

## SOCIAL SECURITY BENEFITS AND CHILD SUPPORT POLICY AND PROCEDURE

<p><b>General Overview of Social Security Benefits</b></p>	<p>➤ <b>What benefits programs are offered by the Social Security Administration?</b>          The Social Security Administration (SSA) has two main benefit programs: retirement and disability benefits that are based on a person’s contribution to the social security system, and needs-based supplemental security income (SSI) benefits that do not require any contribution into the social security system.</p>
<p><b>Types of Benefits</b></p>	<p>➤ <b>What are contribution-based benefits?</b>          Retirement (SSR), Survivors and Spousal (SSS), and Disability Insurance (SSDI) benefits are benefits based on contributions a person made to the social security system while working. These benefits are meant to provide for a person and his or her family because the person is no longer working due to retirement, death, or disability. The monthly benefit amount depends on the person’s past earnings and contributions to social security. Contribution-based benefits are called Title II benefits because they are found in Title II of the Social Security Act. These benefits are also referred to as RSDI benefits (R = Retirement, S = Survivors’ and Spousal, DI = Disability). The most common Title II benefits that DOR customers receive are SSDI and the rest of this guide will refer to Title II benefits as SSDI unless there is a difference between how SSDI and SSR benefits are treated.</p> <p>➤ <b>What are SSI benefits?</b>          SSI benefits are needs-based. They provide basic support to very low-income individuals. To qualify for SSI, a person must be disabled or elderly and have very limited income and assets. SSI is a federal program that is administered by states. Some states, including Massachusetts, provide an additional amount of aid to supplement the federal base amount. SSI benefits also are called Title XVI benefits because they are found in Title XVI of the Social Security Act.</p> <p>➤ <b>What are dependent benefits?</b>          Dependent benefits are benefits available to the minor children of a parent entitled to SSDI. Dependent benefits are not available through the SSI program. When a child receives SSI, the benefits are based on the child’s own disability.</p> <p>➤ <b>What is the difference between SSDI and SSI?</b>          SSDI is based on contributions a person made to social security while working. SSI benefits are needs-based benefits that do not require a past work history. SSDI is meant to support a person and his or her family; SSI is meant to support the individual only.</p> <p>➤ <b>Can a person receive both SSI and SSDI?</b>          Yes. This happens when the SSDI amount is lower than the SSI allowable income limit. If a person is eligible for SSI but receives any other type of income, such as SSDI, the SSI benefit is offset by that income. When combined, the total amount the person receives equals the base SSI benefit amount.</p> <p style="margin-left: 40px;"><i><b>Example:</b></i> Assume the monthly SSI benefit amount is \$780 for people who meet the income and asset eligibility requirements. Jane Doe became disabled, but had been working and contributing to social security and is entitled to \$500 per month in SSDI. Ms. Doe would receive \$500 per month from SSDI and \$280 from SSI so her total monthly income is \$780, which is the SSI threshold amount. Since the amount is equal to the SSI threshold, DOR treats this as it would an SSI-only case and would not issue an IWO. See <a href="#">Child Support and Combination SSI and SSDI benefits</a> below.</p>

	<ul style="list-style-type: none"> <li>➤ <b>How does a person start receiving SSA benefits?</b> There is a single application process for SSI and SSDI. If a person meets the income eligibility requirements for SSI at the time of the application, SSA will allow the person to receive SSI while the SSDI review is being done. The approval process typically takes 3 to 5 months. It can take 9 months or more if the person is denied initially and appeals the decision. If a person has no other income, Emergency Assistance to Elderly, Disabled, and Children (EAEDC) benefits, a state-run cash benefit program, is often used as a “bridge” benefit program while an SSA claim is pending.</li> </ul>
<p><b>Child Support and SSDI</b></p>	<ul style="list-style-type: none"> <li>➤ <b>Does SSDI count as income for the Child Support Guidelines calculation?</b> Yes. The Guidelines include SSDI benefits in the definition of income. This includes dependents’ benefits the children receive based on that parent’s benefits. As discussed below, a judge can give a credit in the amount of the dependent benefit against the final Guidelines calculation.</li> <li>➤ <b>Is SSDI subject to income withholding?</b> Yes. SSDI benefits are subject to income withholding because they are based on the person’s past employment.  <i>Note:</i> Spousal, survivors’, and dependents’ benefits are not subject to withholding because they are not based on the recipient’s past employment.</li> <li>➤ <b>How does DOR implement withholding?</b> DOR sends IWOs to the parent’s local SSA office to initiate withholding. When DOR receives information from SVES or from another source that the parent is receiving or has applied for SSDI, it triggers the system to issue an agency income withholding order (IWO). Staff may also generate the IWO manually.  The IWO will remain on SSA’s system until SSA makes a decision on the parent’s application for benefits. If the IWO has been on SSA’s system for more than one year, SSA will check with DOR to see if DOR still wants withholding and if the order has changed.</li> <li>➤ <b>What if the SSA withholding is less than the person’s required monthly child support payment?</b> If DOR receives less than the required monthly child support payment for a particular case, the person may be eligible for exemption of the assessment of interest and penalty. See, <u><a href="#">Interest and Penalty Policy &amp; Procedure</a></u>.</li> <li>➤ <b>Are SSDI funds subject to levy once deposited in a financial institution?</b> Federal law prohibits DOR from levying financial accounts if a parent receives a combination of SSDI and SSI benefits. Where DOR is aware a parent receives SSDI benefits, the parent will not be subject to the financial institution levy program. See, <u><a href="#">Financial Institution Levy Policy and Procedure</a></u>.  <i>Note:</i> If a Notice of Levy is issued to a financial institution and the parent informs DOR that the funds in the account are SSI or a combination of SSI and SSDI, the levy must be released immediately. If DOR has already received the funds, a refund must be done within five (5) days of learning the funds were SSI or a combination of SSI/SSDI.</li> <li>➤ <b>What are retroactive SSDI benefits?</b></li> </ul>

