits from the Social Security Administration in three ways:

1. SSI Benefits for children are benefits payable to disabled children, under age 18, who have limited income and resources, or who come from homes with limited income and resources.
2. Social Security Dependents Benefits are benefits payable to a child, under the age of 18 collecting on the record for a parent or caregiver (SSDI for a parent, retirement, or survivor's benefits). A child can continue receiving dependents' or survivor's benefits until age 19 if he or she is enrolled as a full-time student in an elementary or high school.
3. Social Security Benefits for Adults Disabled Since Childhood are dependent benefits which can continue to be paid in adulthood if the child is disabled. The disability onset must occur prior to age 22.

Understanding SSI

Supplemental Security Income, or SSI, is a Federal benefit payable to the guardian or caregiver of children who qualify. Criteria for children include:

- Applicant must be under 18 years of age;
- Child must not be working, or at least working at a job that is not considered substantial work;
- Disability must be effective for one year prior, or expected to last at least one year, or result in death; and
- The child must have a physical or mental condition (or a combination of conditions) which results in "marked and severe functional limitations."

The determination on whether the impairments, or a combination of impairments, meet the criteria as "marked or severe" is deemed by the Disability Determination Services (DDS). Once a claim is filed with the Social Security Administration (SSA) and the claimant is deemed to be within the income, assets and resource limits for SSI, all documents and evidence are sent with the claim to DDS. DDS assigns an examiner to the claim and that individual is responsible for determining if the claimant meets the criteria for SSI. The examiner looks at the medical and educational records submitted with the claim, requesting additional records if necessary, and sometimes requests a consultative examination with a contracting physician or specialist.

Note: If a child does not attend a scheduled examination, the claim will be denied for failure to cooperate, or lack of information.

Qualifying for SSI

There are certain conditions that are considered so severe that the claimant is presumed to be disabled and payments may automatically commence. Such conditions are:

- HIV infection
- Total blindness
- Total deafness
- Cerebral Palsy
- Down Syndrome
- Muscular Dystrophy
- Severe Mental Retardation (age 7 or older)
- Birth weight below 2 pounds, 10 ounces

To qualify, the claimant must meet a medical listing, as deemed by the SSA, the conditions are the same as, or medically equal the severity of a listing, or if due to the functional limitations of the disability or condition, the claimant meets or equals a functional listing.

A functional listing can be defined as a “marked” impairment in at least two of the functional domains, or a “severe, or extreme” impairment in at least one of the functional domains as defined by DDS.

The six functional domains are:

1. *Acquiring and Using Information*, i.e., reviewing the ability to think, acquire, use information, levels of visual and verbal reasoning, problem solving, idea development, perceptual, sensor, motor, language and memory processes necessary to learn,
2. *Attending and Completing Tasks*, i.e., level of alertness, ability to work at an appropriate pace, allay impulses, initiate, sustain and change focus, as well as the capacity to focus on certain stimuli and ignore others,
3. *Interacting and Relating with Others*, i.e., all aspects of social interaction and relationships with groups and individuals, incorporates speech and language skills necessary to communicate effectively and ability to respond to emotional and behavioral cues, as well as form intimate relationships,
4. *Moving About and Manipulating Objects*, i.e., physicality, coordination and dexterity.
5. *Caring for Yourself*, i.e. ability to care for physical needs and maintain a healthy emotional state, caring for own health and safety, as well as the development of an increasing sense of independence and confidence,
6. *Health and Physical Well-Being*, i.e., not only the physical, but the total cumulative effects of mental impairments.

“Marked” – While there is no formal definition some criteria have been formulated by the SSA based on past standards. Certain factors include:

- Up to age three, functioning at a level that is one half, but no more than two-thirds of the child’s chronological age,
- Scoring on a comprehensive test that is at least two, but not less than three, standard deviations below a marked limitation,
- Physical impairments that require hospitalization at least three times in a calendar year.

“Extreme” criteria can often be categorized as children functioning at half of their chronological age and three deviations below their attained age on standardized testing.

Referrals to Kansas Legal Services

- Referral Form: Draft PPS form “Disability Determination Referral to Kansas Legal Services”
- Consider a child’s needs when they initially enter custody
- Permanency Plan for Child in Custody

Factors to consider:

Infant

- Is the child low birth weight, or is there low growth?
- Has the child been diagnosed with “Failure to Thrive”?
- Has the child been referred to early intervention or child development services (i.e. Tiny K, TARC)?
- Is the child meeting his or her developmental milestones (i.e. crawling, walking, talking within the appropriate time frame)?

Note: Exposure to drug-usage in utero, or simply being removed from the home due to abuse or neglect, in itself, is not extenuating factors to generally qualify the claimant for SSI. If the exposure or neglect was such that it is believed to have caused extensive long-term side-effects or impairments, then it is worth considering an application for SSI.

Toddler/Pre-School Age

- Has the child qualified, or receiving pre-educational services through a Head Start program?
- Has the child been evaluated and is receiving services from an Individualized Education Plan (IEP) before even commencing elementary school?

- Does the child suffer from significant speech or language retention impairments, making difficult with others difficult?
- Does the child receive regular, ongoing mental health services?
- Does the child have difficulties with enuresis or encopresis, past the age of potty-training?

School-Age to Adult

- Does the child have an IEP?
Note: An IEP alone is not an extenuating factor, but often indicates at least one impairment, leading to a combination of impairments that may meet the SSI criteria.
- Does the child receive regular, ongoing mental health services and require medication to assist in daily living activities?
- Does the child receive attendant care or require the use of assistive devices on a weekly basis to complete daily living activities?
- Has the child disrupted placement in multiple foster homes, due to a mental or physical impairment?
- Has the child been placed in a Psychological Residential Treatment Facility (PRTF)?

Note: ADHD is a common diagnosis for children in this age-range. If the child is diagnosed with ADHD, yet does not receive IEP services, require mental health treatment, take medication for the diagnosis and reports no other problems or concerns in the completion of daily tasks, it is often not going to be a successful claim for SSI.

A common misconception and trend is that all children in foster care, specifically those that are eligible for adoption, need to be referred to KLS for SSI representation. Only children that the caseworker believes may meet the criteria for SSI should be referred. An SSI determination is not necessary for all children being adopted and all cases should not be referred. If the caseworker is undecided on whether or not the child may qualify, KLS staff are available to discuss potential referrals and questions regarding the contract.

