

Social Security Advisory Board

# Supplemental Security Income and Incarceration

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## Acronyms

Acronym	Term
BJS	US Department of Justice Bureau of Justice Statistics
BOP	Bureau of Prisons
CE	Consultative Examination
CMS	Center for Medicare & Medicaid Services
DDS	Disability Determination Services
DI	Disability Insurance
HHS	US Department of Health and Human Services
HRSA	Health Resources & Services Administration
MOU	Memorandum of Understanding
OASDI	Old Age, Survivors, and Disability Insurance
POMS	Program Operations Manual System
PRA	Prerelease Agreement
SAMHSA	Substance Abuse and Mental Health Services Administration
SOAR	SSI/SSDI Outreach, Access, and Recovery
SSA	Social Security Administration
SSI	Supplemental Security Income

## Table of Contents

Introduction.....	4
Policies on SSI and Incarceration.....	7
Table 1. When SSA Will Process Prerelease SSI Claims .....	8
SSI Recipients Who Become Incarcerated.....	9
Suspension of Benefits.....	9
Recommendation 1: Congress should authorize incentive payments to correctional facilities reporting the release of people whose SSI benefits were suspended. ....	10
Recommendation 2: SSA should study underpayments related to premature suspension for incarceration.....	11
Recommendation 3: SSA should adjust its regulations so people residing in halfway houses and similar facilities that charge rent are eligible for SSI.....	12
Recommendation 4: SSA should enforce existing rules for people on electronic home monitoring.....	12
Restarting Suspended Benefits.....	12
Termination and New Applications .....	13
Recommendation 5: Congress should allow SSI to remain suspended rather than terminating benefits after 12 months of suspension. ....	13
Currently and Recently Incarcerated People Applying for SSI .....	14
Prerelease Agreements .....	14
Recommendation 6: SSA should publish current PRAs.....	15
Recommendation 7: SSA should identify and train staff to negotiate, amend, and enforce PRAs.....	15
Prerelease Claims.....	15
Recommendation 8: SSA should allow prerelease applications to be submitted further in advance of release and stop denying them for being awarded too early. ....	17
Recommendation 9: SSA should end its ban on presumptive disability and blindness payments for people leaving incarceration.....	18
Documenting Impairments.....	18
Recommendation 10: SSA should encourage research on how mental health conditions are evaluated for people who have been incarcerated. ....	20

Recommendation 11: SSA should do proactive outreach on Health IT partnerships to correctional facilities and other entities that serve people leaving incarceration.....	20
Assistance Filing Claims .....	21
Recommendation 12: SSA should engage with agencies that assist incarcerated and recently released SSI claimants. ....	23
Communication.....	23
Recommendation 13: SSA should work with BOP and other correctional agencies to improve mail procedures. ....	25
Obtaining Replacement Social Security Cards.....	25
Replacement Card PRAs .....	25
Recommendation 14: SSA should include replacement cards in all PRAs.....	26
Requesting Replacement Cards .....	27
Recommendation 15: SSA should improve its communications with correctional facilities and the public about the documentation needed to obtain replacement Social Security cards. ....	28
Receiving Replacement Cards .....	28
Recommendation 16: SSA should allow correctional facilities to transmit replacement cards to people who have been transferred or released. ....	28
Conclusion .....	29
Acknowledgments .....	30
Appendix 1: Recommendations .....	31
Appendix 2: Sample Release Document .....	32

## Introduction

Supplemental Security Income (SSI) is a program administered by the Social Security Administration (SSA) for people with low income and resources. SSI recipients must either have a qualifying disability or be age 65 or older.<sup>1</sup> There are more than 7.4 million SSI recipients.<sup>2</sup>

People who are older<sup>3</sup> or have disabilities<sup>4</sup> may qualify for SSI when they are released from jail or prison.<sup>5</sup> Programs that provide early release from incarceration for elderly or seriously ill people have expanded,<sup>6</sup> and some of those who leave incarceration under these compassionate release programs meet the SSI program's age or disability standards. Making SSI policies that work for claimants and recipients who experience incarceration<sup>7</sup> can be difficult, because their experiences are so varied. Some people received SSI for years before incarceration, while others apply for the first time as part of their reentry process. They range in age from juvenile to elderly; their physical and mental impairments differ. Many have low literacy.<sup>8</sup> Their experience of incarceration could

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<sup>1</sup> ["Who can get SSI,"](#) last accessed December 9, 2024.

<sup>2</sup> SSA, ["Monthly Statistical Snapshot, November 2024,"](#) last accessed December 9, 2024.

<sup>3</sup> James Austin and Patricia Hardyman, ["Exploring the Needs and Risks of the Returning Prisoner Population,"](#) January 2002 (citing Census data forecasting that by 2030, one third of the prison population will be age 55 or older); Emily Widra, ["The Aging Prison Population: Costs, Concerns, and Consequences,"](#) Prison Policy Institute, August 2, 2023. Data on the age of those incarcerated in federal prisons is available at Federal Bureau of Prisons, ["Inmate Age,"](#) last accessed December 12, 2024. A description of older adults and the criminal justice system can be found in Rachel Bedard, Joshua Vaughn, and Angela Siletti Murolo, ["Elderly, Detained, and Justice-Involved: The Most Incarcerated Generation,"](#) *CUNY Law Review* 25, Issue 1 (Winter 2022).

<sup>4</sup> Jennifer Bronson, Laura M. Maruschak, and Marcus Berzofsky, ["Disabilities Among Prison and Jail Inmates, 2011–12,"](#) US Department of Justice Bureau of Justice Statistics (BJS), December 2015; Laura M. Maruschak, Jennifer Bronson, and Mariel Alper, ["Disabilities Reported by Prisoners: Survey of Prison Inmates, 2016,"](#) BJS, NCJ Number 252642, November 2021.

<sup>5</sup> Over 600,000 people are released from prisons and more than nine million are released from jails each year. US Department of Health and Human Services (HHS), ["Incarceration and Reentry,"](#) last accessed May 20, 2024.

<sup>6</sup> Criteria for compassionate release from state facilities is available at FMM, ["Clemency and Compassionate Release: Resources by State,"](#) last accessed May 20, 2024. A discussion of recent changes for federal prisoners is at American Bar Association, ["Compassionate Release Changes Finally Approved,"](#) April 27, 2023. An essay in support of expanding compassionate release programs is Hugh Hurwitz, ["Moving elderly prisoners home saves taxpayer dollars without sacrificing safety,"](#) *The Hill*, September 27, 2023.

<sup>7</sup> This paper uses terminology recommended by Akiba Solomon, ["What Words We Use—and Avoid—When Covering People and Incarceration,"](#) *The Marshall Project*, April 12, 2021.

<sup>8</sup> Elizabeth Greenberg, Eric Dunleavy, and Mark Kutner, ["Literacy Behind Bars,"](#) National Center for Education Statistics, May 2007.

involve jails or prisons administered by federal, state, or local authorities. Some are incarcerated many times and others only once; some measure their incarceration in weeks and others in decades. Designing programs and policies that work for the varied population who have experienced incarceration is, therefore, a challenge, but it is a challenge important to SSA's role as the administrator of SSI.

The Board has chosen to focus on SSI and incarceration for several reasons. Changes to how incarceration-related workloads are managed would help SSA to better meet its goal of making benefit determinations and payments in a timely manner and with greater accuracy. Improvements would also help SSI claimants and recipients exiting incarceration, who use SSI's cash benefits to meet housing and other needs and as a pathway to Medicaid.<sup>9</sup> Access to public benefits may also reduce recidivism.<sup>10</sup> Connecting people leaving incarceration with public benefits like SSI is a best practice identified by federal agencies and advocacy organizations.<sup>11</sup>

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<sup>9</sup> All states are required to provide Medicaid to SSI recipients. Some states offer additional pathways to Medicaid that could be used by people leaving incarceration. MaryBeth Musumeci et al., "[Medicaid Financial Eligibility in Pathways Based on Old Age or Disability in 2022: Findings from a 50-State Survey](#)," KFF, July 11, 2022.

<sup>10</sup> Recent research on public benefits and recidivism largely focuses on the Supplemental Nutrition Assistance Program, with indications that program participation reduces recidivism rates. Yang, Crystal S. "Does Public Assistance Reduce Recidivism?," *American Economic Review* 107 no. 5 (May 2017): 551; Tuttle, Cody. "Snapping Back: Food Stamp Bans and Criminal Recidivism," *American Economic Journal: Economic Policy* 11 no. 2 (May 2019): 301; Newark, Carol Joan, and Naomi F. Sugie, "[Repealing the Food Stamps Ban Can Reduce Recidivism](#)," *Scholars Strategy Network* (June 1, 2023). Housing assistance also appears to reduce recidivism. Kimberly Burrowes, "[Can Housing Interventions Reduce Incarceration and Recidivism?](#)" *Urban Institute: Housing Matters*, February 27, 2019. However, not all studies showed a relationship between access to benefits and reduced recidivism. Costopoulos, Julie S., et al., "[The impact of US Government assistance on recidivism](#)," *Criminal Behaviour and Mental Health* 27, no.4 (October 2017): 303; Luallen, Jeremy, Jared Edgerton, and Deirdre Rabideau, "[A Quasi-Experimental Evaluation of the Impact of Public Assistance on Prisoner Recidivism](#)," *Journal of Quantitative Criminology* 34 (2018): 741.