	<p>When there is a delay between the time a person becomes eligible and when SSDI benefits start, the benefits can be made retroactive to the date of eligibility and are paid as a lump sum. If the application includes a request for dependent benefits, these will be paid retroactively as well (discussed later in this guide).</p> <ul style="list-style-type: none"> <li>➤ <b>Can DOR intercept retroactive SSDI benefits?</b> Yes. If DOR has issued an IWO, the SSA will contact DOR and, if arrears are owed, DOR will issue a lump sum IWO for the total amount owed in all the parent’s cases. The SSA applies the Consumer Credit Protection Act (CCPA) limits to any lump sum intercept.</li> <li>➤ <b>Is a modification appropriate when a parent begins to receive SSDI?</b> Since SSA Title II benefits require disability or retirement, this generally means the person’s income has changed and a modification may be appropriate if the benefits are the parent’s only source of income. However, there are people who receive additional income from other sources. For instance, a person can receive both SSDI and VA benefits or SSR and income from a job. Staff should review the case to see if a modification might be appropriate.</li> </ul> <p>In cases with Massachusetts orders, when a child receives dependent benefits, a modification is required before a parent can receive any credit for the dependent benefits against the parent’s child support obligation.</p>
<p><b>Dependent Benefits and Child Support Credit</b></p>	<ul style="list-style-type: none"> <li>➤ <b>What are dependent benefits?</b> Dependent children of a person receiving SSDI may be entitled to dependent benefits if they are living apart from the parent. These benefits are paid in addition to the parent’s SSDI benefit and do not reduce the amount the parent receives. The benefits are paid to the child’s primary caretaker (e.g., the custodial parent or guardian). The person who receives the benefits on behalf of the child is called the “representative payee.”</li> </ul> <p>Under the Child Support Guidelines, dependent benefits are counted as the income of the parent who receives SSDI. For example, if a parent’s SSDI benefit is \$1,000 and the child’s dependent benefit is \$500, the parent’s income is \$1,500 per month (\$346 per week) for Guidelines purposes.</p> <p><b>Note:</b> The child of a SSDI recipient who dies can receive survivors’ benefits. These benefits would count in determining a claim for future support filed against the estate of a deceased parent.</p> <ul style="list-style-type: none"> <li>➤ <b>How does a parent apply for dependent benefits?</b> The custodial parent must contact SSA to apply. If the custodial parent doesn’t apply, the noncustodial parent can file a complaint for modification and request that the court order the custodial parent to apply for dependent benefits.</li> <li>➤ <b>What is a dependent benefit credit?</b> If a dependent benefit is derived from the SSDI benefits of the parent who pays child support, then that parent can receive a “credit” against his or her child support obligation for the amount of the dependent benefits. This credit is sometimes called a “<i>Rosenberg</i> credit,” after the Massachusetts Supreme Judicial Court case that established the rule. Unlike most other states, in Massachusetts, a court order is required for the parent to get the credit.</li> </ul> <p><b>Example 1: Guidelines amount is less than dependent benefit:</b> If the dependent benefit is \$500 and the Guidelines worksheet indicates a child support obligation of \$300 per month, the parent would get “credit” for the \$500 and would not have to pay additional child</p>

