NEXT COALITION MEETING

The next meeting of the SSI Advocates’ Coalition will be on Friday, May 9, 2003 in the 2nd floor conference room at Greater Boston Legal Services, 197 Friend Street, Boston, MA (617-371-1234). The meeting will begin at 10:00 a.m. and end by 4:00 p.m.

A draft agenda is included with this mailing. If you have any items you would like to add to the agenda please call or e-mail Barbara Siegel (bsiegel@dlc-ma.org) or Linda Landry (llandry@dlc-ma.org) at DLC. See you on the 9th!
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1. **New Boston OHA Information.** The Boston Office of Hearings and Appeals is on Cambridge Street directly in front of the Bowdoin stop on the Blue Line. Directions to the new OHA are at [http://www.socialsecurity.gov/oha/r1/directions.html#boston_ho](http://www.socialsecurity.gov/oha/r1/directions.html#boston_ho).

New contact information:

Office of Hearings and Appeals  
One Bowdoin Square, 4th Floor  
Boston, MA 02114  
617-523-3014 (phone)  
617-248-0978 (fax)  
E-mail is s3g-f1.boston.ho@ssa.gov.

Paul Martin is the Hearing Office Director. His extension is 3055.

The following are the extensions for reaching the ALJs’ hearing assistants.

- 3039 Carter  
- 3024 Fallon  
- 3012 Gardner  
- 3008 Halfyard  
- 3003 Kelly  
- 3056 McKay  
- 3072 Murphy  
- 3022 Newton  
- 3052 Packer (HOCALJ)  
- 3003 Reeves  
- 3045 Sax

1. **Mental Impairment Listings to be Revised.** SSA has published an Advance Notice of Proposed Rulemkaing, announcing its intent to update and revise the rules it uses to evaluate mental disorders of adults and children. See 68 Fed.Reg. 12639 (3/17/2003), included in this newsletter and available at [http://www.access.gpo.gov/su_docs/fedreg/a030317c.html](http://www.access.gpo.gov/su_docs/fedreg/a030317c.html). Under consideration are Listings 12.00, 112.00, and 20 C.F.R. sections 404.1520a and 416.920a. The deadline for providing input is June 16, 2003. In explaining why it is planning to revise the mental impairment listings, SSA states:

   The current listings for mental disorders for adults (12.00) and children (112.00) will no longer be in effect on July 2, 2003, unless we extend them or revise and promulgate them again, so we must consider now whether to update and revise them.
Although we have made some changes to the listings since we first published them, including changes to the listings in 2000 (65 FR 50746, corrected at 65 FR 60584), we have not comprehensively revised the adult listings since 1985 and the childhood listings since 1990.

Many of our rules for adults are based on the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, Third Edition (Washington, DC: APA, 1980), also called the DSM-III. That manual has been updated three times over the years since we first published comprehensive revisions of the adult mental disorders listings. Our childhood listings are based on the revision of the Third Edition (the DSM-III-R), which has been updated twice since we first published comprehensive revisions of those listings. We want to update the terms in our listings so they are consistent with current medical terminology. (The current edition is the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision, Washington, DC, American Psychiatric Association, 2000, also called the DSM-IV-TR.)

There is also new information about mental retardation (MR) that we need to consider. We recently funded research through the National Research Council (NRC) that assessed our current criteria for evaluating MR in the context of state-of-the-art scientific knowledge and clinical practice. In its final report, Mental Retardation: Determining Eligibility for Social Security Benefits, the NRC made a number of recommendations to us for revising our rules, and we are considering the recommendations now. If you would like to review the report and send us comments on the recommendations, you can find it at http://www.nap.edu/books/0309083230/html.

After SSA considers comments and suggestions, as well as information about advances in medical knowledge, treatment, and methods of evaluating mental impairments it will publish for public comment a Notice of Proposed Rulemaking (NPRM) that will propose specific revisions to the rules. Stay tuned...

2. IOLTA Survives Latest Attack. In a 5-4 decision written by Justice Stevens, the U.S. Supreme Court held that using IOLTA (Interest On Lawyers’ Trust Accounts) funds to pay for legal services for the poor is constitutional. Brown et al. v. Legal Foundation of Washington et al, No. 01-1325 (U. S. Supreme Court 3/26/03). The Court held that because there was no pecuniary loss to the clients whose money was being held in IOLTA accounts, there was no compensation due to them and therefore no “taking” in violation of the Constitution. Justices Scalia, Thomas, Rehnquist and Kennedy dissented. The decision is at http://supct.law.cornell.edu/supct/html/01-1325.ZS.html.