<sup>11</sup> Chris Koyanagi, "[A Better Life—A Safer Community](#)," Bazelon Center, January 2003; Catherine H. Conley, "[Helping Inmates Obtain Federal Disability Benefits](#)," Abt Associates, June 2005; Amy L. Solomon et al., "[Life After Lockup](#)," Urban Institute Justice Policy Center, May 2008; Rebecca Vallas, "[Disabled Behind Bars](#)," Center for American Progress, July 2016; Martha R. Plotkin and Alex Blandford, "[Critical Connections](#)," Council of State Governments Justice Resource Center, January 2017; Substance Abuse and Mental Health Services Administration (SAMHSA), "[Best Practices for Successful Reentry From Criminal Justice Settings for People Living With Mental Health Conditions and/or Substance Use Disorders](#)," SAMHSA Publication No. PEP23-06-06-001, 2023; Danny Chan et al., "[Developing Issues for Formerly Incarcerated Individuals—A Review](#)," Justice in Aging, November 28, 2023; Hanna Love and Thea Sebastian, "[Safe places and safe sleeping: Cost-effective and humane recommendations for local leaders after Grants Pass](#)," Brookings Institution, July 2024.

This paper summarizes current policies on SSI and incarceration. It then describes considerations for SSI recipients who become incarcerated and SSI claimants who have just left or are about to leave incarceration, based on information gleaned from various sources, including Board staff's conversations with stakeholders. The paper also describes issues faced by people who apply for replacement Social Security cards as part of their reentry process. Although those in need of replacement cards are not necessarily SSI claimants or recipients, the Board included this topic because of how frequently stakeholders raised it, how important Social Security cards are for people leaving incarceration, and how often it is included in prerelease agreements (PRAs) between SSA and correctional facilities.<sup>12</sup>

The paper also includes several recommendations from the Board to SSA and Congress. Board members recognize that issues related to incarceration and reentry are complex and involve numerous federal, state, and local agencies and legislatures. The recommendations in this paper align with the Board's mission as set out in its authorizing statute.<sup>13</sup> The Board makes these recommendations with the view that they will improve payment accuracy, ease people's transition from incarceration to community life, and increase overall social welfare. The Board seeks neither to grant special privileges to those who have been incarcerated, nor to add penalties beyond what the criminal justice system has imposed. The recommendations are intended to put people who were incarcerated on more equal footing with other SSI claimants and recipients.

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<sup>12</sup> There are 38 states whose PRAs include requests for replacement cards. SSA, "[Transitioning from Incarceration: Statewide Prerelease Agreements](#)," last accessed May 22, 2024.

<sup>13</sup> Social Security Act § 703 (b).

## Policies on SSI and Incarceration<sup>14</sup>

People “are not eligible for SSI benefits for any month throughout which [they] are a resident of a public institution.”<sup>15</sup> Jails and prisons<sup>16</sup> are generally considered public institutions, while home confinement generally is not.<sup>17</sup> SSA must evaluate several factors to determine whether a halfway house, juvenile treatment center, or other facility is considered a public institution.<sup>18</sup> Some housing situations where people are charged rent are classified as public institutions; people living in those facilities are not eligible for SSI.<sup>19</sup>

Thus, when SSI recipients are incarcerated for a full calendar month, their benefits are suspended, whether or not they have been charged or convicted.<sup>20</sup> In 2022, there were 44,273 people whose SSI was suspended for living in non-Medicaid public institutions, which include correctional facilities.<sup>21</sup> If a suspension lasts less than 12 consecutive

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<sup>14</sup> Old Age, Survivors, and Disability Insurance (OASDI) benefits and SSI have different rules regarding incarceration. OASDI is suspended only after an incarcerated person is convicted and sentenced to a term of 30 days or longer. OASDI benefits do not terminate after suspension. Paul S. Davies, “[Social Security: Are Benefits Paid to Incarcerated Individuals?](#)” Congressional Research Service, In Focus 12138 (June 22, 2022). The Board recognizes that SSI and OASDI are different programs with different purposes. SSA administers both programs according to their respective rules. The Board’s recommendations in later sections of this paper are designed to attain goals other than achieving parity across programs.

<sup>15</sup> 20 CFR § 416.211(a)(1). To be a resident of an institution “throughout” a month means the institutionalization must span from the first moment of the first day of the month to the last moment of the last day of the month, 20 CFR § 416.211(a)(2). The No Social Security Benefits for Prisoners Act also prohibits incarcerated people from receiving SSI underpayments, including retroactive benefits for claims filed before incarceration. Public Law 111-15 (2009); Social Security Act § 202(x); SSA, “[Payments to Prisoners and Correctional Institutions](#),” POMS GN 02607.550 (September 12, 2014); SSA, “[SSI Underpayment Due—Recipient Alive](#),” POMS SI 02101.001.A.2 (April 3, 2024).

<sup>16</sup> “Jails are locally operated short-term facilities that hold inmates awaiting trial, awaiting sentencing, or both, and those sentenced to a term of less than or equal to 1 year, typically misdemeanants. Prisons are longer-term facilities run by the state or federal government typically holding felons and persons with sentences of more than 1 year.” BJS, “[Frequently Asked Questions](#),” last accessed July 25, 2024.

<sup>17</sup> SSA, “[Special Considerations for Penal Institutions](#),” POMS SI 00520.009.B.2 (December 4, 2023).

<sup>18</sup> SSA, “[Residence in an Institution](#),” POMS SI 00520.001 (August 9, 2023); “[Special Considerations for Penal Institutions](#),” POMS SI 00520.009 (December 4, 2023).

<sup>19</sup> 20 CFR § 416.201. Subregulatory guidance on the topic can be found at SSA, “[Special Considerations for Penal Institutions](#),” POMS SI 00520.009 (December 4, 2023).

<sup>20</sup> 20 CFR § 416.1320. About 70% of people in jail have not been convicted. US Department of Justice, “[BJS Releases Preliminary Statistics on Incarcerated Populations in 2022](#),” September 20, 2023. Some people are incarcerated without conviction long enough for SSI benefits to be suspended or terminated. A 2021 study of 32 California counties identified 5,796 people incarcerated for at least a year who had not been convicted or sentenced. Robert Lewis, “[Waiting for Justice](#),” CalMatters, March 2021.

<sup>21</sup> SSA, “[SSI Annual Statistical Report, 2022](#),” Table 76, last accessed May 20, 2024. SSA has a suspension code of N22 for being an inmate of a penal institution, but it appears that other suspension



months, SSA can reinstate benefits upon request.<sup>22</sup> However, the Social Security Act terminates SSI benefits after 12 consecutive months of suspension, whether the suspension is because of incarceration or another reason.<sup>23</sup> People whose SSI benefits have been terminated must file new claims if they wish to receive SSI again.<sup>24</sup> In 2022, there were 19,793 SSI recipients whose benefits were terminated for being in a public institution.<sup>25</sup>

By law, SSA must accept SSI applications before people are released from correctional facilities or other public institutions.<sup>26</sup> SSA will only accept prerelease claims shortly before the claimant’s release date. The precise timing depends on whether the claimant is incarcerated in a federal Bureau of Prisons (BOP) facility versus a state facility and whether the claim is for SSI based on age or disability.

**Table 1. When SSA Will Process Prerelease SSI Claims<sup>27</sup>**

	<b>BOP facility</b>	<b>Non-BOP facility</b>
<b>Claim based on age</b>	30 days before release	30 days before release
<b>Claim based on disability</b>	120 days before release	“[W]hen the individual’s release date will be within 30 days of the estimated time for getting a medical decision from the Disability Determination Services (DDS).”

codes are grouped with it. SSA, [“Summary of Posteligibility \(PE\) Suspension, Stop Payment and Termination Events by Payment Status Code \(PSC\),”](#) POMS SI 02301.215.B (August 30, 2023). Of adults awarded SSI for disability in 2001, 7.6% were incarcerated for at least one month in the decade that followed (compared to 1.6% for Social Security Disability Insurance (DI) awardees and those awarded both benefits concurrently). Priyanka Anand and Yonatan Ben-Shalom, [“Paths Taken by New Awardees of Federal Disability Benefits,”](#) Disability Research Consortium Brief Number 2016-06 (May 30, 2016).<sup>22</sup> 20 CFR § 416.421; SSA, [“Suspension and Reestablishing Eligibility,”](#) POMS SI 02301.205 (August 30, 2023). Benefits are prorated based on the number of days the recipient was out of the institution in the month of release.

<sup>23</sup> Social Security Act § 1631(j)(1); 20 CFR § 416.1335.

<sup>24</sup> SSA, [“Suspension and Reestablishing Eligibility,”](#) POMS SI 02301.205.A (August 30, 2023).

<sup>25</sup> SSA, [SSI Annual Statistical Report, 2022](#), Table 77, last accessed May 20, 2024. Of adults awarded SSI for disability in 2001, 3.3% were incarcerated for at least 12 consecutive months in the decade that followed (compared to 0.7% for DI awardees and those awarded SSI and DI concurrently). Anand and Ben-Shalom, [“Paths Taken by New Awardees of Federal Disability Benefits”](#) (2016).

<sup>26</sup> Social Security Act § 1631 (m).

<sup>27</sup> Emma K. Tatem, [“SSI During and After Incarceration,”](#) Congressional Research Service, In Focus 12580 (January 31, 2024); SSA, [“Processing Prerelease Claims,”](#) POMS SI 00520.920.A.5 (August 9, 2023).

