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Benefits Available to Paroling and Discharging Inmates

(Revised August 2011)

YOUR RESPONSIBILITY WHEN USING THIS MANUAL

When we wrote this material we did our best to give you useful and accurate information because we know that prisoners often have difficulty obtaining legal information and we cannot provide specific advice to each prisoner who requests it. The laws change frequently and are subject to different interpretations. We do not always have the resources to make changes to this material every time the law changes. If you use this information, it is your responsibility to make sure that the law has not changed and is applicable to your situation. If you need legal assistance, you should contact the State Bar of California Lawyer Referral Service Program at 1-866-442-2529, the lawyer referral directory at www.lawhelpcalifornia.org, or any of the advocacy agencies described in this material.

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OVERVIEW

Once you are paroled or discharged, you may be eligible for a number of federal, state, and local assistance programs.¹ However, you generally will not receive any special status for benefits because of your recent release and will need to meet the same eligibility requirements as other people in order to get benefits. Before your release, if possible, you should investigate the various federal, state, and county programs to see if you are eligible for any of them and send a letter to the appropriate government office asking about the application process. Then, once you are released, you should seek advice from an advocate, such as a local legal services organization (“legal aid”). In addition, your correctional counselors (before release) and parole agents (after release) should be able to help you try to learn about benefits and sign up for them. The California Department of Corrections and Rehabilitation (CDCR) publishes a Community Resource Directory listing organizations and agencies that can provide services and help to parolees at www.CDCR.ca.gov/Community_Partnerships/Resource_Directory.aspx. Another source of information, especially for people with disabilities, is Disability Rights California (formerly Protection and Advocacy), which has a website with information on various benefits programs at www.disabilityrightsca.org and can be reached toll-free at 1-800-776-5746 (TTY: 1-800-719-5798).²

This material provides an overview of the types of benefits and other funds that may be available, along with the general eligibility requirements and restrictions of each; it is not a completely comprehensive guide. You should check with the government offices that run the benefits programs to make sure you are aware of the application process and all restrictions, requirements, deadlines, and updates. Our office is unable to provide further specific assistance on this issue, but the information provided here should serve as a starting point from which you can begin your own research.

Note that if you are already receiving benefits when you become incarcerated, you will not be allowed to keep receiving most of them unless you are imprisoned for only a very short period. Also, if you do not inform any current benefits providers that you are incarcerated and you continue to draw benefits while in jail or prison, you may be required to pay the money back or even be subject to fraud investigations or criminal charges.

¹ The CDCR can continue to collect money for any restitution you may still owe while you are on parole, plus a 10% administrative fee. Penal Code § 2085.5(d)-(f). The CDCR may be able to take the restitution money from some forms of public benefits, but it cannot take Social Security or Veterans Administration benefits because those benefits are supposed to be available for current use by the recipient. Nelson v. Heiss (9th Cir. 2001) 271 F.3d 891, 895.

² Application forms and information about various public benefits can be found on the websites of the agencies that administer the programs. There are also websites that provide self-help materials and contact information for legal aid providers, including the California Courts Self-Help Center (www.courtinfo.ca.gov/selfhelp and www.courts.ca.gov/selfhelp.htm) and LawHelpCalifornia (www.lawhelpcalifornia.org). Parolees and former prisoners can get free access to the Internet at public libraries.

1. Funds Available Upon Release

a. Trust Fund Accounts

When you are paroled or discharged from prison, the CDCR must return all of your property, including any money in your trust account.³ This includes money you brought to prison, earned while in prison, or received while in prison (such as gifts or lawsuit settlements). Trust account funds are typically given in the form of a check.

b. Gate Money

When you are paroled or discharged from a CDCR institution, you are usually entitled to a small sum of money known as release funds or “gate money.”⁴ The amount is set by law and changes from time to time. Your parole agent is responsible for giving you the money, so you may not get it all at once.⁵ Some people do receive the entire amount upon release, but most paroling or discharging prisoners receive about half immediately and the rest later. Your parole agent must give you all of the money within 60 days. If you are released to the custody of the Department of Mental Health (DMH), you do not receive your gate money until you are released from DMH custody.⁶

If you want to buy street clothes or a bus ticket for your release, you must pay for them out of your gate money.⁷ You are not given extra money to cover the cost of these items.

If you are a parole violator who has served less than six consecutive months on a revocation term prior to release, you will not receive the full amount of gate money. Instead, you will receive a fraction of the total for every day you served in revocation, up to the maximum authorized.⁸

If you are released to a re-entry facility, you are eligible for up to one-half of the maximum amount of gate money. If you are released to the custody of another state or the federal government, including the U.S. Immigration and Customs Enforcement (ICE) if you are a non-citizen, you are not entitled to any release funds at all.

³ Penal Code § 2085.

⁴ Penal Code § 2713.1; DOM § 81010.6.

⁵ 15 CCR § 3075.2(d); DOM § 81010.6.1; see Penal Code § 2713.1.

⁶ 15 CCR § 3075.2(d)(7); see DOM § 81010.6.1.

⁷ 15 CCR § 3075.2(d).

⁸ DOM § 81010.6.

c. Cash Assistance and Bank Drafts

If you need additional money, you can ask your parole agent for a loan.⁹ Your parole agent will lend you a small amount of cash if the funds are available and he or she determines that you truly need the money and cannot get it anywhere else. Your parole agent's supervisor must approve loans that, alone or in combination, exceed a certain amount. You are expected to pay such cash assistance loans back as soon as your employment and personal circumstances permit.

Another type of loan your parole agent can give you is a bank draft.¹⁰ This is a check used for casework services, such as housing, food, or clothing. The check may be made out to you or to the company you are buying the services from. Loans for such "over-the-counter purchases," which are typically larger than cash assistance loans, also must be repaid when your circumstances allow you to.