3. MassHealth Update. On April 24, 2003, the House Ways and Means Committee (HWM) issued its proposed budget for Fiscal Year 2004. The HWM proposal, if adopted, would be devastating to MassHealth recipients and uninsured people in Massachusetts. According to an analysis done by the Massachusetts Law Reform Institute, the HWM proposed budget:
• Allows or an enrollment cap of adults on Family Assistance and CommonHealth, including the HIV-waiver program;

• Rolls back eligibility for the HIV Waiver program from 200% of the federal poverty level to 133% FPL;

• Eliminates the entire Prescription Advantage program;

• Allows the administration to redefine disability for non-SSI recipients seeking MassHealth coverage;

• Gives the administration open-ended authority to define who can get PCA services;

• Allows the administration to implement asset tests in all categories of coverage (currently there is not an asset test for MassHealth recipients under 65 years old who are living in the community);

• Increases co-pays for prescriptions up to $3 per drug;

• Broadly authorizes premiums to be applied throughout all categories of coverage;

• Eliminates state-funded health insurance coverage for legally present, special status immigrants;

• Creates a new program for non-SSI disabled adults that it is a mandatory managed care program with individual cost caps that are far too low to properly care for the medical needs of people with disabilities;

• Eliminates methadone treatment for all MassHealth recipients;

• Mandates prohibitive premiums for the Children's Medical Security Plan;

• Lowers the income eligibility standard for Healthy Start for pregnant uninsured women from 225% FPL to 200% FPL;

• Includes authorization for tighter nursing home admissions standards;

• Eliminates bed hold protections for nursing home patients;

• Significantly narrows the scope of services reimbursable under the Free Care Pool; and

• Does nothing to respond to the elimination of MassHealth Basic.

Debate in the House on these proposals and related amendments is ongoing. For more
information, contact Vicky Pulos at vpulos@mlri.org or Neil Cronin ncronin@mlri.org or go to the Health Care section of http://www.masslegalservices.org. To track the progress of the proposed budget, bill number H.4000, go to http://www.state.ma.us/legis/history/h04000.htm.

The only good news to report about MassHealth is that coverage for orthotics and prosthetics, eliminated in a prior round of 9C cuts, has been restored, effective 7/1/03. See November 2002, January 2003 and March 2003 newsletters in the Disability section of http://www.masslegalservices.org for more information on earlier MassHealth cuts.

5. HIPAA Privacy Standards In Effect, But Don’t Apply to SSA. The medical record and health information privacy provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) went into effect on April 14, 2003. In order to comply with HIPAA, hospital, clinics, and other health care facilities have tightened their procedures for releasing medical information, and in many cases are insisting that advocates use the facility’s authorization form. SSA has revised the authorization form it (and the Disability Determination Services) uses to collect medical information on claimants so that it is HIPAA compliant. This form, the SSA-827(2-2003), is available on SSA’s website at http://www.ssa.gov/online/ssa-827.pdf.

However, the new HIPAA/Privacy Rule regulations do not change SSA/DDS policy with respect to the disclosure of medical information by SSA or the DDS. SSA and the DDSs themselves are not covered by HIPAA or the Privacy Rule when processing Social Security cases. The Privacy Act of 1974, as amended, still controls. Once health information protected by the HIPAA Privacy Rule is released to a non-covered entity such as SSA, the HIPPA Privacy Rule ceases to apply to the released information. The bottom line is that the release forms currently being used by advocates in dealing with SSA do not need to be modified because of HIPAA. An SSA sheet about HIPAA and the Social Security Disability programs is included in this newsletter and is available at http://www.masslegalservices.org/page/130483&cat_id=258. For more information about the HIPAA privacy rules, go to http://www.hhs.gov/ocr/hipaa.

6. SSA Website Makeover. SSA’s website has a new look and a new address: www.socialsecurity.gov. For now, you can still reach the website at www.ssa.gov. For more information, go to http://www.ssa.gov/pressoffice/pr/socialsecuritygov-pr.htm.