BOP and some non-BOP correctional facilities have PRAs with SSA.<sup>28</sup> PRAs describe how SSA and correctional facilities will work together on benefit applications and/or applications for Social Security cards.<sup>29</sup> They can establish different timelines for application processing than indicated in the table above. PRAs can be written or verbal. Some are negotiated between a single SSA field office and a single correctional facility, while others—like the one with BOP—apply far more broadly. They are optional and nonbinding.<sup>30</sup>

## SSI Recipients Who Become Incarcerated

Stakeholders identified three major considerations when SSI recipients become incarcerated. The first is suspension of benefits when incarceration lasts at least one calendar month. The other two occur at the end of incarceration: restarting suspended benefits and reapplying when benefits have been terminated.

### Suspension of Benefits

People who receive SSI for a month in which they were a resident of a public institution throughout the month will be considered overpaid and SSA will seek repayment.<sup>31</sup> SSA has participated in data matches with correctional facilities since 1974 to reduce this type of overpayment.<sup>32</sup> In 1996, Congress began allowing SSA to pay correctional facilities for reporting incarcerations.<sup>33</sup> From March 2014 to April 2019, SSA made 452,746 such payments for reports about SSI recipients and Old Age, Survivors, and Disability Insurance

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<sup>28</sup> SSA, "[PRAs with Institutions](#)," POMS SI 00520.910 (August 9, 2023).

<sup>29</sup> There are 12 states with PRAs only for benefit applications and 38 with PRAs covering both topics. The District of Columbia is not listed as having a PRA, but its prisoners are incarcerated in BOP facilities. SSA, "[Transitioning from Incarceration: Statewide Prerelease Agreements](#)," last accessed September 16, 2024.

<sup>30</sup> Tatem, "[SSI During and After Incarceration](#)," Congressional Research Service, IF 12580 (2024).

<sup>31</sup> General information about SSI overpayments is available at SSA, "[Understanding SSI: Overpayments](#)," last accessed May 20, 2024.

<sup>32</sup> [Social Security Program Integrity Activities](#): Hearing before the House Ways and Means Committee Subcommittee on Social Security, 106th Congress (2000). Testimony of William Halter, Deputy Commissioner of Social Security.

<sup>33</sup> Personal Responsibility and Work Opportunity Reconciliation Act of 1996, [Public Law 104-193](#), § 203, 110 Stat. 2105 (1996); SSA, "[SSA's Title II and Title XVI Incentive Payment Programs](#)," POMS GN 02607.800.A (July 27, 2023).

(OASDI) beneficiaries.<sup>34</sup> Correctional facilities receive larger payments for reporting incarceration quickly: \$400 per report received within 15 days of confinement that results in suspension of SSI, and \$200 per such report received 16-90 days after confinement.<sup>35</sup> Correctional facilities do not receive incentive payments to report when people are released, and they generally do not make such reports.<sup>36</sup>

Prompt reports of incarceration from correctional facilities reduce overpayments, but can lead to underpayments. For example, a jail could report that an SSI recipient became incarcerated five days ago. But that person might be released without spending a full calendar month in jail. If SSA promptly suspended that person's benefits and the person otherwise remained eligible for SSI, they would be underpaid until they requested reinstatement of SSI and their request was processed and granted.<sup>37</sup>

Stakeholders also noted that changing or enforcing current policies about who is considered a resident of a public institution could reduce the number of people whose SSI benefits must be suspended and, upon release, reinstated. This could lessen SSA employees' workloads and increase the benefits available to people involved in the criminal justice system. Stakeholders saw those as positive outcomes because SSI benefits could help people maintain or find new housing after release from incarceration.<sup>38</sup> They believed some elderly or disabled people could leave incarceration for halfway houses if SSI were available to pay for food and rent, and that this would be a safe and cost-effective change.

***Recommendation 1: Congress should authorize incentive payments to correctional facilities reporting the release of people whose SSI benefits were suspended.*** Incentive payments have encouraged correctional facilities to make tens of thousands of reports each year about people becoming incarcerated, avoiding millions of dollars of SSI overpayments.<sup>39</sup> But while Congress allows SSA to obtain information from

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<sup>34</sup> SSA Office of the Inspector General, "[Follow-up on Prisoner Incentive Payments](#)," A-01-19-50851 (December 2019) 2. The audit does not provide information on the number of payments for suspension of SSI versus OASDI.

<sup>35</sup> 42 USC § 1382(e)(1)(I)(i)(II).

<sup>36</sup> Solomon et al., "[Life After Lockup](#)," Urban Institute Justice Policy Center, May 2008, footnote 27.

<sup>37</sup> SSA, "[Title XVI Reinstatement Procedures for Prisoner Suspension \(N22\)](#)," POMS GN 02607.875 (August 15, 2023).

<sup>38</sup> Discussions of housing and homelessness among people released from incarceration can be found at Volunteers of America, "[Homelessness and Prisoner Reentry](#)," last accessed May 29, 2024, and Lucius Couloute, "[Nowhere to Go](#)," *Prison Policy Initiative*, August 2018.

<sup>39</sup> Barbara Bovbjerg, "[Supplemental Security Income: Incentive Payments Have Reduced Benefit Overpayments to Prisoners](#)," US General Accounting Office, GAO/HEHS-00-2 (November 22, 1999).

such facilities about release dates,<sup>40</sup> it does not allow SSA to pay for these reports. Receiving reports of release from correctional facilities could be faster than requiring SSI recipients to bring documentation to SSA when they request benefit reinstatement; it could also increase payment accuracy. Learning about release from correctional facilities could also allow SSA to restart benefits and reduce underpayments. This recommendation is in keeping with other data SSA obtains to determine when benefit suspensions should start and end,<sup>41</sup> such as exit from and reentry to the United States,<sup>42</sup> admission and discharge from nursing homes,<sup>43</sup> and bank account balances that exceed and fall below SSI resource limits.<sup>44</sup>

If Congress grants SSA this authority, SSA should consider what information it needs from correctional facilities in order to restart SSI benefits. Incentive payments should only be provided for reports that include the necessary information. Current policy only provides incentive payments for reports of incarceration that lead to benefit suspension.<sup>45</sup> Any payments for reports of release should similarly only be given when the released person had their benefits suspended due to incarceration.

***Recommendation 2: SSA should study underpayments related to premature suspension for incarceration.*** Understanding how often SSI benefits are terminated when incarcerations last less than a calendar month, and the circumstances in which this type of underpayment occurs, could help SSA target solutions. SSA could consider the effects of waiting to suspend SSI until a calendar month elapses since the date of incarceration reported to the agency, to allow time for the recipient or correctional facility to report release. SSA could also study how changing the current incentive to report incarceration within 15 days would affect payment accuracy. Although changes that reduce underpayments could lead to more or larger overpayments, overpaid SSI could be recouped when benefits restart after release.

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<sup>40</sup> Social Security Act § 1611(e)(1)(I)(i)(I).

<sup>41</sup> SSA obtains some data via matching programs with other federal agencies; it also contracts with private firms for information like Access to Financial Institutions. The goals of these data-sharing programs include increased payment accuracy and fewer delays in adjusting SSI benefits.

<sup>42</sup> SSA Emergency Message EM-19014 REV, "[Instructions for Developing and Processing Absences from the U.S. using the Foreign Travel Data \(FTD\) Application](#)," June 28, 2019.

<sup>43</sup> [Privacy Act of 1974: Matching Program](#), 88 Federal Register 75636 (November 3, 2023).

<sup>44</sup> SSA, "[Reducing Improper Payments: Access to Financial Institutions](#)," last accessed November 19, 2024.

<sup>45</sup> SSA, "[Incentive Payments for State and Local Institutions](#)," last accessed November 19, 2024.

**Recommendation 3: SSA should adjust its regulations so people residing in halfway houses and similar facilities that charge rent are eligible for SSI.** SSA’s regulations define a resident of a public institution as someone who “can receive substantially all of his or her food and shelter while living in a public institution. The person...is a resident regardless of whether the resident or anyone else pays for all food, shelter, and other services in the institution.”<sup>46</sup> Some halfway houses and similar facilities that charge rent are considered public institutions, making their residents ineligible for SSI. Stakeholders described situations where the inability to use SSI for rent at halfway houses means elderly or disabled people remain incarcerated when they would otherwise be eligible for parole or other forms of release.<sup>47</sup> Stakeholders also noted that this recommendation could allow some people who are released and become homeless to instead live in halfway houses and use SSI to pay their rent.

**Recommendation 4: SSA should enforce existing rules for people on electronic home monitoring.** SSA’s policy is that people on home monitoring are not considered residents of public institutions.<sup>48</sup> Stakeholders noted that field office staff were not always aware of this rule. SSA should remind employees about agency policies allowing people released on electronic home monitoring to receive SSI. Accuracy in living arrangement determinations for people on electronic home monitoring or others involved in the criminal justice system could be an appropriate topic for SSA’s Office of the Inspector General to audit.