	<p>support. The \$200 per month difference between the Guidelines amount and the dependent benefit amount is considered a gift to the child.</p> <p><b>Example 2: Guidelines amount is more than dependent benefit:</b> If the dependent benefit is \$500 per month and the Guidelines worksheet indicates a child support obligation of \$600 per month, the parent would get “credit” for the \$500, but would have to pay \$100 per month in support (\$600-\$500) and DOR would issue an IWO for \$100 per month.</p> <p>➤ <b>What if the child is receiving dependent benefits based on the custodial parent’s SSDI or SSR benefits?</b>          Dependent benefits based on the custodial parent’s SSDI or SSR benefits <i>are not</i> counted towards the noncustodial parent’s child support obligation. However, the dependent benefits would be included as part of the custodial parent’s income when doing the Guidelines calculation.</p> <p>➤ <b>What if the child receives survivors’ benefits for a deceased parent?</b>          A child support order can be modified to give credit for survivors’ benefits. The benefits would be credited against the deceased parent’s estate’s child support obligation.</p>
<p><b>Child Support and SSI Benefits</b></p>	<p>➤ <b>Are SSI benefits subject to income withholding?</b>          SSI benefits are <b>not</b> subject to income withholding because SSI is a needs-based program.</p> <p>➤ <b>Are SSI funds subject to levy once deposited in a financial institution?</b>          Federal law prohibits DOR from levying financial accounts where SSI funds are deposited. Where DOR is aware a parent receives SSI benefits, the parent is exempt from financial institution levy. See, <a href="#">Financial Institution Levy Policy and Procedure</a>.</p> <p><b>Note:</b> If a Notice of Levy is issued to a financial institution and DOR learns that the funds in the account are SSI or a combination of SSI and SSDI, the levy must be released immediately. If DOR already received the funds, a refund must be done within five (5) days of learning the funds were SSI or a combination of SSI/SSDI.</p> <p>➤ <b>How does a parent’s receipt of SSI affect other types of enforcement DOR can use?</b>          Parents who receive SSI are exempt from some administrative enforcement actions, including:</p> <ul style="list-style-type: none"> <li>• Income withholding</li> <li>• License suspension</li> <li>• Assessment of interest and penalties</li> </ul> <p><b>Note:</b> These exemptions do <b>not</b> apply to parents who receive SSDI only. They <b>do</b> apply when a parent receives a combination of SSI and SSDI benefits.</p> <p>➤ <b>Do SSI benefits count as income for calculating the Guidelines amount?</b>          No. The Guidelines exclude needs-based benefits, including SSI, from the calculation of a parent’s income. If a parent is receiving SSI benefits, his or her income should be calculated as \$0.</p> <p>➤ <b>What amount of child support should DOR seek when establishing or modifying a child support order when the noncustodial parent receives SSI benefits?</b>          If a parent receives SSI benefits or a combination of SSI and SSDI, DOR will request a child support order for the presumptive minimum weekly amount specified in the Child Support Guidelines.</p>

	<ul style="list-style-type: none"> <li>➤ <b>Will DOR establish a child support order when the noncustodial parent is receiving SSI benefits and has been on SSI for more than 3 years?</b> Yes. DOR will seek a child support order for the presumptive minimum child support order under the Child Support Guidelines and then close the case based on the obligor's receipt of SSI.</li>   <li>➤ <b>What if the custodial parent alleges that a noncustodial parent receiving SSI benefits is working?</b> There are programs through SSI that allow individuals to work on a very limited basis (the earned income will not be counted). If the custodial parent alleges that the noncustodial parent is working a significant amount, more investigation may be required.</li>   <li>➤ <b>When is a case eligible for closing when a parent receives SSI?</b> It is DOR policy that a case is eligible for closing if the noncustodial parent has been receiving SSI or a combination of SSI and SSDI for 3 years or longer and has no other income or assets to pay support. The case may be closed regardless of whether arrears are owed to the custodial parent or to the Commonwealth.  If a parent has a pending SSDI claim, the case may not be closed until that claim is resolved, as the claim may result in income that would be subject to attachment.</li>   <li>➤ <b>Is a parent on SSI eligible for exemption from interest and penalty?</b> Yes, a parent who provides documentation to DOR of receipt of SSI qualifies for an exemption from assessment of interest and penalty. See, Interest and Penalty Policy and Procedure.</li> </ul>
<b>Child Support and Combination SSI and SSDI Benefits</b>	<ul style="list-style-type: none"> <li>➤ <b>What if the parent receives a combination of SSI and contribution-based Social Security benefits?</b> In this situation, DOR treats the case as if the noncustodial parent receives SSI only. This is because the parent receives the same amount of income he or she would if receiving only SSI benefits, which means the parent has very low assets and income. DOR does not treat the SSDI portion of the parent's income as subject to income withholding.</li> </ul>