7. Proposed Regulations Would Limit Issuance of SSNs to Noncitizens. SSA has published proposed regulations that would revise several sections of the regulations (20 CFR 422.104 & 422.107) concerning assignment of SSNs to noncitizens. See 68 Fed.Reg. 14563 (3/26/03) available at http://www.access.gpo.gov/su_docs/fedreg/a030326c.html. The comment period is open until 5/27/03.

The following is a summary of major proposed changes:

• In-person interview. Current rules waive the in-person interview for persons under age
18. The proposed rule would require an in-person for persons age 12 and older.

- *Evidence of identity.* Current rules waive this requirement for children age 7 and under. The proposed rule would require all to provide evidence of identity when an original SSN is sought. The proposed rule notes that a birth record is not sufficient evidence of identity.

- *Non-work SSNs.* Under current rules, SSA will provide a "nonwork SSN" in limited circumstances: to access federally funded government benefits; for the administration of general public assistance programs; and in administering state statutes governing issuance of driver's licenses. Nonwork SSNs are marked "Not Valid for Employment." The proposed rule would limit the issuance of a nonwork SSN for any purpose other than to receive Federal, State, or local benefits.

8. **House Approves H.R. 743, the Social Security Protection Act of 2003.** H.R. 743 is the latest incarnation of H.R. 4070, which fell victim to House inaction at the end of the last legislative session. It was filed on February 12, 2003, passed the House by a vote of 396-28 on April 2, 2003, and is now with the Senate Finance Committee. The following is a summary of provisions of H.R. 743. THEY ARE NOT CURRENT LAW. Sections of particular interest to legal services clients are in *italics.*

**Title I - Protection of Beneficiaries**

**§101 - Authority to Reissue Benefits Misused by Organizational Rep Payees**

In cases where the payee is an organization serving 15 or more individuals, SSA will certify payment to the beneficiary, or alternative payee, for a month in which misuse occurs. “Misuse” by a payee occurs in any case in which the payee receives payment and converts all, or part, for use other than the “use and benefit” of the beneficiary. The Commissioner will define “use and benefit” for this purpose. (Note: prior language was “benefit” only. This language will be replaced with “use and benefit.”)

Reissued benefits will be excluded from SSI resource consideration for a period of 9 months, beginning the month after the month of reissuance.

This section will be effective for all misuse findings made on or after January 1, 1995.

**§102 - Payee Oversight**

Non-governmental organizational payees must be bonded and licensed as required by state law and must provide documentation to SSA during SSA’s annual certification process. Periodic, on sight reviews must occur for any payee (individual or organizational) serving 15 or more beneficiaries, is a certified community based non profit organization or is an agency serving 50 or more beneficiaries. SSA will be required to file report within 120 days of the close of each fiscal year discussing oversight activity.
§103 - Disqualification from Serving as Payee
Any individual convicted of an offense carrying a prison term of more than one year, or in “fleeing felon” status, will be prohibited from serving as a payee. SSA must obtain information verifying this prior to appointment.

§104 - Fee Forfeiture
Any fee for service rep payee who has been determined to have misused benefits in a month, will not be entitled to collect a fee for that month.

§105 - Payee Liability for Misused Benefits
If the payee is not a state, federal, or local government agency, the payee will be liable for misused benefits. The liability will be in the form of an overpayment and will be collected as such. Upon recovery of any misused funds, SSA will certify a new payment to the beneficiary.

§106 - Redirected Payments upon Payee Failure to File Accounting
When required accountings are not filed, SSA will notify the payee of the failure to file in writing. If there is no response, payments will be redirected to the DO and the payee will have to appear in person in order to receive payment. (This provision is silent as to what happens to the beneficiary during this period of time.)

§111 - Civil Monetary Penalties
Should funds be determined to have been misused, the payee may be liable for a civil penalty, in addition to funds actually misused, of not more than $5000 for each act of conversion and an assessment of not more than twice the benefits misused as a damages payment to the United States. (There is no provision for damages for the beneficiary harmed by the misuse.)

Title II - Program Protections
§201 - Civil Monetary Penalties for “Knowingly Withholding Material Facts”
Civil monetary penalties can be assessed to any individual who knowingly withholds materials facts during the initial application process and/or the continuing eligibility process.

§202 - Receipts for Work/Earnings Reports
SSA DO's will be required to provide a receipt to the beneficiary, or the beneficiary’s representative, when a report concerning work or earnings status is made.

§203 - Fleeing Felons

Within 9 months of the passage of the bill, the fleeing felon payment prohibitions will be applied to the SSDI program. A good cause provision for paying withheld benefits is included.