## Restarting Suspended Benefits

No new application is required to reinstate benefits when SSI is suspended for less than 12 consecutive months.<sup>49</sup> Many stakeholders indicated that benefit reinstatement generally goes smoothly. However, they noted that some SSI recipients had barriers to requesting

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<sup>46</sup> 20 CFR § 416.201. Subregulatory guidance on the topic can be found at SSA, “[Special Considerations for Penal Institutions](#),” POMS SI 00520.009 (December 4, 2023). SSA already applies a narrower definition of institutionalization in the Eighth Circuit, though that policy focuses on “voluntary” institutionalization. SSA, “[Residents of Institutions, Eighth Judicial Circuit](#),” POMS SI 00520.120 (December 4, 2023).

<sup>47</sup> Some types of release require people to have an approved plan for suitable housing. In a Council of State Governments survey, nearly half of responding state departments of corrections said that “if housing is not identified prior to release, people must remain incarcerated until an address is approved.” Charles Francis, Joseph Hayashi, and Alexandria Hawkins, “[Building Connections to Housing During Reentry](#),” Council of State Governments Justice Center, March 2023.

<sup>48</sup> SSA, “[Special Considerations for Penal Institutions](#),” POMS SI 00520.009.B.2 (December 4, 2023).

<sup>49</sup> SSA, “[Suspension and Reestablishing Eligibility](#),” POMS SI 02301.205 (August 30, 2023).

reinstatement, including inadequate transportation, no telephone or insufficient minutes for long hold times, delays in getting appointments at field offices, and lack of identification or proof of release date.

## Termination and New Applications

Once SSI has been suspended for 12 consecutive months, benefits are terminated and restarting benefits requires a new SSI application.<sup>50</sup> Many stakeholders described the reapplication process as daunting. They said people released from incarceration with SSI claims still pending encountered difficulties, including navigating the remainder of the SSI application process without the support provided in the correctional facility, obtaining medical care, and acquiring housing and other necessities without income. Several stakeholders suggested that the SSI program should adopt OASDI's policy of suspension without termination.

***Recommendation 5: Congress should allow SSI to remain suspended rather than terminating benefits after 12 months of suspension.***<sup>51</sup> SSI recipients whose benefits were suspended (for incarceration or other reasons) and who then became eligible would experience shorter waits for benefits to restart if they did not have to file new claims. This change would reduce burdens on SSI recipients, the people who assist them, and SSA and DDS employees. SSA already has procedures in place to manage indefinite suspensions<sup>52</sup>

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<sup>50</sup> A small number of people whose SSI was terminated after 12 months of suspension may still be receiving OASDI. This would occur when the beneficiary has not been convicted and sentenced to a term of 30 days or more. When a DI beneficiary applies for SSI, SSA can use a policy called collateral estoppel in certain circumstances to adopt the medical findings from the DI claim and apply them to the new SSI claim. SSA changed its collateral estoppel policies in 2019 to require claims be sent from SSA field offices to DDS to decide whether collateral estoppel applies; it also applied in fewer cases. The 2019 and 2020 changes are discussed in Empire Justice Center, "[Collateral Estoppel POMS Revised](#)," October 30, 2020. Many of the changes were reversed in 2024; the current version is available at SSA, "[Collateral Estoppel](#)," POMS DI 27515.001 (July 12, 2024).

<sup>51</sup> Social Security Act § 1631(j)(1), 20 CFR § 416.1335. This recommendation was also made by Justice in Aging, "[Reducing Barriers to Reentry for Older Adults Leaving Incarceration](#)," May 2022, 9. Congress could use similar language to that in Social Security Act § 1631(p)(4)(A) so people are only eligible for SSI in months after they request reinstatement. This would reduce the need for SSA employees to determine eligibility for months before a reinstatement request is made.

<sup>52</sup> The Stephen Beck, Jr., Achieving a Better Life Experience (ABLE) Act of 2014, [Public Law 113-295 §103\(b\)\(1\)](#), 128 Stat. 4010, requires SSA to suspend SSI indefinitely for people whose ABLE account balances exceed \$100,000. SSA also indefinitely suspends OASDI benefits for certain people who are incarcerated, Social Security Act § 202(x)(1). SSA, "[What Prisoners Need to Know](#)," last accessed October 24, 2024 ("If you receive Social Security, we'll suspend your benefits if you're convicted of a criminal offense and sentenced to jail or prison for more than 30 continuous days. We can reinstate your benefits starting with the month following the month of your release.").



and to verify eligibility when suspended SSI recipients request reinstatement of benefits.<sup>53</sup> The agency could schedule Continuing Disability Reviews for people under age 65 whose SSI is reinstated after more than 12 months of incarceration. This change would better align SSI program rules with the law about suspending Medicaid when people are incarcerated.<sup>54</sup>

## Currently and Recently Incarcerated People Applying for SSI

People applying for SSI shortly before or after release, regardless of whether they have received SSI before, face issues with the timing of their claims, documenting their impairments, obtaining assistance with their claims, and communicating with SSA and their appointed representatives. Stakeholders noted that many people struggle when they are released from incarceration. They believed that prompt decisions on SSI claims and payments of SSI benefits help people navigate this vulnerable time, reducing homelessness<sup>55</sup> and other adverse outcomes.

## Prerelease Agreements

Stakeholders noted that SSA does not publish PRAs. Many stakeholders were eager to see other states' PRAs so they could incorporate useful provisions into their own PRAs. They also believed that publishing PRAs would help parties adhere to agreements and help identify situations where agreements were not being followed. However, some stakeholders described difficulty negotiating, amending, and enforcing PRAs and indicated

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<sup>53</sup> SSA, "[Reinstatement](#)," POMS SI 02301.210 (June 9, 2004).

<sup>54</sup> The extension of indefinite Medicaid suspension to adults was passed by the House of Representatives in December 2023, as [section 305](#) of [H.R. 4531](#), by a vote of 386-37. Section 305 became law as part of the Consolidated Appropriations Act of 2024, PL 118-42, § 205. The law will go into effect in 2026. However, the SUPPORT Act of 2018 (PL 115-271) already requires suspension rather than termination for juveniles, and most states have already received waivers to suspend rather than terminate adults' Medicaid during incarceration. Medicaid and CHIP Payment and Access Commission, "[Access to Medicaid Coverage and Care for Adults Leaving Incarceration](#)," June 2023 Report to Congress.

Evaluations of these state programs showed positive effects. Justin Blackburn et al., "[Indiana's Section 1115 Medicaid Waiver And Interagency Coordination Improve Enrollment For Justice-Involved Adults](#)," *Health Affairs*, Volume 39, Number 11, November 2020; Marguerite Burns and Laura Dague, "[In-Kind Benefits and Reincarceration Risk: Evidence from Medicaid](#)," NBER Working Paper 31394, June 2023.

<sup>55</sup> Homelessness is approximately ten times higher among formerly incarcerated people than among the general public. Rates of homelessness are higher for people who have been released in the past two years than those who were released longer ago. Lucius Couloute, "[Nowhere to Go](#)," *Prison Policy Initiative*, August 2018. A discussion of barriers faced by homeless SSI and DI claimants, including issues specific to those who were incarcerated, can be found in Alex Sizemore, Jordy Coutin, and Philip Armour, "[Barriers Faced by People Experiencing Homelessness in Los Angeles When Filing Social Security Disability Appeals: A Qualitative and Community Engaged Study](#)," NBER, September 2023, 4.

a desire for a stronger partnership with SSA on these activities. Agreements about benefit applications can be negotiated by regional offices or individual field offices,<sup>56</sup> while agreements about replacement cards are developed by Regional Enumeration Specialists and signed by Regional Commissioners.<sup>57</sup> This adds complexity to the process of developing, enforcing, and amending PRAs.

**Recommendation 6: SSA should publish current PRAs.** The agency has a web page about PRAs,<sup>58</sup> so adding links to the agreements themselves would require minimal effort. Publishing PRAs could help SSA, correctional facilities, and advocates identify provisions for inclusion in new or amended agreements. It could also make it easier to adhere to and enforce existing PRAs.

**Recommendation 7: SSA should identify and train staff to negotiate, amend, and enforce PRAs.** SSA allows field offices to develop PRAs about benefit applications, but those for replacement cards can only be negotiated by the agency’s regional offices. SSA should evaluate whether this bifurcated arrangement is appropriate or whether both types of agreements could be negotiated and amended by the same staff. If SSA designated and trained employees (whether at local, area, or regional levels) as PRA experts, these employees could also resolve PRA-related disputes, do proactive outreach to correctional facilities that do not have PRAs, develop training on prerelease procedures, and host regular listening sessions with stakeholders. Designating staff for these purposes could allow them to develop expertise on the subject, identify and promulgate best practices, and appropriately balance uniformity and flexibility.

## Prerelease Claims

One correctional employee reported that completing a prerelease SSI claim typically takes her or her employee three to five hours. She and other stakeholders believed the process would be faster if SSA had a more widely available electronic SSI application.<sup>59</sup>

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<sup>56</sup> SSA, “[PRAs with Institutions](#),” POMS SI 00520.910.B (August 9, 2023).

<sup>57</sup> SSA, “[Elements of a Prisoner Replacement Card Memorandum of Understanding \(MOU\)](#),” POMS RM 10225.135 (January 27, 2023).

<sup>58</sup> SSA, “[Transitioning from Incarceration: Statewide Prerelease Agreements](#),” last accessed September 16, 2024.