Keep in mind that your parole agent and his or her supervisor are the ones who decide whether you should get a loan and for how much; you are not automatically entitled to one. Also, if you return to prison on a parole violation before you have repaid the loan, you will have to repay it when you are released again.

2. Workers' Compensation Benefits

If you are hurt on the job or get a disease caused by your job, you may be eligible for workers' compensation benefits. Workers' compensation is a special program that covers medical care costs for injured employees and compensates them for wages lost due to temporary or permanent disability. In 1976, the California state legislature made CDCR prisoners eligible for workers' compensation benefits under certain circumstances.¹¹ In addition, a prisoner sometimes might be able to bring a federal civil rights suit for money damages arguing that the prison job conditions constituted cruel and unusual punishment.¹²

CDCR prisoners are eligible for workers' compensation benefits when (1) they are engaged in assigned work and (2) the injury arises out of and in the course of the assigned work.¹³ However, even if you qualify for workers' compensation due to an in-prison job-related

⁹ DOM § 81070.1.

¹⁰ DOM § 81070.2. Cash assistance funds and bank drafts were originally designed and operated as two separate programs. DOM § 81070.1 ("Cash assistance loans are not part of the bank draft system."). Now, however, the funding sources have merged into one program and most loans are given as bank drafts rather than in cash.

¹¹ Labor Code § 3370.

¹² See Wallis v. Baldwin (9th Cir. 1995) 70 F.3d 1074 (requiring prisoner to clean attic when jailers knew or suspected presence of asbestos could violate Eighth Amendment).

¹³ Labor Code § 3370.

injury, you are prohibited from actually receiving any wage compensation during the time you are incarcerated. Instead, such benefits will begin once you are released.¹⁴

There are important differences between temporary and permanent disability payments. Temporary disability benefits compensate you for wages lost due to a short-term disability. You cannot receive temporary disability payments during your incarceration, and upon release you are not entitled to temporary disability benefits for wages lost while you were incarcerated.¹⁵ Thus, the only temporary disability benefits available would be for lost wages you suffer after your release. Such benefits, which are set by law and change from time to time, could last for as long as 240 weeks, provided your continuing disability is verified by a doctor.¹⁶

Permanent disability benefits are awarded when an on-the-job injury or illness has long-lasting effects. Again, you cannot receive permanent disability payments while incarcerated. The amount of any permanent disability payments you receive upon release will depend on your age, the degree of disability suffered, and the job you were doing when the injury or illness occurred. For purposes of computing permanent disability benefits, prisoners are considered “common laborers” regardless of the specific work they did in prison.¹⁷

If you are released and begin to receive benefits, and then you are re-incarcerated in jail or prison, your benefit payments will be suspended.¹⁸ On the other hand, if you had been receiving benefits due to an injury that happened before you were incarcerated, the benefits will continue, but will be paid to your dependents until you are released.¹⁹

When you suffer an on-the-job injury or illness while incarcerated, both you and your job supervisor must fill out paperwork for the State Compensation Insurance Fund (SCIF), the agency responsible for determining workers’ compensation benefits, to start the claim process.²⁰ You should fill out the “employee” portion of the SCIF Form 3301 Worker’s Compensation Claim and submit it to the job supervisor. You should do this immediately, or in any case no later than 30 days after the injury occurs or the illness starts. The job supervisor should complete the “employer” section of the form and forward it to the claims administrator.

¹⁴ Although workers’ compensation also covers the cost of medical care or treatment for an on-the-job injury, prisoners usually are not entitled to medical cost benefits since the CDCR pays for their treatment while incarcerated.

¹⁵ Labor Code § 3370(a)(3)-(4).

¹⁶ Labor Code §§ 4453 and 4656.

¹⁷ Labor Code § 3370(a)(8).

¹⁸ Labor Code § 3370(a)(3).

¹⁹ Labor Code § 3370(d). If you have no dependents the money will be paid into a trust fund available upon your release.

²⁰ The SCIF provides useful information and claims forms on its website at www.scif.com. The Department of Industrial Relations (www.dir.ca.gov) also provides information on this topic.

If there is a dispute regarding your eligibility for benefits, you may file an application with the Workers' Compensation Appeals Board (WCAB) at any time while you are incarcerated, or up to one year after you are released or discharged.²¹ (A claim may be accepted later if the injury or illness was not discoverable before that time.) You file a WCAB application on a Division of Workers' Compensation (DWC)/WCAB Form 1A Application for Adjudication of Claim. A judge is then assigned to the case, and he or she may refer you to a list of workers' compensation lawyers if you request representation or if the issues are complex.²² You can contact the lawyers and try to convince them to represent you at your hearing before the WCAB, but they do not have to take the case.

The Penal Code provides that vocational rehabilitation services can be provided to injured prisoners to help them engage in suitable employment upon release.²³ If you suffer a work-related disability that continues for at least 28 days and there is a reasonable expectation that you would benefit from a rehabilitation program, you are to be notified of the availability of rehabilitation services.²⁴ Any rehabilitation program will be instituted by the workers' compensation coordinator at the prison. When you are released, the coordinator must notify the SCIF so that the SCIF can initiate a rehabilitation program. Rehabilitation services are an additional benefit; they are not intended to replace monetary workers' compensation benefits.

3. Department of Veterans Affairs Benefits

The federal Department of Veterans Affairs (VA) provides various benefits (including a pension, education and healthcare benefits, and rehabilitation services) to disabled veterans of the U.S. military. Unlike many other benefits, some VA payments are available to you while you are still in prison if you otherwise qualify. However, the benefits have been cut significantly for veterans who are still incarcerated, and your dependents, if any, may be entitled to the amounts not paid to you.²⁵ No VA benefits will be provided to a veteran or dependent wanted for an outstanding felony warrant.

The VA's Healthcare for Reentry Veterans Program (HCRV) offers outreach to veterans incarcerated in state and federal prisons, and referrals and short-term case management assistance upon release from prison. In addition, the Veterans Justice Outreach Program (VJO) offers outreach and case management to veterans who are involved in law enforcement encounters, overseen by treatment courts, and incarcerated in local jails.²⁶

²¹ Labor Code § 3370(a)(6).