§205 - Refusal to Recognize Certain Individuals as Claimant’s Reps
SSA will be allowed to refuse to recognize the following individuals as claimant’s representatives, after notice and opportunity for hearing: Attorneys who have been disbarred or suspended from practice, or who have been disqualified from participating or appearing before
any federal program or agency. The same provision will apply to non-attorney representatives (assuming they had been admitted to practice law at some point).

If the disqualification by SSA is due to the collection of a fee in excess of that allowed, there will be no reinstatement until full restitution is made.

§208 - Disqualification for Payment During TWP Upon Conviction of Fraudulent Concealment of Work Activity
Upon conviction by a federal court of concealment of work activity during the Trial Work Period, no payment will issue for those months affected. This prohibition will be applicable in situations where the individual concealed work activity or was receiving disability benefits under another identity. The affected payments will be treated as an overpayment as will all accompanying penalties, fines, etc., assessed to the individual’s account.

§209 - Authority for Judicial Restitution Orders
The Federal Courts will have the authority to issue restitution orders in appropriate cases as well as assessing other penalties, etc. If the court fails to order restitution, or orders only partial restitution, it must make a statement of its reasoning.

Title III - Attorney Fee Payment Systems Improvements
§301 - Cap on Fee Assessment
The assessment on attorneys fees shall not exceed $75 in calendar year 2003 but this amount shall be indexed using the same formula used to determine benefits annual increases.

§302 - Expansion of Fee Withholding to the SSI Program
Attorney fee withholding will be applied to the SSI program and will include the fee processing assessment outlined in §301 above. This provision will sunset 3 years after enactment. A study has been ordered regarding fee withholding for non attorney representatives. The study will address: the training, qualifications and competency of non attorney representatives, the type and quality of services provided and the oversight of non attorney representatives by SSA and other organizations.

Title IV - Miscellaneous and Technical Amendments
§402/403 - Expansion of Waiver Authority and Demonstration Project Authority
SSA’s waiver authority has been expanded to allow for demonstration projects regarding the gradual reduction of SSDI benefits based on earnings. SSA will have demonstration authority to begin a project exploring the 2:1 offset used in the SSI program for the earnings of SSDI workers.

§404 - Availability of Federal and State Work Incentive Services to Additional Individuals
Those individuals who are considered to be receiving benefits under the SSI program (a.k.a. 1619(b) recipients) and those receiving extended medicare benefits will be allowed to seek services from BPAO and PABSS programs. The extension of services will also apply to individuals attempting to “secure, maintain, or regain” employment.
§412 - Non Payment of Benefits Upon Removal from the United States
Benefits payments will cease upon SSA’s receipt of notification of removal from the U.S. Attorney General’s office.

§414 - Clarification of Definitions Regarding Certain Survivors Benefits
Definition clarification is provided for eligibility purposes for certain widow and widowers receiving survivors benefits concerning prior marriages and institutionalization.

For more information, see the SSA Legislative Bulletin at http://www.ssa.gov/legislation/legis_bulletin_040703.html. The bill is not included in this newsletter. For the entire text, contact the Disability Law Center or access it at http://thomas.loc.gov/cgi-bin/query/C?c108:./temp/~c108kgmKGS.

9. Supremes to Hear Step 4 Case About Obsolete Job. On February 24, 2003, the U.S. Supreme Court granted certiorari in Barnhart v. Thomas, No. 02-763. The case below is Thomas v. Comm’r of Social Security, 294 F.3d 568 (3rd Cir. 2002). At issue is whether a person is "disabled" within the meaning of the Social Security Act if the person can physically perform her previous job (elevator operator), which is now obsolete. The case is important because some of the jobs that persons with disabilities now have will become obsolete as technology advances. If these individuals could work in a previous job that no longer exists, they will be denied benefits. Petitioner’s brief is due on May 9, 2003. To follow the case’s progress in the Supreme Court, go to: http://www.supremecourtus.gov/docket/02-763.htm.

