

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

EXECUTIVE SUMMARY

ALL COUNTY LETTER NO. 20-17

The purpose of this All County Letter is to transmit best practice guidelines for foster children who may be eligible for Social Security-Retirement, Survivor, or Disability Insurance (RSDI) benefits.



KIM JOHNSON
DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES
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GAVIN NEWSOM
GOVERNOR

February 26, 2020

ALL COUNTY LETTER NO. 20-17

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY PROBATION OFFICERS
ALL TITLE IV-E AGREEMENT TRIBES
ALL FOSTER CARE MANAGERS
ALL INDEPENDENT LIVING PROGRAM COORDINATORS
ALL CHILD WELFARE SERVICES PROGRAM MANAGERS
ALL ADMINISTRATIVE LAW JUDGES
ALL COUNTY CONSORTIUM PROJECT MANAGERS

SUBJECT: **BEST PRACTICE GUIDELINES FOR FOSTER CHILDREN ELIGIBLE
FOR SOCIAL SECURITY RETIREMENT, SURVIVOR, OR
DISABILITY INSURANCE (RSDI)**

REFERENCE: [ASSEMBLY BILL \(AB\) 1633 \(Chapter 641, Statutes of 2006\)](#), [All County Letter \(ACL\) No. 07-10](#)

Assembly Bill (AB) 1633, Chapter 641, Statutes of 2006, required the California Department of Social Services (CDSS) to develop best practice guidelines with a workgroup regarding foster children eligible for social security benefits. That workgroup developed All County Letter [ACL 07-10](#) which developed guidelines for screening children for disabilities and potential eligibility for federal Supplemental Security Income (SSI).

While [ACL 07-10](#) briefly discussed benefits RSDI benefits through Social Security Administration (SSA), the CDSS has received feedback that foster children are still not being properly screened for this program. Accordingly, these guidelines are being released to supplement the previous guidance on this program.

When a minor or non-minor dependent (NMD) is in foster care placement and is the recipient of income from the Social Security Administration, the law allows the payment of benefits for youth to be received by a representative payee. For dependent youth, a State or County welfare agency may be appointed as the representative payee and this income must be applied towards the placement costs.

While RSDI benefits must be counted as income for foster care cases, being in receipt of RSDI is a benefit to the child and should be pursued where practicable. Application for RSDI benefits is important, particularly in cases where the child is later adopted or where the child is disabled. Because adoptive children can receive **BOTH** Adoptions Assistance Program (AAP) and RSDI benefits even after the adoption is finalized, it is critical that all foster children are screened for RSDI prior to the finalization of any adoption.

In addition, once disabled children reach 18 years of age, they can more easily move to the Disabled Adult Child (DAC) program if they are already receiving RSDI benefits as they do not have to prove their relationship to the parent. The DAC benefits may provide the disabled child with stable income throughout their lifetime, in addition to providing for the youth's linkage to Medicare.

Please note that the termination of parental rights (TPR) or an adoption finalization do not necessarily eliminate a child's claim for RSDI benefits. SSA will look at whether there was a parent-child relationship and whether the child was still dependent on the parent at the time of the qualifying event, i.e., the parent's disability, retirement, or death. Under federal Social Security law, these qualifying events can occur after TPR depending on in which state this occurred. Additionally, the child can still apply for Survivors' benefits under a deceased parent's record with SSA, even after TPR occurs or after an adoption finalizes, so long as the parent's death occurred before the adoption finalizes.

In the interest of helping those children who might still have a claim for RSDI benefits after TPR occurs, it is important that the county agencies continue to track the child's potential eligibility for RSDI benefits.

Once an adoption is finalized, the child may lose access to valuable information that could help with their RSDI claim. It is often very difficult for a child to apply for RSDI benefits because they do not have the necessary documentation to complete the application. However, county files often contain this information, which can be furnished to assist with the RSDI application.