²² Labor Code § 3371.

²³ Penal Code § 5069.

²⁴ Ibid.; see also DOM § 31020.7.5.2.2.10.

²⁵ 38 C.F.R. § 3.665; 38 U.S.C. § 1114.

²⁶ You can locate an outreach worker by visiting www.va.gov/HOMELESS/VJO.asp.

The VA publishes a detailed handbook on benefits, in both English and Spanish, that is available for free at www.va.gov/opa/publications/benefits_book.asp. You can also call 1-800-827-1000 (TDD: 1-800-829-4833) and speak with a VA Regional Office representative. If your question is about education benefits, call 1-888-GI-BILL-1 (1-888-442-4551).

If you have questions about your military records, or want a copy of your records, visit the National Archives and Records Administration's (NARA) website at www.archives.gov/veterans/military-service-records or call 1-866-272-6272 (TDD: 301-837-0482). You may also send a letter requesting your records to:

National Archives Personnel Records Center
1 Archives Drive
St. Louis, MO 63138

4. Social Security Benefits (Title II)

There are four ways to qualify for federal Social Security benefits: (1) as a retiree, (2) as a disabled individual, (3) as a spouse or dependent of an eligible individual, or (4) as a survivor of an eligible individual.²⁷ Each of these is discussed in more detail below. You cannot get any Social Security benefits while you are in prison or jail, or sent to another public institution because of a conviction, if you are in custody for more than thirty days.²⁸ This includes being in Atascadero State Hospital, Patton State Hospital, or any other clinical institution as a result of being classified as a Sexually Violent Predator (SVP) or a Mentally Disordered Offender (MDO). Nor are you allowed to receive back payments for time spent in prison or jail. And, under the Social Security Administration's "fleeing felon" regulations, you cannot collect any Social Security benefits if you are considered to be fleeing to avoid prosecution or custody of any court because of a felony conviction or warrant, or a condition of probation or parole.²⁹

Once you are paroled or discharged from prison you can apply for Social Security benefits. If possible, try to determine before you are released whether you may qualify for any form of benefits, as the benefits may help you obtain necessities upon release. To apply for benefits, you can obtain and complete some or all of the application forms online at the Social Security Administration (SSA) website at www.ssa.gov, or call the SSA toll-free at 1-800-772-1213 (TTY: 1-800-325-0778) to schedule an appointment with your local District Office or to have the forms sent to you. Make sure you write down the name of the person you talk with and the date. If you apply within 60 days of the date of your first phone call to request

²⁷ 42 U.S.C. §§ 401-403. Detailed information, application forms, contact information for local offices, and answers to frequently asked questions are available on the Social Security Administration website at www.ssa.gov. Legal Services for Prisoners with Children also publishes a "Manual on SSI/SSDI for Prisoners and Their Advocates," available for free at www.prisonerswithchildren.org/pubs/ssi.pdf.

²⁸ 42 U.S.C. § 402(x)(1)(A)(i).

²⁹ 42 U.S.C. § 1382. In addition, a disability incurred in connection with the commission of a felony cannot form the basis of any Social Security benefit payment. 42 U.S.C. § 423(d)(6)(A). If you have been denied benefits or assessed an overpayment because of the "fleeing felon" regulations, you should seek legal assistance from a legal aid organization as soon as possible to see whether you have grounds to appeal under these often complex rules.

the application materials, the SSA will treat the first phone call as the date of your application. You can also get information and forms from your local Social Security office. If you are in immediate need you should ask for the expedited application process.

If you need help understanding or filling out the forms and cannot find someone to help you, ask for help from the SSA itself. Under Section 504 of the Rehabilitation Act, the SSA is required to help when you need help because of a disability. If you have been discriminated against by the SSA for some unfair reason, such as a disability, you can file a discrimination complaint against the agency (see below).

In general, the amount of assistance you receive is determined by the amount of money you earn, including money you are getting from other sources. If you are denied benefits, it is important to file an appeal as soon as possible. To find a local attorney who will help, contact your local legal aid office, call the State Bar of California Lawyer Referral Services Program at 1-866-442-2529, or visit www.lawhelpcalifornia.org.

a. Retirement Benefits

Retirement benefits are available to people 62 years or older. You should contact the Social Security Administration to determine what your full retirement age is, because it depends on the year you were born. For example, if you were born in 1939, your full retirement age is 65 years 4 months; if you were born between 1943 and 1954, it is 66 years; and if you were born in 1960 or later, your full retirement age is 67 years. This is an important number to know because although you can begin receiving benefits as early as 62, you will not receive your full monthly allowance until you reach your full retirement age. If benefits begin before age 65, they will be reduced to account for the longer period over which they will be paid. If you delay retirement until you are 70 or older, you get a special credit for each month that you do not receive benefits after you reach age 70.

Social Security benefits are paid out of money collected from Social Security taxes (FICA). For each year you work and pay FICA, you earn “credits,” up to 4 per year. Most people need 40 credits to qualify for retirement benefits, so that is about 10 full years of working and paying FICA. Your Social Security benefits are a portion of the amount of money you earned on average over your working lifetime. If you are not sure how many credits you have earned through paying FICA or how much money you have made from working, there is an “Online Retirement Estimator” on the SSA website (www.ssa.gov) that you can use. You can also call the SSA toll-free at 1-800-772-1213 and ask for Form SSA-7004 Request for Social Security Statement. In addition, the SSA has a number of free publications, such as “How You Earn Credits,” which you can request online or by calling the SSA.

b. Social Security Disability Insurance Benefits

Social Security Disability Insurance Benefits (DIB or SSDI) are available no matter what your age if you have enough work credits and have a severe physical or mental disability. The law defines disability as the inability to do any “substantial gainful activity” (SGA) due to a medically determinable physical or mental impairment that can be expected to result in death or

that has lasted (or can be expected to last) for at least 12 consecutive months.³⁰ Being unemployed or incarcerated are not considered disabilities, nor is drug or alcohol addiction.³¹ There are somewhat different rules for determining disability for individuals who are legally blind.³² SSDI is different than Supplemental Security Income (SSI; see below) and allows you to keep some of your benefits for at least a little while when you go back to work.