10. Ready For Your Close-Up? SSA Issues Final Regulations on Claimant Identification Pilot Projects. 68 Fed. Reg. 23192 (5/1/03). SSA will be conducting 6-month pilot projects in which it will request photographic identification from individuals filing for title II and title XVI disability and blindness benefits in specified geographic areas (all field offices in South Carolina and Kansas, the Augusta, Georgia field office, and selected field offices in New York City. In the pilots, SSA will also require claimants to allow SSA to take their photograph and will make these photographs a part of the claims folder. Exceptions will only be permitted where an individual has a sincere religious objection. One of the reasons given for the pilots is to “ensure that the individual filing the application is the same individual examined by the consultative examination (CE) physician.” These regulations are effective May 31, 2003 The pilots were first proposed in a notice of proposed rulemaking on 11/15/02 (67 Fed. Reg. 69161). See Brief Note in January 2003 newsletter. You can see the regulations online at http://www.ssa.gov/regulations/articles/rin0960_af79f.htm.

11. SSI Wage Reporting Pilot. 66 Fed. Reg. 7160 (2/12/03). SSA is proposing to conduct a 6-month SSI wage reporting pilot, from May to October 2003, to test a different method of collecting the information. During the pilot, a nationwide sample of individuals who need to report a change in earned income would call an SSA toll-free telephone number which will allow them to either speak their report (voice recognition technology) or key in the information using the telephone key pad. At the conclusion of the pilot, SSA will evaluate whether this is an effective method of
reporting the information. Online at http://www.access.gpo.gov/su_docs/fedreg/a030212c.html. See also included Policy Instruction OB-03-006, SSI Automated Wage Reporting Pilot for details.

12. **SSI Removed From “High Risk” List, Sort Of.** The good news is that the General Accounting Office (GAO) has taken SSI off the list of “high risk” programs. In a January, 2003 report (GAO-03-117), the GAO announced that SSI was no longer designated “high risk,” in large part because of SSA’s improved financial integrity and progress in deterring and recouping overpayments. SSI is not out of the doghouse yet, however. The same day, the GAO released another report (GAO-03-119) designating the Social Security disability programs, including SSI and SSDI, as “high risk.” The main reasons for the “high risk” designation are SSA’s use of outdated disability criteria, the lack of a comprehensive return to work strategy, and disappointing results in SSA’s efforts to improve the disability claims process. These reports are both available on the GAO’s website, http://www.gao.gov.

13. **Ticket To Work Update.** As of April 24, 2003, in Massachusetts, 224,464 Tickets had been sent to current and eligible SSDI and SSI recipients. Of those individuals receiving Tickets, 527 have assigned their tickets to an Employment Network (EN) or Mass. Rehab. and have begun to prepare for a return to work. There are 45 ENs available to serve recipients in Massachusetts, although not all are based in this state. All but one EN (MRC) are private entities, and the majority are job placement specialists. Each EN may serve the entire state or a particular geographic area. Should you be interested in a complete list of ENs serving Massachusetts check out the Maximus web site at http://www.yourtickettowork.com.

**Protection and Advocacy for Beneficiaries of Social Security.** Did you know that the Disability Law Center has received a grant from SSA to provide free legal services to cash recipients who encounter legal issues while attempting to return to work? Issues such as employment discrimination, durable medical equipment, health benefits, transportation, and student loans, when affecting a return to work, are all possible practice areas under this new grant. Currently, these funds cannot be used in any situation (including the administrative process) where SSA is the “opposing” party. Should your clients encounter such issues during their efforts to work, please feel free to refer that individual to DLC for assistance. It is not necessary that these individuals have or are “using” a ticket to work in order to qualify for free legal assistance.

**Benefits and Work Counseling Available to All SSI and SSDI Recipients.** Funded by the Ticket to Work Act, comprehensive benefits counseling is available to all SSI and SSDI recipients, not just Ticket users, who want to explore the possibility of work. The Benefits Counselors are available to meet with recipients and discuss the effect of earned income on the recipient’s entire benefits package, including SSI/DI, healthcare, food stamps, TANF and housing benefits.

Contact information is as follows:

**Project IMPACT**
617-204-3854
Federal Work Study Does Not Count as Income for SSI

Federal Work Study should not be counted against an individual’s financial eligibility for SSI. All student financial assistance received under Title IV of the Higher Education Act of 1965 or BIA student assistance programs is excluded from SSI income and resource counting rules, regardless of use. Examples of such programs include Pell grants, State Student Incentives, Academic Achievement Incentive scholarships, Supplemental Educational Opportunities grants, Upward Bound, and Work-Study programs. The reference to this policy is in POMS SI 00830.455. Despite the fact that this is the unearned income section of the POMS, it applies to work study income. To view the POMS online, go to [http://policy.ssa.gov/poms.nsf/poms?OpenView](http://policy.ssa.gov/poms.nsf/poms?OpenView).