<sup>59</sup> The online initial application for SSI is available to people aged 18 to 64 years and 10 months who are applying for SSI and DI, have never been married, and have never applied for SSI before for themselves or a child. SSA, “[Simplified Online SSI Application Now Available as First Step in Larger Effort](#),” December 16, 2024. Previous policy is available at SSA, “[Internet Benefit Application \(iClaim\)](#)”



Stakeholders also appreciated SSA’s pandemic-era flexibilities allowing faxed applications and electronic signatures and hoped SSA would reinstate them.<sup>60</sup>

Stakeholders identified challenges obtaining decisions before claimants are released. The national average processing time for initial disability claims in November 2024 was 227.8 days.<sup>61</sup> However, BOP’s PRA only allows claims to be submitted 120 days before release,<sup>62</sup> and some state PRAs have 30-day or 90-day limits. SSA’s policy is to deny prerelease claims submitted too long before release.<sup>63</sup>

When people are released with SSI claims still pending, they often lack the financial stability that SSI can provide. Stakeholders identified the lack of SSI as a contributor to homelessness, worsening health, and recidivism. The extent of this problem varies across states. Some states prioritize assignment of cases with prerelease flags to examiners and were generally able to issue initial decisions before claimants were released. But stakeholders reported difficulty ensuring that SSA field offices flag prerelease cases and getting timely decisions from DDSs.

Although many claimants experience challenges when they leave incarceration with SSI claims pending, stakeholders also identified problems when people receive favorable SSI medical decisions more than 30 days before release. This can occur when DDS decides a claim quickly, or when the claimant’s release date changes. SSA’s policy is to issue “technical denials” for these claims.<sup>64</sup> People who receive technical denials while

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[Enhancements - Policy and Procedures](#),” Emergency Message EM-20043 (September 15, 2020). People can also apply online for DI and indicate they want to be contacted to make an SSI claim.

<sup>60</sup> SSA, “[Faxed Applications No Longer Being Accepted](#),” August 22, 2023; “[Update and Clarification: Faxed Applications No Longer Being Accepted](#),” September 19, 2023.

<sup>61</sup> SSA, “[Disability Determination Processing Time](#),” last accessed December 16, 2024.

<sup>62</sup> SSA, “[Processing Prerelease Claims](#),” POMS SI 00520.009 A.5.b (August 9, 2023).

<sup>63</sup> SSA, “[Processing Prerelease Claims](#),” POMS SI 00520.009 A.5 (August 9, 2023) (“When the application is received earlier than the allowed timeframe for processing a claim under the prerelease procedure, deny the application.”).

<sup>64</sup> SSA, “[Processing Prerelease Claims](#),” POMS SI 00520.920.A.7.b.2 (August 9, 2023) (“If the anticipated release date is not within 30 days of getting the favorable DDS decision, advise the institution that the FO will deny the claim.”). There were 83,326 SSI claims filed in 2020 that received favorable medical decisions and subsequent technical denials by June 2022. The reasons for these denials included but were not limited to incarceration. SSA, [SSI Annual Statistical Report, 2022](#), Table 69, last accessed May 20, 2024.

incarcerated must reapply closer to or after release. SSA's current policy is to adopt the favorable medical decision if it was made within 12 months of the new claim.<sup>65</sup>

***Recommendation 8: SSA should allow prerelease applications to be submitted further in advance of release and stop denying them for being awarded too early.***

With current average processing times, claims may need to be submitted nine or more months before release to receive an initial decision within 30 days of the release date. Yet many PRAs state that SSA will only accept prerelease applications 120 days or less from the release date. SSA should amend those PRAs to accept claims longer before release, which would increase the chances that a decision is reached before the release date. For prerelease claims not governed by a PRA, SSA should process any claims submitted within one year of the release date. This change would remove a current obstacle for people leaving incarceration and would not provide preferential treatment as compared to those filing non-prerelease SSI claims.

If SSA implements this recommendation, more claims could be decided at least 30 days before release, either because DDSs issued the decision quickly or because the release date changed. SSA's current policy is to issue technical denials of prerelease claims decided more than 30 days before release.<sup>66</sup> That policy should change. Denying claims and requiring people to reapply for benefits is a burden on claimants, SSA, and DDS. SSA should either increase the threshold for such technical denials to more than 30 days, or hold all such claims rather than denying them.<sup>67</sup> Nonmedical eligibility would still need to be verified before the claimant could be placed in pay status after release, but this would be faster and easier than requiring a new claim. Once SSA makes this policy change, its computer systems should also be updated accordingly.

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<sup>65</sup> SSA, "[Using the Prior Favorable Title XVI DDS Disability Determination](#)," POMS DI 11055.077 (August 19, 2024). From July 2020 to August 2024, SSA did not allow the use of the favorable medical decision; during that period, the agency's policy was that when a person reapplied for SSI after a technical denial, the claim had to be sent to DDS for a new medical decision. The policy for prerelease claims from July 2020 to August 2024 is described at SSA, "[Processing Prerelease Claims](#)," POMS SI 00520.920.A.7.d (August 9, 2023), which also notes that a new DDS decision was not required if the claimant appealed the technical denial rather than filing a new claim.

<sup>66</sup> SSA, "[Processing Prerelease Claims](#)," POMS SI 00520.920.A.7.b.2 (August 9, 2023) ("If the anticipated release date is not within 30 days of getting the favorable DDS decision, advise the institution that the FO will deny the claim.").

<sup>67</sup> POMS SI 00520.910.E.2.i and j already have procedures to hold claims where a medical decision is made within 30 days of the release date and to hold certain favorable decisions for up to 180 days. These could provide a basis for revised POMS.

***Recommendation 9: SSA should end its ban on presumptive disability and blindness payments for people leaving incarceration.*** SSA pays up to six months of “presumptive” SSI to claimants with certain impairments who are awaiting medical decisions.<sup>68</sup> However, SSA excludes prerelease claims from presumptive payments.<sup>69</sup> This means a person with a qualifying impairment who files a prerelease SSI claim cannot get presumptive benefits if they are released while awaiting an initial decision. A person with the same impairment who applies for SSI after being released, or who was never incarcerated, would be eligible for presumptive payments. SSA should amend its Program Operations Manual System (POMS) to treat people with qualifying impairments equally regardless of whether or not their claim was filed prerelease. This recommendation would not change the law prohibiting people from receiving SSI while incarcerated. It would only allow people with qualifying impairments to receive presumptive payments for the period between release from incarceration and issuance of an initial decision.

## Documenting Impairments

People under age 65 can receive SSI if they demonstrate to SSA that they meet medical standards<sup>70</sup> and the program’s other eligibility rules. When the applicant is or was incarcerated, there can be unique challenges.<sup>71</sup> For example, SSA’s disability standards, called listings, about mental impairment do not provide information to adjudicators on specific issues involving incarceration. Several mental impairment listings consider how a claimant functions in a “highly structured setting,” but correctional facilities are not included among the examples of such settings.<sup>72</sup>

Medical records from jails and prisons may not always include the information necessary to determine disability. Stakeholders explained that correctional facilities frequently expect people to initiate requests for medical treatment. This is difficult for people with limited insight into their conditions, such as those with an intellectual disability or psychosis. Stakeholders also noted that incarcerated people may refuse treatment that

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<sup>68</sup> SSA, “[Expedited Payments](#),” last accessed May 31, 2024.

<sup>69</sup> SSA, “[Presumptive Disability/Presumptive Blindness \(PD/PB\) Eligibility, Authority, and Payment Issues](#),” POMS DI 23535.001.B (November 8, 2012).

<sup>70</sup> 20 CFR § 416.912 (“In general, you have to prove to us that you are blind or disabled”).

<sup>71</sup> Difficulty documenting medical conditions was identified as a challenge by the three prerelease program sites studied by Catherine H. Conley, “[Helping Inmates Obtain Federal Disability Benefits](#),” Abt Associates, June 2005. Conley called the problem “Lack of Information.”

<sup>72</sup> 20 CFR § 416.925; [§ 404 Subpart P Appendix 1 1200D.1](#).

could make them less mobile or alert, out of fear that it would make them more vulnerable to harm from other inmates. When people do request medical care, they may face long wait times for appointments and limited formularies of medication. The tests and treatments available to incarcerated people can be limited, with consequences to their ability to document their medical conditions.<sup>73</sup> For example, stakeholders indicated that incarcerated people can have difficulty obtaining neurological and psychological tests that are important evidence of intellectual disability, traumatic brain injury, and mental illness.

People leaving incarceration may experience disruptions in medication and other treatments as they transition to new medical providers.<sup>74</sup> This can affect their health and their level of functioning. A lack of treatment may also mean people do not have the medical records necessary to document their impairments for SSI claims.

While SSA can purchase consultative examinations (CEs) and certain tests when other evidence is inconsistent or unavailable,<sup>75</sup> it can be challenging to find providers who will perform CEs in correctional facilities and facilities may not want to transport incarcerated people to outside testing. Stakeholders reported that consultative examiners sometimes displayed bias against incarcerated claimants. When CEs were not available, stakeholders explained that it often resulted in denial of claims that they believed would otherwise have been granted.

