

Childhood Disability Benefit Fairness Act

What's the Problem?

- Currently, under Section 1634 of the Social Security Act (42 USC 1383c(c)) an individual must receive Supplemental Security Income (SSI) before receiving Social Security's Childhood Disability Benefits (CDB, formerly known as "DAC" benefits) before the CDB income is disregarded for Medicaid qualification.
- This creates an unintended trap of making individuals with disabilities whose parents die young, are older and retire, or who fail to apply to SSI in time potentially subject to a Medicaid deductible. Depending on the state, these faultless individuals with disabilities may not be able to afford or receive Medicaid benefits simply by being unlucky in their uncontrollable personal life circumstances.

What Does the Law Say?

- The noble intent of 42 USC §1383c(c) is to ensure that individuals with disabilities who subsequently lost Supplemental Security Income (SSI) and Medicaid solely because the individual began receiving SSDI payments, continue to maintain their eligibility for Medicaid benefits. But the law as written has the unintended consequence of excluding children whose parents die, retire, or become disabled themselves before the child with disabilities can qualify for SSI. There appears to be no intended justification why there are more hurdles to access Medicaid benefits for these individuals.

An Example:

- Jessica resides in Michigan and has a severe genetic disorder that causes severe physical and intellectual disabilities from birth. She is entitled to \$1,380/month in CDB benefits. If Jessica was able to receive SSI before CDB benefits, she keeps the \$1,380/month for living expenses and receives vital Medicaid benefits that she could not afford on her own.
- But Jessica's father was older and retired before she turned 18. That uncontrollable fact means Jessica must elect the higher CDB benefit, does not qualify for SSI, and therefore does not meet the income disregard under 42 USC §1383c(c). Each month Jessica has \$597 less to pay for monthly needs because that amount must be used for her Medicaid "spenddown" simply because she had an older father. Jessica should not be penalized because she was young when her dad retired.

Requested Correction

Amend current law (42 USC 1383c) to read:

(c) Entitlement to Medicaid Upon Receiving Child's Insurance Benefits Based on Disability

Any individual entitled to child's insurance benefits under section 402(d) of this shall be treated for purposes of subchapter XIX as receiving benefits under this subchapter so long as he or she would be eligible for benefits under this subchapter in the absence of such child's insurance benefits.

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