Do you have a practice tip you would like to share? Send it to us for a future edition.

REGULATORY ACTIVITY


3. Advance Notice of Proposed Rulemaking: Revised Medical Criteria for Evaluating Mental Disorders. 68 Fed.Reg. 12639 (3/17/03). In this newsletter and online at http://www.access.gpo.gov/su_docs/fedreg/a030317c.html


POMS

There are no new POMS to report. To view the POMS online, go to http://policy.ssa.gov/poms.nsf/poms?OpenView.

FEDERAL COURT DECISIONS

Federal Circuit Court of Appeals

1. Somatoform Disorder. Pain. Credibility. Severity. Ramos v. Barnhart, No. 02-1687, 2003 WL 1411959 (1st Cir. 3/21/03). Unpublished. In a per curiam decision, the First Circuit reversed and remanded where the ALJ improperly concluded that the claimant did not have a severe mental impairment (somatoform disorder) and that pain did not pose a significant functional limitation for the claimant. The case has a good explanation of the difference between somatization disorders, which are a specific subset of somatoform disorders, and the broad category of somatoform disorders. Because this distinction was lost on the ALJ, he misinterpreted the medical evidence and erroneously substituted his own lay opinion.

The decision also contains a useful discussion of the relationship between somatoform disorders and pain. The ALJ discounted the claimant’s complaints of pain, in part, because of the minimal objective medical findings to account for his subjective complaints. Rejecting this analysis, the court stated:

the very diagnosis of a somatoform disorder means that claimant’s symptoms of pain ‘are not fully explained by a general medical condition.’ In other words, an individual with a diagnosis of somatoform disorder will not have hard test results or a physical impairment
that can fully account for all of that person’s credible, subjective complaints.

Included in this newsletter and available on Westlaw and through the First Circuit website at http://www.ca1.uscourts.gov.

Federal District Court

1. Dermatomyositis. *Bishko v. Barnhart*, No. 01-10830-DPW (D.Mass. 3/11/03). Unpublished. Pro se claimant. Court affirms the denial of disability on substantial evidence grounds. The only remarkable feature of this case is the court’s finding that the ALJ did not have “serious cognitive impairments” as alleged by the claimant. Not included in this newsletter. Available on Westlaw and at DLC.


**ADMINISTRATIVE DECISIONS**

1. Fleeing Felon. SSI Ineligibility & Overpayment. Inadequate Notice. Claimant residing in Georgia had been determined SSI ineligible beginning 12/98, based upon an arrest warrant for defrauding an innkeeper in Washington. His SSI had been reinstated in 2002 when the charges were dismissed, however the overpayment remained.

The claimant had received ineligibility and overpayment notices alleging several different grounds for the actions. He filed a Request for Waiver of Overpayment but no appeal. Nevertheless, the ALJ allowed an appeal to go forward, stating that it would be unconscionable
to deny an unrepresented claimant the right to appeal in light of the confusing notices. Similarly, the ALJ thought it unreasonable to hold an unrepresented claimant accountable for failing to perceive the technical differences presented by his choices of contesting the overpayment.

The ALJ also called SSA to task on the determination that claimant was a “fleeing felon.” The claimant stated that he had left Washington state for work and was unaware that the warrant had issued after he left. The ALJ found that SSA had not provided any valid and persuasive evidence that claimant had fled to avoid prosecution, and that therefore there was no legal basis for the agency determination of ineligibility. LeRoy White, Georgia Legal Services. In this newsletter.

2. **Fleeing Felon. SSI Ineligibility & Overpayment.** A California claimant received SSI ineligibility and overpayment notices on the basis of a warrant issued in Nebraska in 1993. The warrant issued in conjunction with a lawsuit, begun after he left Nebraska, over a debt for unfinished construction work. Claimant presented testimony that he had found someone to finish the work because he was leaving the state for other for work and was unaware that the work had not been completed or that there had been a lawsuit and warrant. In addition, the claimant presented evidence that the Nebraska DA had declined extradition or any other prosecution. Therefore, the ALJ found that claimant had not been a fleeing felon at any time. Julie Aguilar Rogada, Legal Services of Northern California. In this newsletter.