Screening

At a minimum, every child should be screened for RSDI benefits at intake and at adoption placement. Nothing in these guidelines should discourage a county from screening for RSDI eligibility more often, including but not limited to when the county discovers that a parent has died, turned 62 years of age, or become disabled. These are the screening questions the county should consider:

1. Is the child currently receiving RSDI benefits? This information can be found in the Income Eligibility and Verification System (IEVS) and/or Medi-Cal Eligibility Data System (MEDS).
 - a. If yes, complete a SSA 11 BK change in payee, if appropriate.
 - b. If no, continue to number 2.
2. Does the child have a deceased parent? A parent over 62 years of age? A disabled parent (on IEVS/MEDS)?
 - a. If yes to any of the questions, an application (SSA 4BK) should be sent with a certified copy of the court order giving the county care, custody, and control of the child, a certified copy of the birth certificate, and a certified copy of the death certificate, if appropriate.
 - b. If the county learns that RSDI benefits may be available due to one of the circumstances of the biological parent described above, the county should notify the caregiver.
 - c. Written documentation that the screening has occurred should be included in the child's case file.

Counties are encouraged to check on the status of biological parents of a child at annual redetermination.

Assistance

If the county decides not to apply for RSDI on the child's behalf, the county still should provide any necessary assistance to the potential adoptive parent or relative should they choose to complete the application themselves. There are documents that are required by the Social Security Administration (SSA) that only the county has, for example, county reports identifying any biological, presumed, or alleged parents, birth certificates, death certificates, etc. Accordingly, the county should provide these documents where needed.

This can be accomplished by sending copies of the necessary documentation directly to SSA thereby avoiding violating confidentiality requirements. Copies should be sent to the SSA office because there is a high risk that those documents will be misplaced; originals should be kept in county files

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A common challenge with RSDI claims involving foster children in the dependency system relates to proving paternity for the child. In cases where the parent associated with the RSDI benefit does not appear on the child's birth certificate, counties may use the attached sample letter in support of the child's RSDI claim. The letter is merely a sample and may be modified by the county to best suit its needs/the needs of the child.

If you have any questions about this ACL or the audit in general, please contact your county Foster Care Funding and Eligibility Consultant at (916) 651-2752.

Sincerely,

Original signed by

GREGORY E. ROSE
Deputy Director
Children and Family Services Division

DATE

Social Security Administration
ADDRESS
ADDRESS

RE: Request to Reopen Survivor's Benefit's claim

Number Holder NAME OF PARENT, SSN: PARENT'S SSN

Child: NAME; DOB: DATE, SSN: NUMBER

To Whom It May Concern:

I am (name of county employee), (job title) for the (name of county) County's child protection agency. I have worked with the county since (date). I am trained in the processes of recording information for a child in the foster care system and gathering records and information for that child from medical providers and the court. This agency began providing child welfare services for (child's name) on (date). I have worked on the child's case, and I am familiar with the contents of the child's services, eligibility and court case files.

It is my understanding that the child named above may have a claim for Survivors Benefits and that the child needs proof of the deceased biological parent's parentage.

This agency and the court had an obligation to actively investigate for any and all alleged or presumed fathers for this child. Per Welfare and Institutions Code Section 316.2(a)(5), the court must inquire as to the identity of all presumed or alleged fathers, even those who have informally acknowledged paternity.

I declare that the following documents are part of the above named child's services and/or court files. The following records are duplicates of original records kept by this agency in its regular course of business. These records were made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge in those matters. These records are kept in the course of the regularly conducted activity within this agency; and they were made by the regularly conducted activity as a regular practice.

1. *Status Review Report*, dated (date), prepared by this agency, for the matter of the above named child;
2. A dependency case minute order dated (date), finding that the father, (name of father), is deceased, and listing him as the only alleged father for the above named child;
3. *Information About the Father* (DSS form AD67A), prepared by this agency for the above named child prepared on (date);
4. DNA laboratory results between RELATIVE, paternal grandfather, and CHILD, dated
a. (date).

The files prepared by this agency staff were prepared to meet our legal obligations to the Court.

If you have any questions about these above documents, please feel free to contact me at (contact information).

To the best of my ability and under penalty of perjury, I confirm that the forgoing is true and correct. Executed on (date), 2018, at (city), California.

NAME OF CSW _____