Many people who apply for SSDI are denied at first but get benefits once they appeal. If you are denied, be sure to start the appeal process by filing a Request for Reconsideration within 60 days after the date you receive notice of the initial determination.³³ You can send your appeal by mail, but it is best to submit it in person at the local Social Security office and get a time- and date-stamped copy so that you can prove you submitted your appeal on time. If you miss the 60-day appeal deadline due to circumstances beyond your control, such as hospitalization or illness, you should submit a written request for a “good cause exception” to the deadline along with your Request for Reconsideration.³⁴ If your Request for Reconsideration is denied, you have the right to file a Request for an Administrative Law Judge (ALJ) Hearing within 60 days after you receive the denial notice.³⁵ Although the SSA is in the process of revising the appeal process beyond the ALJ stage, you ultimately have the right to proceed to federal court on your appeal. You should contact a legal aid organization or the local bar association lawyer referral service for assistance with your appeal.

c. Family Benefits

If you are eligible for retirement or disability benefits, family benefits might be available for your dependents. Family members who might be eligible are: (1) your spouse if he or she is at least 62 years old, or under 62 but still caring for a child under age 16; and (2) your children if they are unmarried and under the age of 18, under 19 but still in school, or 18 or older but disabled. If you are divorced, your ex-spouse might be eligible for benefits on your record.³⁶ In some circumstances, your grandchildren might be eligible to receive dependent benefits.

³⁰ 20 C.F.R. § 416.905(a). The income threshold is readjusted from time to time; the SSA provides current information at www.ssa.gov/OACT/COLA/sga.html.

³¹ 42 U.S.C. § 423(d)(2).

³² 20 C.F.R. § 416.905(b); see 20 C.F.R. §§ 416.981-416.985.

³³ 20 C.F.R. § 416.1409.

³⁴ 20 C.F.R. §§ 404.911(a) and 416.1411(a); see Social Security Ruling 91-5p for a discussion of mental incapacity as the basis for a finding of good cause.

³⁵ 20 C.F.R. § 416.1433.

³⁶ 42 U.S.C. § 402.

d. Survivor Benefits

Survivor benefits are available to some of your family members when you die, if you earned enough Social Security credits while you were working.³⁷ (Likewise, if the main wage earner in your family dies, you may be eligible for survivor benefits.) Family members who may be eligible are: (1) your spouse if he or she is age 60 or older, age 50 or older and disabled, or of any age if caring for a child under age 16; (2) your children if they are unmarried and under the age of 18, under 19 but still in school, or 18 or older but disabled; and (3) your parents, age 62 or older, if you provided at least half of their support. A special one-time funeral benefit payment may be made to your spouse or minor children when you die.

If you are divorced and your spouse dies, you might be eligible to receive benefits as a widow(er) if the marriage lasted 10 years or more.³⁸ Benefits paid to a surviving divorced spouse who is 60 or older will not affect the benefit rates for other survivors who are receiving benefits. In general, you cannot receive survivor benefits if you remarry before the age of 60 unless the remarriage ends, whether by death, divorce, or annulment. If you remarry after age 60 (50 if disabled), you can still collect benefits on your former spouse's record. When you reach age 62 or older, you may get retirement benefits on your new spouse's record if his or her benefits are higher. Your remarriage would have no effect on any benefits being paid to your children.

5. Supplemental Security Income (Title XVI)

Supplemental Security Income ("SSI") is a joint program between the federal and state governments to pay for basic necessities, such as food, clothing, and shelter, for people who are elderly or disabled. The application, administrative, and appeal process for the SSDI and SSI programs are identical.³⁹ You should check with the Social Security Administration (SSA) to make sure that you have applied for both disability programs simultaneously. In California, the SSI payment from both the federal and state governments is put into one federal check given out once a month. Although given out by the SSA, SSI does not have the same work-credit requirements as Social Security benefits, because SSI is not paid out of Social Security funds and is based on financial need, not past earnings. This means that if you meet the SSI requirements, you do not have to have worked a certain number of years to get the benefits. This is the main difference between SSI and SSDI.

If you are initially denied benefits, be sure to appeal the decision (see above) and contact a local legal aid organization for assistance. As with SSDI, many people are denied SSI on the first request but get the benefits after they appeal.

³⁷ 42 U.S.C. § 402.

³⁸ 42 U.S.C. § 402.

³⁹ 42 U.S.C. §§ 1381-1383d. Detailed information and application forms for SSI benefits are available at the Social Security Administration website at www.ssa.gov.

To get SSI, you must be 65 or older, blind, or disabled.⁴⁰ If you are disabled, the disability must be expected to last for at least one year or end in death and must keep you from doing any “substantial gainful activity” (SGA). This is the same measurement used for SSDI benefits (see above) and means that if you earn more than a certain amount per month, you probably will not be considered disabled.⁴¹ Some of the other factors the SSA will look at in evaluating your claim for benefits are whether your disability interferes with basic work-related activities, whether your condition is found on the SSA’s list of disabling impairments, whether you can do the work you have done at any point over the past 15 years, and whether you can do any other types of work. In looking at whether you can do other kinds of work, the SSA will look at your age, education, past experience, transferable skills, and the demands of other types of jobs as defined by the Department of Labor.