3. **Anorexia, Anxiety, learning disability, right shoulder pain, and history of abuse.** ALJ finds 26 year old woman eligible for SSI and SSDI with these impairments, on the basis of meeting Listings 12.02, 12.04, and 12.06. Annmarie Taylor, SMLS. In this newsletter.

4. **Organic Mental Disorder, Depression, Personality Disorder.** ALJ finds 29 year old woman with college degree from Russia and with these impairments eligible for SSDI, on the basis of meeting Listings 12.02 and 12.04. Annmarie Taylor, SMLS. In this newsletter.

5. **Childhood Disability. ADHD, PTSD.** 7 year old child was found eligible for SSI for these impairments, on the basis of meeting Listing 112.03. The evidence showed that the child had a long history of experiencing and witnessing abuse, and that he was agitated and aggressive, even violent, with poor impulse control. There were also concerns about cognitive and emotional functioning, despite the fact that he had an IEP and was receiving services. Tara Doucette, GBLS. In this newsletter.

6. **Hepatitis C, chronic back & ankle pain, diabetes, anxiety & HBP.** Claimant is 51 year old man with a high school education and past relevant work in computer analysis. The ALJ finds him eligible for benefits but with an amended onset date. The ALJ found that the functional limitations resulting from his combination of exertional and nonexertional impairments were not sufficiently severe at Step 5 until January, 2002, when he started Interferon therapy for Hepatitis C. At that point, the addition of fatigue resulted in a Step 5 allowance. Martha Martinez, GBLS. In this newsletter.

7. **Brain injury, PTSD, bipolar disorder, agoraphobia, history of abuse, history of
substance abuse. ALJ finds this 39 year old man with a high school education eligible on the basis of meeting Listings 12.02, 12.04, 12.06, & 12.08. The evidence showed that he had been abused as a child and had suffered a life threatening assault as an adult. His treatment includes multiple medications, and he has a long history of multiple short term jobs. Treating physician evidence showed that he has marked difficulty in maintaining social functioning, cannot tolerate even moderate levels of stress, and would be absent from work due to symptoms more than 3 days per month. Martha Martinez, GBLS. In this newsletter.

8. Childhood disability. Functional Equals. Hydrocephalus, ADHD, cognitive limits, hearing loss. ALJ relies on medical advisor opinion that the child has marked level functional limitations in 2 broad areas of function. School records show that the child has low average IQ and subtest scores. Repeating the second grade, he is making limited progress in special education classes and is 1 to 2 grades behind in all subjects. He has noticeable difficulty comprehending and maintaining focus on tasks, often requiring redirection. The ALJ finds marked level limitations in acquiring and using information and in attending and completing tasks. Maria Theophilis, GBLS. Included in this newsletter.

➢ Note to all advocates: Please send your ALJ and Appeals Council decisions to DLC so we can share them. All reported decisions are available at DLC.

INTERNET RESOURCES

1. SSA Website Makeover. SSA’s website has a new look and a new address: www.socialsecurity.gov. For now, you can also reach the website at www.ssa.gov. For more information, go to http://www.ssa.gov/pressoffice/pr/socialsecuritygov-pr.htm. The regulations, POMS, HALLEX, and other useful resources on ssa.gov are on the re-designed website. You can find them by clicking on “Our Program Rules” on the right hand side of the home page of www.socialsecurity.gov.

2. www.masslegalservices.org. This website is a collaborative effort of all the MLAC-funded legal services programs, including the Disability Benefits Project of the Disability Law Center, which manages the Disability section of the website. Our goal is to use the website to keep advocates informed of new developments in SSI/SSDI law and practice, share practice materials and resources that are at the heart of disability benefits practice, and help make internet-based legal research accessible and even fun for advocates. New content is added to the Disability section on a regular basis.

In order to have access to the advocate-only material on the website, you need to sign up and log in. To do this, go to www.masslegalservices.org/login. You don’t need to be in legal services to benefit from the website, however. Most of the materials posted in the Disability and other sections are available to public.

This website is a work in progress. Over time, we will continue to add and update resources.
Your feedback is essential to keeping this website vital and useful. Please let us know what you would like to see, if you see anything that needs to be changed, or if you have any problems using the website. If you have resources you want to share with other advocates, let us know. Please direct your comments and questions to Barbara Siegel at bsiegel@dlc-ma.org.

