



Children's Advocacy Institute

Proposed Administrative Action by ACF to Support Proper Use of Foster Youth Benefits

Submitted May 14, 2021

1. Information Memoranda to Regional Offices

- a. Notice requirements established for immediate implementation (to beneficiary, legal guardian, attorney/GAL) upon application and receipt/designation of beneficiary.
- b. Notification to all current beneficiaries (beneficiary, legal guardian, attorney/GAL).
- c. Instruction regarding compliance with representative payee preference list, accounting/reporting requirements of rep payees.

2. Guidance and Technical Assistance to Regional Offices, CIPs, Legal and & Judicial Stakeholders

- a. Rules and restrictions on supplementing/supplanting IV-E match with SSI, OASDI, VA.
- b. Guidance on ramifications of asset cap limits for eligible youth (impacting eligibility, and putting at risk the earnings or other assets) and technical assistance on establishing ABLE or other special accounts exempt from the asset caps.
- c. Tools for accounting, tracking and reporting on use of funds as required by SSA (see Child Trends survey)
- d. Policy allowing for use of IV-E funds for legal representation of youth to include advocacy/administrative costs on use of public benefits.
- e. Technical assistance clarifying liability of fiduciaries for misappropriation or use of foster youth benefits contrary to CFR. States must be clear that it is a legal violation if they are reimbursing themselves for cost of care more than once through some combination of IV-E, SSI, OASDI, VA, or child support assigned to the state.

3. Publish State Data Reports within 90 Days

- a. How many children in care in each state are receiving these benefits? (SSI, disability, OASDI survivor, Veteran's survivor?)
- b. How many of children entered care already receiving these benefits?
- c. How is the agency identifying children entering care who are receiving benefits or may be eligible for benefits?

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- d. Does the state employ a third party to mine for eligibility, apply for/ administer Social Security and VA benefits? If so, which company and what are the terms? Is data made available to public?
 - e. What efforts are being made by the state to identify appropriate representative payees for foster children according to the SSA preference list?
 - f. Is there an established liason/communication line between regional ACF and SSA? How are the required annual reports submitted and tracked?
 - g. For how many foster youth is the state serving as representative payee?
 - h. How and at what points are agencies providing notice and due process to children/guardians/lawyers and opportunities to engage?
 - i. Is the state handling SSI/OASDI/VA benefits in the same manner or differently according to category of benefits?
 - j. For the youth that the state reimburses itself using the SS/SSI benefits, does the state also claim IV-E benefits for eligible youth or does the state not seek IV-E funds for the youth for whom they claim SS/SSI benefits?
 - k. Are benefits handled the same way when children are in foster care with kin/relative caregivers?
 - l. How is the agency reporting/tracking use of the funds? Are the annual required reports to SSI and VA being filed? Shared w/child/atty? Conserved in dedicated or ABLE accounts? Deposited in other accounts?
 - m. What is the extent of assets of foster children seized/frozen because of asset caps on recipients of SSI or OASDI. Where is that money going?
4. **ACF-SSA-DOD Policy and Strategy Roundtable** producing collaborative strategies to share information, comply with existing SSA regulations and federal law, and ensure fiduciary obligations and best interests are served in managing assets of disabled, survivor, and surviving veteran youth.
5. **CIP project or for training grant/ACF Discretionary Grant** of attorneys, agencies, judges, and CASAs on engagement to ensure proper use of benefits.