To get SSI, you must also have little or no income and be of limited resources. This means that the value of the things you own (besides your home and your car) must be less than a certain amount, which is set by law and differs for single and married people.⁴² If you qualify for SSI, you will also qualify for Medi-Cal (see below) and other assistance with medical care. In fact, if you receive SSI, you do not have to apply for Medi-Cal separately; you will receive it automatically. (You must apply separately for any other benefits you may be eligible for.) However, if you get SSI in California you cannot get food stamps because SSI is supposed to cover food expenses.⁴³ Also, as a condition of SSI eligibility, you must have applied for any other cash benefits for which you may be eligible.

The application process for SSI is long and can take between 12 and 18 months.⁴⁴ It is best to apply as soon as possible, even if you are still in prison. You can begin applying 90 days before your release date.⁴⁵ Although you cannot actually start receiving the benefits until you are paroled or discharged, you can start getting the necessary paperwork in place. Some prisons may have pre-release agreements with the SSA and may be able to contact the SSA for you; you should ask your correctional counselor or other prison staff about this. Alternatively, you can get information and forms from your local Social Security office, which you can find on the SSA website or by calling their toll-free number.

⁴⁰ 42 U.S.C. § 1982c. If you are not a U.S. citizen or national or a member of a federally recognized American Indian tribe, check with the SSA to determine what, if any, additional criteria you need to meet to get SSI benefits.

⁴¹ The income threshold is readjusted from time to time; the SSA provides current information at www.ssa.gov/OACT/COLA/sga.html.

⁴² 42 U.S.C. § 1382b.

⁴³ 7 C.F.R. § 273.20(a); California Department of Social Services, Manual of Policies and Procedures § 63-402.226.

⁴⁴ Many benefits programs, including SSI, have emergency benefits available. If you are in need of immediate assistance, contact the SSA and tell them when you are applying that you are in “immediate need.”

⁴⁵ 42 U.S.C. § 1383(m)-(n) requires the SSA to develop a system whereby a person can apply for both SSI and food stamps prior to his or her discharge or release from a public institution.

If you are not a U.S. citizen, you may be eligible to receive SSI and other types of state or federal benefits. The rules are very complex; eligibility generally depends on when you entered the United States and your immigration or residency status. Publications on immigrant public benefits eligibility are available from the California Immigrant Policy Center website (www.caimmigrant.org) and the National Immigration Law Center website (www.nilc.org). You should also check with your county social services office for information on any special benefits programs that exist, such as the Cash Assistance Program for Immigrants (“CAPI”). If you are undocumented or deportable for some other reason, consult with a legal services advocate who specializes in immigration and immigrant public benefits issues before contacting any public services agency.

Under the Social Security Administration’s “fleeing felon” regulations, you will not be able to collect SSI if you are considered to be fleeing to avoid prosecution or custody of any court because of a felony conviction or warrant, or condition of probation or parole.⁴⁶

6. Medicare

Medicare is a federal program that provides medical benefits for individuals 65 and over who are eligible for Social Security retirement benefits and individuals under 65 with disabilities who are eligible for Social Security disability benefits.⁴⁷ Some widows/widowers and children of these beneficiaries are also eligible. It is not available to prisoners but is available to eligible parolees and former prisoners.

You can apply for Medicare through the Social Security Administration (SSA). If you are over 65 and receiving Social Security retirement benefits, or if you have been receiving SSDI benefits for two years, you will probably qualify for Medicare automatically. Otherwise, you must fill out an application. If you are denied Medicare or Medicare services, and are a California resident at least 60 years old, you should seek assistance from a local legal aid organization on how to file an appeal.

There are three important parts to Medicare, which are referred to as Part A (hospital insurance), Part B (medical insurance), and Part D (prescription medication insurance). Part A helps pay for inpatient hospital care and certain kinds of follow-up care. Part B helps with the cost of doctors’ fees, outpatient services, and certain other medical items and services not covered by hospital insurance. As of January 1, 2006, Part D is a prescription drug benefit administered by private drug plans. Everyone with Medicare is eligible for Part D coverage; some people are eligible for additional assistance called the Part D Low-Income Subsidy (LIS). If you are receiving both Medicare and Medi-Cal (see below), you are automatically eligible for the LIS. If you get Medicare but not Medi-Cal, and you have limited income and resources, you can apply for the LIS with your local welfare office or the SSA.

⁴⁶ 42 U.S.C. § 1382.

⁴⁷ More detailed information about Medicare is available on the SSA website (www.ssa.gov) or by calling the Centers for Medicare & Medicaid Services (CMS) at 1-800-633-4227 (TTY: 1-877-486-2048).

7. Medi-Cal

Medi-Cal is California's program to pay for medical care for public assistance recipients and other low-income people.⁴⁸ If you have both Medicare and Medi-Cal, Medi-Cal pays Medicare deductibles, premiums, and co-payments. Medi-Cal also covers many services not covered by Medicare. If you qualify for SSI, CalWORKS, refugee aid, or In-Home Supportive Services, you are automatically entitled to receive Medi-Cal benefits.⁴⁹ If you do not qualify for any of these programs you can apply for Medi-Cal separately by calling, visiting, or writing to the local county human services agency.

Medi-Cal is not available for prisoners, but it is available for qualified parolees. You must be a California resident. If you are not a U.S. citizen you may get Medi-Cal if you are a lawful permanent resident or meet other immigration status criteria.⁵⁰ General Assistance recipients (see below) are not eligible for Medi-Cal, and neither are adults between 18 and 65 who have no dependent children and are not disabled.

Medi-Cal may require you to make a sliding-scale payment ("share of cost") in any month when you access services. However, if your income is very low, you may not have to pay a share of cost.⁵¹

If your Medi-Cal is discontinued or your application is denied, you have the right to request a state hearing before an Administrative Law Judge (ALJ) within 90 days of the county's notice or action.⁵² Fill out the "Request a State Hearing" form on the back of the denial notice or call the California Department of Social Services at 1-800-952-5253 and ask for a state hearing form. You should also seek assistance from a local legal aid organization.

8. CalWORKS

CalWORKS is a joint federal and state program that replaced the former Aid to Families with Dependent Children (AFDC) program. The benefits under CalWORKS are given out by county social services departments.