The experience of obtaining records from correctional facilities varies. While many facilities use electronic systems for medical, educational, and disciplinary records, some still rely on paper.<sup>76</sup> Stakeholders noted the challenges and delays encountered when correctional facilities were required to mail or fax documents to DDSs. They encouraged SSA to expand the use of secure email, believing that adding email options for entities that prefer it to fax or postal mail could improve the response rate to DDS requests and make it faster and easier for DDSs to make medical decisions on SSI claims. They also supported

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<sup>73</sup> Alsan, Marcella et al., "[Health Care in U.S. Correctional Facilities—A Limited and Threatened Constitutional Right](#)," *New England Journal of Medicine* 388 no. 9 (March 1, 2023) 847; Hoag Levins, "[Reviewing the Flaws of U.S. Prisons and Jails' Health Care System](#)," University of Pennsylvania Leonard Davis Institute of Health Economics, March 6, 2023; Curran, Jill et al., "[Estimated Use of Prescription Medications Among Individuals Incarcerated in Jails and State Prisons in the US](#)," *JAMA Health Forum* 4 no. 4 (April 7, 2023).

<sup>74</sup> HHS has made efforts to improve continuity of care. HHS, "[During Second Chance Month, HRSA Takes Policy Action, Releases First-Ever Funding Opportunity for Health Centers to Support Transitions in Care for People Leaving Incarceration](#)," (April 10, 2024).

<sup>75</sup> 20 CFR § 416.919 et seq.

<sup>76</sup> Community Oriented Correctional Health Services, "[Health IT](#)," last accessed May 21, 2024.

the expansion of SSA’s Health IT partnerships so healthcare providers serving people who are currently or recently incarcerated can submit records electronically.<sup>77</sup>

Stakeholders also described challenges in learning whether their clients had previously applied for or received an SSA-administered benefit. Obtaining records SSA already possessed from previous claims was also reportedly difficult and time-consuming.<sup>78</sup> Stakeholders noted that gathering evidence from prior claims was especially helpful when claimants allege intellectual disability, neurocognitive disorders, or certain brain injuries, because SSA’s standards for those conditions consider how the claimant functioned earlier in life.<sup>79</sup>

***Recommendation 10: SSA should encourage research on how mental health conditions are evaluated for people who have been incarcerated.*** As described above, adjudicating disability claims for people who are or have been incarcerated may pose unique issues. For example, mental impairment listings consider how claimants function in a “highly structured setting,” but correctional facilities are not included among the examples of such settings.<sup>80</sup> SSA has included the impact of incarceration in its focal area for the Retirement and Disability Research Consortium’s FY 2025 projects.<sup>81</sup> The agency should continue to include this topic and encourage researchers to focus on the ways incarceration affects disability determinations, especially for claimants alleging mental impairments.

***Recommendation 11: SSA should do proactive outreach on Health IT partnerships to correctional facilities and other entities that serve people leaving incarceration.*** Electronic transmission of medical records is fast and secure. SSA states that when health care providers partner with the agency through its Health IT initiative, the

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<sup>77</sup> A list of SSA’s Health IT partners does not include any with the words “jail,” “prison,” “corrections,” or “correctional” in their names, though it is possible that some correctional facilities have health care provided by an entity that is an IT partner with SSA. SSA, “[Health IT Current Status](#)” March 11, 2024.

<sup>78</sup> SSA, “[Submit a Privacy Act Request for Your or Another Person’s Records,](#)” last accessed June 26, 2024.

<sup>79</sup> SSA, “[Listing of Impairments—Adult Listings,](#)” last accessed October 25, 2024. Listing 12.02A for neurocognitive disorders requires “Medical documentation of a significant cognitive decline.” Listing 12.05A for intellectual disorder requires “evidence [supporting] the conclusion that the disorder began prior to your attainment of age 22.”

<sup>80</sup> 20 CFR § 416.925; [§ 404 Subpart P Appendix 1 1200D.1](#).

<sup>81</sup> SSA, “[Retirement and Disability Research Consortium Focal Area List for Fiscal Year \(FY\) 2025,](#)” 6, last accessed October 24, 2024.

benefits include quicker disability determinations for claimants<sup>82</sup> and reduced costs and streamlined operations for health care organizations.<sup>83</sup> SSA already provides information to healthcare providers who would like to become Health IT partners,<sup>84</sup> but since correctional facilities may have medical records that are useful when reviewing applications, SSA should proactively encourage them to become Health IT partners. The agency should prioritize forming partnerships with the correctional facilities that receive the most medical records requests from DDSs. SSA should also publicize Health IT partnerships to medical providers that use the Transitions Clinic Network model of reentry health care or receive federal Health Resources and Services Administration (HRSA) Transitions in Care for Justice-Involved Populations grants.<sup>85</sup>

## Assistance Filing Claims

There are several ways people who are incarcerated can get help filing prerelease SSI applications. For example:

- By law, BOP must provide benefit application assistance in federal facilities.<sup>86</sup>
- Some states have applied for or received permission from the Center for Medicare and Medicaid Services (CMS) to provide prerelease Medicaid services including benefit navigation. This permission is granted through what is known as an 1115

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<sup>82</sup> In FY 2018, SSA stated that the average processing time for disability claims where all records were received through Health IT was 45% lower than the time for claims where no evidence was received through Health IT; processing time was 65% lower for the subset of claims where a favorable decision was issued. SSA, "[Health IT Overview](#)," last accessed October 24, 2024.

<sup>83</sup> SSA, "[Health IT: Our Initiative](#)," last accessed October 24, 2024. SSA pays Health IT partners electronically rather than by check, and SSA notes potential savings of paper, toner, postage, and staff time for providers that become Health IT partners. SSA, "[Health IT Overview](#)," last accessed October 24, 2024.

<sup>84</sup> SSA, "[Health IT: Next Steps](#)," last accessed June 3, 2024. "Increase recruitment of Health IT networks" is a National Association of Disability Examiners (NADE) top issue described in their [Summer 2024 newsletter](#).

<sup>85</sup> The transition clinic model is described by Stacy Weiner, "[Out of prison, but struggling to stay healthy](#)," Association of American Medical Colleges, January 10, 2023. A list of sites using this model is available at Transitions Clinic Network, "[Transitions Clinic Network Sites](#)," last accessed June 4, 2024. The following active Transitions Clinic Network sites are Health IT partners: Yale-New Haven Health, Hennepin Health, Lifespan, and UT Southwestern; they could be engaged as exemplars for other providers who wish to become Health IT partners. A description of the Transitions in Care funding opportunity is at HRSA, "[Apply for Transitions in Care for Justice-Involved Populations](#)," last accessed June 4, 2024.

<sup>86</sup> PL 115-391, § 604, 132 Stat 5194 (2018). Federal Bureau of Prisons, "[An Overview of the First Step Act](#)," last accessed May 21, 2024.



waiver.<sup>87</sup> However, stakeholders noted that 1115 waivers only allow Medicaid-funded prerelease services to be offered 90 days before the release date, which is generally not enough time to complete an SSI application and receive a determination.<sup>88</sup>

- HRSA has issued guidance that would allow Federally Qualified Health Centers to provide SSI and DI benefit navigation and enrollment to people leaving incarceration.<sup>89</sup>
- The SSI/SSDI Outreach, Access, and Recovery (SOAR) program,<sup>90</sup> funded by the federal Substance Abuse and Mental Health Services Administration (SAMHSA), assists some currently and recently incarcerated people with their SSI claims.<sup>91</sup> Stakeholders described how SOAR practitioners gather and submit evidence, perform psychosocial evaluations, help claimants complete paperwork, and maintain contact with claimants who are awaiting decisions at the time of release. The stakeholders believed this approach was useful for many people leaving incarceration and helped SSA issue faster and more accurate decisions. SSA is currently funding a study where four county jails in Georgia will use the SOAR model with people with severe mental illness.<sup>92</sup>

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<sup>87</sup> A clearinghouse of 1115 waiver requests and grants is available at KFF, "[Medicaid Waiver Tracker](#)," last accessed May 21, 2024. Information about how states are using the 1115 waiver process with people leaving incarceration can be found at Medicaid and CHIP Payment and Access Commission, "[Considerations for Providing Pre-Release Medicaid Services to Adults Leaving Incarceration](#)," March 2023; CMS, "[HHS Releases New Guidance to Encourage States to Apply for New Medicaid Reentry Section 1115 Demonstration Opportunity to Increase Health Care for People Leaving Carceral Facilities](#)," April 17, 2023; and Lydia Kenner, "[Medicaid Section 1115 Demonstration Waivers for Reentry After Incarceration](#)," Georgetown Law O'Neill Institute for National & Global Health Law, February 20, 2024. Beginning January 2025, states must provide certain Medicaid services, including case management, to incarcerated youth. Consolidated Appropriations Act of 2024, PL 118-42 § 206.

<sup>88</sup> Guidance for states on how long before release services can begin is available at CMS, "[Opportunities to Test Transition-Related Strategies to Support Community Reentry and Improve Care Transitions for Individuals Who Are Incarcerated](#)," State Medicare Director letter # 23-003 (April 17, 2023) 27.

<sup>89</sup> HRSA, "[Health Center Program Policy Guidance Regarding Services to Support Transitions in Care for Justice-Involved Individuals Reentering the Community](#)," Policy Information Notice 2024-05, 10.

<sup>90</sup> Components of the SOAR model are described at SAMHSA, "The [SOAR Model: Critical Components](#)," last accessed July 26, 2024.

<sup>91</sup> Information about SOAR's use in correctional facilities can be found at Dazara Ware and Deborah Dennis, "[Best Practices for Increasing Access to SSI/SSDI upon Exiting Criminal Justice Settings](#)," SAMHSA, January 2013; Evan Marie Lowder, "[Implementing the SOAR Model with Justice-Involved Populations: A Survey of Practitioners](#)," 2017, and SAMHSA, "[Library and Tools: People Involved in the Legal System](#)," last accessed October 23, 2024.