3. **http://www.GovBenefits.gov**: A New Government Website to Screen for Benefit Eligibility. The U.S. Department of Labor has created a website that members of the public can use to help them determine if they might be eligible for various government benefit programs. The process is relatively simple and user-friendly (for people who have computers and internet access, that is). Visitors to the website provide some basic, non-identifying demographic information, then answer 64 yes/no questions about their financial, household, disability, family, and other circumstances. With the press of a button, a list of benefits for which they might be eligible appears. In addition to providing a brief description of each program, the list includes contact information and internet links for people who want additional program or application information. The website screens for scores of benefit programs from dozens of agencies, including educational loans, food stamps, and all of the major SSA benefits. Since many programs have complicated and/or state specific eligibility criteria, there are limits to the website’s utility, but it can be a good starting point.

4. **Court Websites**. These websites post court rules, dockets, opinions, forms, fee schedules, directions, and lots of other useful information.

   - U.S. Supreme Court  [http://www.supremecourtus.gov](http://www.supremecourtus.gov)
   - 1st Circuit Court of Appeals  [http://www.ca1.uscourts.gov](http://www.ca1.uscourts.gov)
   - Federal District Court, District of Massachusetts  [http://www.mad.uscourts.gov](http://www.mad.uscourts.gov)
   - Federal District Court, District of Maine  [http://www.med.uscourts.gov](http://www.med.uscourts.gov)
   - Federal District Court, District of Rhode Island  [http://www.rid.uscourts.gov](http://www.rid.uscourts.gov)
   - Federal District Court, District of Puerto Rico  [http://www.prd.uscourts.gov](http://www.prd.uscourts.gov)
   - Federal Judiciary (links to all federal courts)  [http://www.uscourts.gov](http://www.uscourts.gov)
5. **Social Security Advisory Service** ([http://www.ssas.com](http://www.ssas.com)). The Social Security Advisory Service is a private organization, not related to SSA, for Social Security advocates. It publishes a quarterly newsletter available by subscription only, but has lots of useful information and links on its website. A link to the complete HALLEX was recently added to the website. The Public Files page has classic advocacy materials such as the 8/30/96 Emergency Message (EM) on Drug Abuse and Alcoholism, and the list of the 137 Sedentary Unskilled Occupations in the D.O.T. SSAS Connect is a public posting board for discussion of Social Security related issues. There are a lot of thoughtful discussions and debates about SSI/DI legal issues on SSAS Connect and it’s a good forum in which to present a question or topic if you want to get a variety of opinions. Connect discussions are archived by date and can be browsed, although there is no search function at this time.

6. **Medical Websites**


- [http://www.mosby.com](http://www.mosby.com) (medical periodicals)


- [http://www.painnet.com](http://www.painnet.com) (pain management materials)

- [http://www.cdc.gov](http://www.cdc.gov) (Centers for Disease Control)

- [http://www.gulpny.org](http://www.gulpny.org). The Greater Upstate Law Project has collected an excellent list of medical websites, many with links, at its website. From the home page, click on “Disability” link at top of page. Then click on the “Medical Websites” link at top right of page.

7. **Need information about a doctor in Mass.?** Go to [http://www.massmedboard.org](http://www.massmedboard.org) (website of MA Board of Registration in Medicine) and click on the “Physician Profiles” link.

8. **Website for Implementation of Ford v. Apfel Class Action Judgment.** *Ford v. Apfel*, CV-94-2736 (E.D.N.Y. 2000), is a class action lawsuit that resulted in a finding that SSA’s notices about SSI financial eligibility and benefit amounts violated due process. The court in *Ford* found that SSA’s financial eligibility notices lacked sufficient information regarding living arrangements, resources, benefit computations, review rights, and legal authority. In January,
2000, a Judgment issued requiring SSA to develop and implement a plan to remedy the defective notices. SSA filed an implementation plan in May, 2000, but has not yet fully complied with the Judgment. In the meantime, Ford class counsel, including the Center for Disability Advocacy Rights in New York, have set up a website, http://www.wnylc.net/ford/ford.html, devoted to interim measures pending implementation of the Ford Judgment. The website offers advocacy strategies for dealing with defective notices and protecting the due process rights of SSI recipients.

9. MassHealth Defense Group: http://64.82.65.67/medicaid/news.html. Affiliated with the Massachusetts Law Reform Institute and Health Care for All. Information about changes and proposed changes to the MassHealth programs.

10. THOMAS, for tracking federal legislation http://thomas.loc.gov.


➤ Many thanks to advocates for sharing their Web finds with us.