⁴⁸ More information about the Medi-Cal program is available at www.medi-cal.ca.gov and on the California Department of Health Care Services (DHCS) website at www.dhcs.ca.gov.

⁴⁹ See Welfare and Institutions Code § 14005.30.

⁵⁰ Immigrant public benefits rules are complex. Visit the California Immigrant Policy Center's website, www.caimmigrant.org, for publications on public benefits available to non-citizens, such as the Cash Assistance Program for Immigrants (CAPI). If you are undocumented or for some other reason are subject to deportation, you should check with a legal services advocate who specializes in immigration and immigrant public benefits issues.

⁵¹ Information on various state benefits programs is available at the California Department of Social Services (DSS) website at www.dss.cahwnet.gov. Another good source of information is the Western Center on Law & Poverty, which publishes a number of helpful brochures and manuals. For more information visit WCLP's website at www.wclp.org, write to 3701 Wilshire Boulevard, Suite 208, Los Angeles, CA 90010-2826, or call 1-213-487-7211.

⁵² 45 C.F.R. § 205.10.

CalWORKS provides cash aid to needy children and the relatives who care for those children. The most common type of family that receives CalWORKS is a single mother and her children. However, many other types of families qualify as well. Also, the requirements for CalWORKS have been changed somewhat to allow aid to families where both parents are present. For example, if both parents are in the home, but one is unemployed or disabled, the family may qualify for benefits under the program.

Children are eligible for benefits under this program until their 18th birthday, although benefits may be restricted if a child is a teen parent with custody of his or her children. Children who are over age 18 may continue receiving some benefits if they are enrolled full-time in high school or a vocational program and either are reasonably expected to graduate by the time they are 19 or are not expected to graduate by age 19 due to a disability. There are no age requirements or limitations for adult caretakers.

To receive CalWORKS benefits you must be a California resident, but there is no requirement for how long you have to be a resident before you can receive the benefits. Some people who are not U.S. citizens, including lawful permanent residents and people with asylum or refugee status, are eligible for CalWORKS. You must also meet requirements for immunizations, school attendance, child support cooperation, fingerprinting, and time limits. CalWORKS is a very complex program and it is best to have a legal services advocate help you understand all the requirements and deadlines.⁵³

If you were convicted of a state or federal drug-related crime after December 31, 1997, you are not eligible for CalWORKS benefits; this ban does not apply to juvenile adjudications for drug offenses, unless the juvenile was convicted in adult court.⁵⁴ You are not eligible for CALWORKS benefits if you are fleeing to avoid prosecution, custody, or confinement after a felony conviction or if you are considered to be violating any condition of parole or probation in any court.⁵⁵

People receiving aid under CalWORKS must participate in the Welfare-to-Work program, which is intended to help beneficiaries get off public assistance.⁵⁶ Through Welfare-to-Work you can receive job search services, vocational training, adult basic education, and work experience. The program helps pay for and arrange transportation, childcare, and work-related costs.

⁵³ Many benefits programs, including CalWORKS, have emergency benefits available. If you are in need of immediate assistance, contact the county agency that administers the program and tell them when you are applying that you are in “immediate need.”

⁵⁴ Welfare & Institutions Code § 11251.3. If your family would be eligible except for your drug conviction, they may receive some non-cash benefits (for example, a check or voucher issued for the rent and utilities). The policy on juvenile adjudications is set forth in a letter available at www.dss.cahwnet.gov/lettersnotices/entres/getinfo/acin99/I-71_99.pdf.

⁵⁵ CalWORKS Manual of Policies and Procedures § 40-034.

⁵⁶ Information on Welfare-to-Work is available at the California DSS website at www.dss.cahwnet.gov. You may be exempt from this requirement if you are unable to work due to a documented disability.

If you are denied benefits, your benefits are discontinued, reduced, or delayed, or you are assessed a CalWORKS overpayment notice, you have the right to request a state hearing before an Administrative Law Judge within 90 days of the county's notice or action.⁵⁷ Fill out the "Request a State Hearing" form on the back of the denial notice or call the California Department of Social Services (DSS) at 1-800-952-5253 and ask for a state hearing form. You should also seek assistance from a local legal aid organization.

9. CalFresh

CalFresh is California's food stamp program and is overseen by the state Department of Social Services (DSS).⁵⁸ Food stamps are used like money in grocery stores to buy food. Eligibility is determined by how much income and resources you have. You can usually qualify if you are unemployed, work part-time, or receive public assistance. There is no housing requirement, so you can receive food stamps even if you are homeless. If you do not qualify for CalFresh because of your immigration status, you can apply for the California Food Assistance Program (CFAP); you should also seek assistance from a legal services advocate who specializes in immigration and immigrant public benefits issues.

As with some other benefits programs, you cannot get food stamps if you have been convicted of certain drug-related felonies or are a "fleeing felon" or violating any condition of probation or parole. Effective January 1, 2005, however, certain felons convicted of simple drug possession may receive food stamps.⁵⁹ To be eligible, you must be participating in or have completed a government-recognized drug treatment program, be on the waitlist for such a program, or provide evidence that you have stopped using controlled substances.

To apply for food stamps, visit the county social services office. Bring documents that show where you are living (even if that is "on the street"), how many people are in your household, how much money you receive each month (including "gate money"), how much you pay for rent and/or doctor's bills, and a Social Security card or proof that you have applied for a card. Once the office that serves your area gets your application, it has 30 days to act on your application and give you food stamps if you are eligible.⁶⁰ However, if you request and qualify for immediate assistance, you can get emergency food stamps within 3 days.⁶¹

If you are denied food stamps, your food stamps are discontinued, reduced, or delayed, or you are assessed a food stamps over-issuance notice, you have the right to request a state hearing

⁵⁷ 45 C.F.R. 205.10.