<sup>92</sup> SSA, "[2021 ICAP Projects](#)," last accessed May 22, 2024; Agency Information Collection Activities: Proposed Request and Comment Request, [88 Federal Register 19340](#) (March 31, 2023).

**Recommendation 12: SSA should engage with agencies that assist incarcerated and recently released SSI claimants.** Leveraging other agencies' efforts to assist SSI claimants could lead to better developed claims, reduced SSA and DDS workloads, and more accurate and timely decisions. SSA should also use opportunities for interagency cooperation on issues affecting people leaving incarceration and seek synergies where possible. For example, SSA could communicate with other federal agencies whose grants have been used for SOAR services and medical-legal partnerships to encourage these arrangements.<sup>93</sup> SSA could express its support for CMS<sup>94</sup> and HRSA<sup>95</sup> programs that provide assistance to people making prerelease SSI claims. SSA should communicate with these agencies about current processing times for SSI claims so they can consider offering services further before release. This could help more claimants receive initial decisions before leaving incarceration. SSA should also publish data on the outcomes of prerelease claims and evaluate its current prerelease SOAR demonstration<sup>96</sup> to identify and promulgate best practices.

## Communication

In conversations with Board staff, advocates and claimants' representatives described the need for people leaving incarceration to understand SSI eligibility rules and the process for applying. They indicated that some people who could be eligible for SSI appear to be unaware of the program, while other people who would likely not qualify seem unduly optimistic about their chances of a favorable decision. Moreover, some agencies and organizations serving recently incarcerated people are reportedly unaware of SSI program rules (for example, not knowing the program serves both people over 65 and those with disabilities, or not knowing that people who receive small amounts of OASDI benefits

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<sup>93</sup> Federal grants used for SOAR services are described at SAMHSA, "[SOAR Funding and Sustainability Overview](#)," last accessed June 3, 2024. A federally-funded medical-legal partnership focused on helping people leaving a Texas prison obtain Social Security disability benefits is described at US Department of Justice, "[Justice Department Announces Medical-Legal Partnership Project for Incarcerated Individuals](#)," last accessed June 3, 2024.

<sup>94</sup> CMS, "[HHS Releases New Guidance to Encourage States to Apply for New Medicaid Reentry Section 1115 Demonstration Opportunity to Increase Health Care for People Leaving Carceral Facilities](#)," April 17, 2023; Health and Reentry Project, "[Medicaid's New Role in Advancing Reentry: Key Policy Changes](#)," Spring 2024.

<sup>95</sup> HRSA, "[Health Center Program Policy Guidance Regarding Services to Support Transitions in Care for Justice-Involved Individuals Reentering the Community](#)," Policy Information Notice 2024-05, 10.

<sup>96</sup> SSA, "[Justification of Estimates for Appropriations Committees: FY 25](#)," 69.



might be concurrently eligible for SSI). Although SSA publishes several documents describing incarceration and SSI,<sup>97</sup> stakeholders felt additional outreach would be useful.

SSA and DDS staff face difficulties in communicating with incarcerated SSI claimants. Mail sent to correctional facilities may be opened and scanned by facility staff, which can cause delays and privacy concerns.<sup>98</sup> While BOP has rules for “special” mail to and from certain entities (such as the news media, embassies and consulates, members of Congress and state legislatures, and the US Public Health Service), SSA is not included.<sup>99</sup> Incarcerated people generally do not have phone numbers where SSA can call them directly, and making calls from a correctional facility can be expensive for inmates and subject to limits on the number and duration of calls.<sup>100</sup> Prisoners are also excluded from reporting changes of address or phone number using SSA’s my Social Security Change of Address system.<sup>101</sup>

People may also face challenges in communicating with appointed representatives due to limited phone and internet access while incarcerated.<sup>102</sup> These challenges are increased when a claimant appoints a non-attorney representative, because the stamps and additional privacy provided for “legal mail” extend only to documents coming from or going to courts or attorneys.<sup>103</sup> Similar issues occur when correctional facilities with special policies for legal phone calls do not extend those policies to non-attorney representatives. Even attorney representatives reported challenges communicating with their clients because the representation was for a matter other than the criminal case for which the claimant was incarcerated.

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<sup>97</sup> SSA, “[FAQ: Prisoners](#),” “[Benefits After Incarceration: What You Need to Know](#),” “[What Prisoners Need to Know](#),” “[Re-entering the Community After Incarceration—How We Can Help](#),” and “[SSI Spotlight on Prerelease Procedure](#),” last accessed May 22, 2024.

<sup>98</sup> Leah Wang, “[Mail scanning: A harsh and exploitative new trend in prisons](#),” Prison Policy Institute, November 17, 2022; Alice Galley, Natalie Lima, and Arielle Jackson, “[New Prison Mail Policies Reduce Already Limited Connections for Incarcerated People](#),” Urban Institute, December 19, 2022.

<sup>99</sup> 28 CFR § 540.2(c).

<sup>100</sup> Kery Murakami, “[New Law Will Cap Phone Call Prices in Prisons and Jails](#),” *Route Fifty*, January 13, 2023. A list of prison phone rates by state can be found at Prison Phone Justice, “[Intrastate \(In-State\) Collect Prison Phone Rates](#),” last accessed May 22, 2024.

<sup>101</sup> SSA, “[my Social Security Change of Address \(myCOA\)](#),” POMS GN 02605.002.C.1 (October 21, 2024).

<sup>102</sup> SOAR providers, employees of Protection and Advocacy organizations, and others whose practices are focused on incarcerated SSI claimants also reported communications difficulties, but may have more opportunities to talk with their clients face to face.

<sup>103</sup> 28 CFR § 540.19.

**Recommendation 13: SSA should work with BOP and other correctional agencies to improve mail procedures.** SSA should encourage BOP to amend its regulations<sup>104</sup> to include SSA among the senders and recipients of special mail and ensure that non-attorney representatives appointed for Social Security matters are allowed to send and receive legal mail. In turn, SSA should update POMS and systems as needed to ensure its mail procedures comport with BOP requirements. SSA should also include mail procedures in PRAs with other correctional agencies.

People who serve as appointed representatives for incarcerated and recently released SSI claimants expressed frustration and concern about how often they did not receive copies of notices sent to their clients. In some cases, the issue stemmed from SSA's delays or inaccuracies in processing the claimant's appointment of representative form.<sup>105</sup> Even when the appointment form was processed, stakeholders reported that notice copies were often simply not sent, in violation of SSA policy.<sup>106</sup>

## Obtaining Replacement Social Security Cards

A Social Security card is useful on its own and as a proof document to obtain other forms of identification. Identification can be necessary for obtaining public benefits, housing, and employment; driving; voting; entering certain buildings; and other important tasks. Helping people obtain identification is thus a best practice among reentry experts.<sup>107</sup> It is also a component of the federal First Step Act<sup>108</sup> and of several state laws.

## Replacement Card PRAs

SSA allows correctional facilities to verify the identities of people they incarcerate for the purpose of obtaining replacement Social Security cards.<sup>109</sup> SSA's PRAs with 38 states and the BOP address both benefit applications and the provision of replacement Social

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<sup>104</sup> 28 CFR § 540.

<sup>105</sup> SSA, "[Form SSA-1696](#)," December 2024.

<sup>106</sup> SSA, "[Recipients of Correspondence and Notices—Initial Claims](#)," POMS DI 26535.042.C (April 2, 2024).

<sup>107</sup> Nancy La Vigne et al., "[Release Planning for Successful Reentry](#)," Urban Institute, September 2008, 12-13; Vittorio Nastasi, "[Providing returning citizens with IDs and other essential documents can facilitate the reentry process](#)," Reason Foundation, July 3, 2023.

<sup>108</sup> PL 115-391, § 604, 132 Stat 5194 (2018).

<sup>109</sup> Approximately 1,000 facilities participate in this program; on average each performs 200 identity verifications per year. Agency Information Collection Activities: Comment Request, [86 Federal Register 59262](#) (October 26, 2021).

Security cards.<sup>110</sup> SSA has developed model language for the Memoranda of Understanding (MOUs) about replacement cards that are included in PRAs.<sup>111</sup> Unlike PRAs solely about benefit applications, replacement card MOUs must be in writing and signed by an SSA Regional Commissioner.<sup>112</sup>

Stakeholders identified challenges when they asked SSA to amend MOUs. For example, a state where people often serve the last 12 to 18 months of their sentences in step-down programs<sup>113</sup> wanted to revise its MOU so people could request replacement Social Security cards two years before their release dates. State officials believed that having a Social Security card upon entry to the step-down program would make it easier for people to look for housing and employment. SSA’s subregulatory guidance appears to permit such a change.<sup>114</sup> However, SSA staff rejected the state’s request and continues to only accept replacement card requests 180 days before people exit the state’s step-down programs. Another stakeholder suggested that MOUs allow incarcerated people to request replacement Social Security cards at any time; once received, the card would be held with the person’s other belongings that are provided to them upon release. This would reduce the number of tasks that incarcerated people and their case workers needed to undertake shortly before release.