⁵⁸ There is a great deal of information about CalFresh and other public benefits programs on the DSS website at www.dss.cahwnet.gov.

⁵⁹ Welfare & Institutions Code § 18901.3; DSS All County Letter (ACL) 04-59.

⁶⁰ 7 C.F.R. § 273.2(g)(1); DSS Manual of Policies and Procedures (MPP) § 63-301.1.

⁶¹ 7 C.F.R. § 273.2(i)(2); MPP § 63-301.7.

before an Administrative Law Judge within 90 days of the county's notice or action.⁶² Fill out the "Request a State Hearing" form on the back of the denial notice or call the DSS at 1-800-952-5253 and ask for a state hearing form. You should also seek assistance from a local legal aid organization.

10. General Assistance (GA)

General Assistance (GA) is a county program, and the regulations and amount of benefits vary from county to county. The program is for people who have no other means of financial support. Ask for a "disability exemption" from any GA requirement (such as a vocational or rehabilitation requirement) from the county social worker if you have a disability that prevents you from participating in the activity. You may apply for food stamps through CalFresh (see above) at the same time you are applying for GA; the eligibility requirements for the two programs are very similar.

If you are denied GA or your benefits are discontinued, reduced, or delayed, you can file an appeal directly with the county that administers the program. You should also seek assistance from a local legal aid organization.

11. Employment and Job Training

The federal Workforce Investment Act (WIA) provides funding for employment training, education, and placement services for eligible youth and adults. The programs are administered by local offices. More information and a list of local WIA offices can be found at the California Employment Development Department (EDD) website at www.edd.ca.gov.

12. Tax Credit Voucher (Work Opportunity Tax Credit)

Tax credit vouchers allow an employer who hires a paroled or released prisoner to deduct up to \$9,000 a year from his or her federal income tax for a total of two years in which the ex-offender is employed. This is a powerful incentive for employers to hire ex-offenders. For an employer to qualify, he or she must hire the former prisoner within one year after his or her parole or discharge from prison. The program is administered by the California Employment Development Department (EDD). For more information, visit the EDD's website at www.edd.ca.gov.

13. California Department of Rehabilitation

The goal of the California Department of Rehabilitation (DOR) is to help people with disabilities get and keep jobs and maximize their ability to live independently in the community. To qualify, you must have a physical, mental, or learning disability; the disability must prevent you from returning to any jobs you have worked in the past, whether or not you liked them and whether or not you were paid enough; and the DOR must find that if services are provided to you, you will likely be able to get or keep a job. If you think you meet the basic requirements, contact your local DOR office and fill out an application (contact information is available on the

⁶² 45 C.F.R. 205.10.

DOR website at www.rehab.cahwnet.gov). Former prisoners have no special priority in qualifying for DOR services. Also, you do not automatically qualify for these services if you are receiving SSI or SSDI.

Services provided by the DOR include counseling and guidance, referrals and help getting services from other agencies, job search and placement assistance, and vocational and other training services. The DOR may also help with job transportation costs or the costs of tools, clothing, or supplies you need to enter a job.

14. Department of Developmental Services

Parolees with developmental disabilities may be able to get several types of assistance from the California Department of Developmental Services (DDS). Eligibility for assistance and provision of services is coordinated through Regional Centers located around California; location and other information is available at www.dds.cahwnet.gov. A qualifying developmental disability is a disability that starts before age 18, continues or can be expected to continue indefinitely, and constitutes a substantial disability. This includes mental retardation, cerebral palsy, epilepsy, autism, and brain injuries that occurred before age 18 and require treatment similar to that for people with mental retardation. A "substantial disability" significantly limits functioning in three or more of the following areas: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency.⁶³ An adult will generally they have to show that he or she was previously receiving DDS services as a minor.

Another organization that may be able to help parolees with developmental disabilities is The Arc, a private, non-profit organization with numerous local offices. Visit www.thearc.org for more information.

15. Independent Living Centers

Independent Living Centers (ILCs) are non-profit community-based centers where people with disabilities can receive assistance with a variety of daily living issues and learn the skills they need to take control of their lives. The centers serve people with all types of disabilities and, with some exceptions, do not charge for their services. ILCs provide peer counseling, information, and referral, independent living skills training, and advocacy. Some centers may provide additional services, including youth services, mobility training, personal assistance service, assistive technology outreach coordination, transportation services, and vocational services.⁶⁴

⁶³ Welfare & Institutions Code § 4512(a) and (l).

⁶⁴ For more information, including a list of ILCs in California, call the California Foundation for Independent Living Centers (CFILC) at 1-916-325-1690 (TDD: 1-916-325-1695) or visit www.cfilc.org.

16. Mental Health Services

Every county offers some form of mental health services. You should check with your county's mental health services department to find out what services are available to you. You can locate the number in the Government section ("blue pages") of the telephone book. If you are enrolled in Medi-Cal, you may be able to receive some mental health treatment, including substance abuse treatment, through their programs.

If your parole requires that you continue to see a psychologist and/or a psychiatrist, you can receive treatment at a Parole Outpatient Clinic (POC). Also, if your parole agent is concerned about your mental health, he or she may refer you to a POC.⁶⁵ Either way, your parole officer will provide you with information on where the nearest POC is located.

17. Housing Assistance

The cost of housing in California is very high and parolees may find it difficult to find an affordable place to live. Through the Department of Housing and Urban Development (HUD), the federal government has created a Housing Choice Voucher Program ("Section 8").⁶⁶ The program is run through local Public Housing Authority (PHA) offices and, while HUD has set some guidelines, the PHAs have fairly broad discretion in how to conduct the program.

The program allows PHAs to contact landlords in their area and secure affordable housing for those who could not otherwise afford it. There are a few different voucher programs, including one for the disabled or elderly and another conducted in conjunction with Welfare-to-Work. Your PHA should be able to tell you which one(s) you qualify for. Most people choose tenant-based vouchers, which allow you to choose the place you want to live. The PHA gives a check or voucher to the landlord for some of the rent, and you pay the rest.

To qualify for the tenant-based and other voucher programs, you must be considered "low income." There are three different brackets of low-income families (although the PHAs can create exceptions to the income rules): (1) those whose income is 80% of the median income in their area (low-income); (2) those whose income is 50% of the median income in their area (very low-income); and (3) those whose income is 30% or less than the median income in their area (extremely low-income). The PHA must give 75% of its available voucher program placements to extremely low-income families, and the remainder usually go to families in the very low-income category.

Other requirements include being a family (although one person can be a "family") and having U.S. citizenship or documented immigrant eligibility. The PHA will verify information regarding your income, the members of your family, and any citizenship information given to them. Everyone living in a home or apartment obtained through the voucher program must provide evidence of a Social Security number.

⁶⁵ DOM § 81070.11.

⁶⁶ Information on programs available through the Department of Housing and Urban Development (HUD), including the detailed Housing Choice Voucher Program Guidebook, a list of PHAs, and a list of organizations that provide help with housing issues, is available on the HUD website at <http://portal.hud.gov/portal/page/portal/HUD>.

The PHA can deny assistance for various reasons, and in some circumstances, the PHA is required to deny assistance. Before applying you should get the list of disqualifying factors from the PHA. For example, there are provisions banning people from getting public housing if a family member was previously convicted of making methamphetamine (“speed”) on the grounds of an assisted housing project. Any person who is subject to a sex offender registration requirement will be excluded. Also, you cannot get public housing if your past drug use resulted in evictions from a federally funded housing project, unless it has been more than three years since the eviction. PHAs can prohibit people who abuse or show a pattern of abuse of drugs or alcohol⁶⁷ People can also be excluded if anyone in the family previously damaged property in an assisted housing unit; or if any member of the family committed fraud, bribery, or any other corrupt or criminal act related to any federal housing program.

The PHA also has discretion in considering a family’s circumstances when determining eligibility. In some instances, the PHA may determine the seriousness of the situation does not warrant denial. This means that it is important to be open with the PHA about your situation and your need for the assistance.

Finally, PHAs and landlords are allowed to evaluate potential tenants on the basis of factors they consider in other potential tenants, such as rent and utility payment history, caring for a unit and premises, or drug-related or other criminal activity that is a threat to the life, safety, or property of others. None of these factors automatically disqualifies you from participating in the program or being selected as a tenant by a landlord, however. If you are denied benefits by a PHA, you should appeal the decision and ask the PHA for a hearing.

18. Federal Education Assistance

The federal government offers several types of assistance for people seeking financial aid for higher education. Such assistance includes loans, grants, and work study funds. This is one of the areas in which a criminal conviction general does not restrict a person’s eligibility for benefits. The only relevant restriction is that if a person was convicted of a drug offense while receiving federal financial aid, he or she may be barred for three years from getting additional federal financial aid; however, there is a process to apply to get a waiver from that restriction.⁶⁸

19. Filing a Discrimination Complaint

If you are applying for, receiving, or being cut off from public benefits, you have the right to file a complaint if you believe you have been discriminated against due to your race,

⁶⁷ 42 U.S.C. § 13663; see list of exclusion factors at 24 C.F.R. § 960.205. PHA’s have very broad authority to get access to criminal records of applicants and the family members who live with them. 42 U.S.C. § 1437d(q). PHA’s also can ask for a person’s consent to obtain his or her records from drug treatment programs. If a person has a criminal record that indicates a history of abuse of illegal drugs, the PHA must get the drug treatment facility’s records. See 24 CFR sect. 960.205(c). However, PHA’s in California cannot get access to juvenile court records without first petitioning the juvenile court and getting an authorization order. 42 U.S.C. § 1437d(q)(1)(C); Welfare & Institutions Code §§ 203, 827(a)(1); see also In re Elijah S. (2005) 125 Cal.App.4th 1532.

⁶⁸ Flyer on Incarcerated Individuals and Eligibility for Federal Student Aid, available at www.studentaid.ed.gov/students/attachments/siteresources/IncarcFAQ.pdf.

color, religion, gender, national origin, political affiliation, disability, marital status, or age. Federal laws also prohibit discrimination on several, although not all, of these bases. Because each program is administered by a different agency, you should direct your complaints to the agency that you feel discriminated against you. Following is a partial list of addresses.

Social Security: Submit a Discrimination Complaint (form SSA-437) within 180 days of the discriminatory action to:

Social Security Administration
Office of the General Counsel
Office of General Law
Suite No. 56, P.O. Box 26430
Baltimore, MD 21207

State Programs (e.g., CalFresh, CalWORKS, Medi-Cal):

California Department of Social Services
Civil Rights Bureau (CRB)
P.O. Box 944243, M.S. 15-70
Sacramento, CA 94244-2430
Telephone: 1-866-741-6241 (toll-free) or 1-916-654-2107
TDD/TTY: 1-800-688-4486
Email: crb@dss.ca.gov

County Programs: You should file a complaint in the county that discriminated against you. There are strict deadlines for filing complaints against government agencies. A local legal aid organization or the State Bar of California Lawyer Referral Service Program (1-866-442-2529) may be able to help you.

General Federal Discrimination Complaints: If your complaint involves an assistance program other than CalFresh, and you believe that the discrimination was based on race, color, national origin, age, or disability, you may also file a federal discrimination complaint with:

U.S. Department of Health and Human Services
Office of Civil Rights
50 United Nations Plaza, Room 322
San Francisco, CA 94102
Telephone: 1-800-368-1019

Language Access Problems: If you have problems applying for or receiving public benefits because you do not speak English, you should ask for help from someone who speaks your primary language. People who are trying to get access to public benefits have the right to interpreter services. In addition, if you are not being helped in your primary language, you may wish to file a discrimination complaint against the county social services office. For state benefits, you can also call 1-800-952-5253 and request a state hearing on the matter.