**Recommendation 14: SSA should include replacement cards in all PRAs.** To assist states in developing and amending replacement card MOUs, SSA should also publish the approved model MOU language it has developed.<sup>115</sup>

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<sup>110</sup> SSA, “[Transitioning from Incarceration: Statewide Prerelease Agreements](#),” last accessed May 22, 2024. SSA describes provision of replacement cards as “enumeration” on this page; in other contexts, SSA defines enumeration as assigning people Social Security numbers. SSA, “[Quarterly Data for Enumeration Processing Time](#),” last accessed May 22, 2024 (SSA “is responsible for the assigning of Social Security numbers, a process called enumeration”). The BOP MOU is described at SSA, “[Elements of a Prisoner Replacement Card Memorandum of Understanding \(MOU\)](#),” POMS RM 10225.135.B.1 note (January 27, 2023).

<sup>111</sup> SSA, “[Elements of a Prisoner Replacement Card Memorandum of Understanding](#),” POMS RM 10225.135 B (January 27, 2023).

<sup>112</sup> SSA, “[Elements of a Prisoner Replacement Card Memorandum of Understanding \(MOU\)](#),” POMS RM 10225.135.B, (January 27, 2023).

<sup>113</sup> Such as work release, reentry centers, parenting programs, partial confinement, or graduated reentry.

<sup>114</sup> SSA, “[Elements of a Prisoner Replacement Card Memorandum of Understanding \(MOU\)](#),” POMS RM 10225.135.B.1 (January 27, 2023) (MOUs should describe “circumstances under which the application may be submitted [such as] participating in prerelease program”).

<sup>115</sup> The approved model MOU language is mentioned but not published at SSA, “[Elements of a Prisoner Replacement Card Memorandum of Understanding \(MOU\)](#),” POMS RM 10225.135.B, (January 27, 2023).

## Requesting Replacement Cards

Laws in 21 states require the provision of some sort of ID at or shortly after release.<sup>116</sup> However, even in these states, there can be differences between what documents and assistance are provided in state prisons and county jails, and between assistance provided to those who served a sentence after conviction versus those who were only incarcerated until a trial was held or charges were dropped. These variations can affect whether SSA will accept a release document. For example, although SSA will not accept expired documents and prefers documents with recent photographs,<sup>117</sup> correctional facilities do not always include photographs on release papers, and facilities vary in whether they include expiration dates on release papers and how far after release the documents expire.<sup>118</sup> Stakeholders also noted that release papers may be lost or stolen in the tumultuous time after leaving incarceration,<sup>119</sup> so having a way for people to obtain replacement copies of their release papers can be helpful.

Stakeholders also expressed a desire for consistent information from SSA about what documents can be used as proof when requesting replacement cards. For example, the lists of acceptable identify proofs on the online application tool and in POMS include certified medical records,<sup>120</sup> while the list for people bringing a request to a field office (which many people leaving incarceration must do) does not include this document type.<sup>121</sup> Similarly, SSA's guidance says a "US military identification card" can be

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<sup>116</sup> National Conference of State Legislatures, "[Providing Identification for Those Released From Incarceration](#)," January 4, 2024.

<sup>117</sup> SSA, "[Learn what documents you will need to get a Social Security Card](#)," last accessed June 4, 2024.

<sup>118</sup> A sample release document provided by the South Carolina Department of Corrections is included as Appendix 2 to this paper.

<sup>119</sup> Two descriptions of the days following release from incarceration are John Mooallem, "[You Just Got Out of Prison. Now What?](#)," *New York Times*, July 19, 2015 and Bruce Western, "[The Long Way Home](#)," *The Marshall Project*, June 19, 2018. An indication of the vulnerability of the recently incarcerated is their high death rates: one study found that in the two weeks after release, people had an age/sex/race-adjusted death rate 12.7 times higher than the overall population in their state. Binswager, Ingrid A. et al., "[Release from Prison—A High Rate of Death for Former Inmates](#)," *New England Journal of Medicine*, 356 no. 2, January 11, 2007.

<sup>120</sup> SSA, "[Replace Card: Get Started](#)," last accessed June 4, 2024; "[Priority List of Acceptable Evidence of Identity Documents](#)," POMS RM 10210.420 (December 19, 2023).

<sup>121</sup> SSA, "[Learn what documents you will need to get a Social Security Card](#)," last accessed June 4, 2024.

acceptable proof, but does not describe whether this includes cards issued by the Veterans Administration<sup>122</sup> or only Department of Defense-issued cards.<sup>123</sup>

Advocates who help people get IDs noted that some incarcerated and recently incarcerated people struggle to use mySocialSecurity to request replacement cards. Challenges include a lack of access to or knowledge about computers, inability to validate their identities to obtain mySocialSecurity accounts, and not knowing their Social Security numbers.

***Recommendation 15: SSA should improve its communications with correctional facilities and the public about the documentation needed to obtain replacement Social Security cards.*** Correctional facilities should know the identities of everyone they incarcerate, so they are in an excellent position to issue identity documents to the people they release. Facilities are more likely to issue documents that conform to SSA’s policies on photographs and expiration dates (stakeholders suggested that if an expiration date is included on a release document, it be at least six months after release) if they are aware of those policies. Additionally, SSA should ensure that the list of acceptable forms of identification is consistent and throughout its website and sufficiently descriptive for employees and the public.

## Receiving Replacement Cards

Stakeholders described a wide range of replacement card experiences. Even within the same state, they reported some SSA offices sent replacement cards to incarcerated people within a week or two, while other offices took more than six months. Delays in obtaining replacement cards are especially problematic when facilities receive replacement cards for people who are no longer incarcerated there. SSA requires such cards be mailed back even if the correctional system would be willing to send the card via secure means to the person’s new location.

***Recommendation 16: SSA should allow correctional facilities to transmit replacement cards to people who have been transferred or released.*** Providing facilities with this option would reduce SSA workloads. It would also help incarcerated

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<sup>122</sup> US Department of Veterans Affairs, “[How to Apply for a Veteran ID Card](#),” last accessed December 13, 2024.

<sup>123</sup> US Department of Defense, “[Welcome to the DoD ID Card Reference Center](#),” last accessed December 13, 2024.

people, who have minimal control over when they are transferred or released or how long it takes for replacement cards to arrive. When people need to make repeated requests for replacement Social Security cards, it counts against their annual and lifetime limits.<sup>124</sup>

## Conclusion

Many SSI recipients experience benefit suspension or termination because of incarceration. Some of them—and other people who may never have received SSI before—apply for SSI shortly before or after release. SSA is tasked with working with people at this pivotal and vulnerable point in their lives. Managing claims and benefits and processing requests for replacement Social Security cards for people leaving incarceration are substantial workloads. There is considerable variation across regions, states, and SSA offices in how these workloads are handled, and significant opportunities for improvement. The Board’s recommendations are intended to assist SSI claimants and recipients, SSA and its employees, organizations and agencies that serve currently and recently incarcerated people, and communities at large.

*Bob Joondeph*

Bob Joondeph, Chair

*Nancy J. Altman*

Nancy J. Altman

*Jagadeesh Gokhale*

Jagadeesh Gokhale

*Amy Stuart*

Amy Stuart

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<sup>124</sup> The limit is three cards per year and ten per lifetime, with some exceptions. 20 CFR § 422.103 (e)(2).

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We are grateful for their time and assistance.

## Appendix 1: Recommendations

1. Congress should authorize incentive payments to correctional facilities reporting the release of people whose SSI benefits were suspended.
2. SSA should study underpayments related to premature suspension for incarceration.
3. SSA should adjust its regulations so people residing in halfway houses and similar facilities that charge rent are eligible for SSI.
4. SSA should enforce existing rules for people on electronic home monitoring.
5. Congress should allow SSI to remain suspended rather than terminating benefits after 12 months of suspension.
6. SSA should publish current prerelease agreements (PRAs).
7. SSA should identify and train staff to negotiate, amend, and enforce PRAs.
8. SSA should allow prerelease applications to be submitted further from release and stop denying them for being awarded too early.
9. SSA should end its ban on presumptive disability and blindness payments for people leaving incarceration.
10. SSA should encourage research on how mental health conditions are evaluated for people who have been incarcerated.
11. SSA should do proactive outreach on Health IT partnerships to correctional facilities and other entities that serve people leaving incarceration.
12. SSA should engage with agencies that assist incarcerated and recently released SSI claimants.
13. SSA should work with BOP and other correctional agencies to improve mail procedures.
14. SSA should include replacement cards in all PRAs.
15. SSA should improve its communications with correctional facilities and the public about the documentation needed to obtain replacement Social Security cards.
16. SSA should allow correctional facilities to transmit replacement cards to people who have been transferred or released.



## Appendix 2: Sample Release Document



**DATE:** June 20, 2023  
**TO:** To Whom It May Concern  
**RE:** Name of Returning Citizen  
**RE:** Statement of Release from Incarceration

This letter is to attest to the prison sentence and release for inmate name at his/her request. inmate name, between the dates of admit date, and release date, was incarcerated within the South Carolina Department of Corrections at the release prison. As stated above, inmate name will discharge on release date, from the release facility and will be released to the community to reside at release address and contact information.

Thank you.

Sincerely,

Name  
Title  
Division  
Agency  
Mailing Address  
Physical Address  
City, State, Zip Code  
Office Number  
Cell Number  
Fax Number

*NOTE: Same form/format may be utilized to notify Veterans Administration, HHS for Medicaid reinstatement, DDSN to reinstate case management services, etc.*