PUBLIC BENEFITS

California
State AIDS Legal Services
Association (SALSA)

Legal Services for Persons with HIV Infection
IF YOU ARE HIV-POSITIVE OR HAVE AIDS, you are likely to be facing a bewildering array of concerns, such as employment issues, insurance coverage, and options for medical treatment and care. You may also be wondering about your right to receive public benefits and Medi-Cal health coverage. This brochure outlines public benefits programs, and provides you with resources for further information and assistance.

It is not designed to provide legal advice about your particular case; you may need the assistance of an advocate. Your local SALSA! organization or AIDS legal service can provide assistance with benefits and other legal matters.

SOCIAL SECURITY BENEFITS

There are two Social Security programs. You may be eligible for either one, or both.

1. Social Security Disability Insurance (also called SSDI, Title II, Social Security)

SSDI is an "insurance" program available only to those with a history of employment.

Eligibility

The two basic eligibility criteria for this program are: (1) an employment history: sufficient quarters of work with contributions made to the program (FICA deductions), and (2), "disability."

To meet the second criterion, you must provide objective medical evidence of your condition, evidence of inability to work as a result of that condition, and evidence of duration of the condition.

If you have AIDS, you meet the disability standard. Even if you are HIV-positive, you may still be entitled to disability benefits, if your symptoms are disabling.

Applications

Applications for SSDI are taken at local Social Security offices. If you meet both criteria, you will be eligible after a 5-month "waiting period," with benefits starting
the sixth month after onset of the disability. The amount of SSDI benefits depends on your prior earnings.

2. Supplemental Security Income (SSI)

Eligibility

SSI differs from SSDI in that it is a need-based program, with limitations on the amount of income and resources you can have. Eligibility is based on disability, age, or blindness, and financial need. The disability standard is the same as that used for SSDI.

Applications

Applications for SSDI and SSI are accepted at your local Social Security office. If you are unable to travel to the SSA office, the forms can be mailed to you. The date of your telephone inquiry for the forms should be accepted by SSA as a protective filing date, since you may be entitled to benefits retroactive to your application date. You must complete the application in a timely manner.

You will also be required to complete a vocational report and a disability report. It is important to fill out the disability report completely, listing and describing all symptoms, medications (along with side effects), and all treatment sources. You must complete a daily activities report. This form provides an important opportunity to describe how your symptoms affect your lifestyle; in other words, how they are "disabling." For example, your description that you must rest for 45 minutes after fixing a simple breakfast is much more effective than a comment in your chart notes that you suffer from fatigue.

SSDI and SSI programs involve three levels of review:

1. Initial Determination

The local office reviews technical and non-medical issues; medical issues are considered by a state agency analyst and medical consultant. Unless you have full-blown AIDS, your claim is likely to be denied at this stage. Do not give up; many claims are allowed at the hearing (3rd) level or upon reconsideration.
2. Reconsideration

If your initial claim is denied, immediately request reconsideration; you have 60 days from the denial date. Any additional medical evidence you have should be submitted. Advise SSA of any change in your symptoms and activities. The case is assigned to a different analyst and medical consultant, but once again, many cases are denied.

3. Hearing

This is your likeliest opportunity for a favorable decision. A hearing must be requested within 60 days after the reconsideration is denied. An administrative law judge will hear testimony about your condition. Although not required, it is recommended you have an advocate (it need not be an attorney) to assist in presenting your case. Some hearing offices provide expedited hearings in HIV cases; ask your local Office of Hearings and Appeals to set your case for hearing on a priority basis.

Special Consideration for SSDI/SSI Claims

1. State your diagnosis on all forms.

2. If you have AIDS, it should be clearly noted on your SSDI/SSI application. You are eligible for 3 months of "presumptive disability" benefits under the SSI program if financial eligibility is met.

3. If you were tested at an anonymous test site, where no identifiable results are maintained, advise SSA. Otherwise, HIV test results may be requested, and your case will be delayed while SSA waits for non-existent records.

4. Describe your symptoms with practical references as to their affect on your daily life, e.g.: "I am chronically fatigued: after arising in the morning and fixing a glass of juice, I must rest for 20 to 30 minutes." If you suffer headaches, describe the pain, its duration, and its affect on you activities.

5. List all medications and side effects.

6. If you are applying for SSI and have AIDS, ask for presumptive disability benefits.
You may be entitled to Medi-Cal, California's version of the federal-state Medicaid program. If you are eligible for SSI, you will automatically be entitled to Medi-Cal. (If you are not eligible for Medi-Cal through linkage to another program, such as Aid to Families with Dependent Children, you may be found eligible because of your disability.)

Eligibility

To receive Medi-Cal you must be "disabled" and meet financial eligibility requirements. DSS sets a monthly income or "maintenance need" (MN), currently at $600 for a single person living in his/her own household.

If your income exceeds the MN, you may still be eligible with a "share of cost." If your monthly income is $800 you must obligate $200 to medical care each month before Medi-Cal will pay.

The program also includes a resource limitation, currently $2,000 for a single person. Certain assets (most significantly, a home used as your principal residence) are exempt.

Like SSI, Medi-Cal provides presumptive disability (PD) benefits for three months if your diagnosis is full-blown AIDS. However, Medi-Cal often requires more medical evidence of an AIDS diagnosis than does SSA.

Application

Applications for Medi-Cal are taken at Department of Social Services (DSS) offices. Medi-Cal's definition of disability parallels the SSA definition.

If your Medi-Cal application is denied, you should request a hearing. (If you have been receiving Medi-Cal benefits, and are terminated, you should request "aid paid pending" your hearing.)

Coverage

In California, the Medi-Cal program covers major drugs currently used to treat HIV infections and related diseases. You may also be eligible for the Medi-Cal "waiver" program, which
includes community based non-institutional long term care, including skilled nursing and case management.

COUNTY MEDICAL SERVICES

California counties are obligated to provide health care services to their adult (age 21-64) indigent residents who are ineligible for Medi-Cal.

Eligibility

Although each counties' program has differing eligibility requirements, two factors are always considered:

1. financial need and;

2. medical severity (acute or chronic health conditions which pose an immediate health threat).

Application

Your counties' medical services program can be accessed through your local DSS office. "General Relief"/"Welfare" recipients are automatically eligible for county medical services. This program may cover medical care until you are eligible for Medi-Cal. In some counties, the medical services program includes providers and clinics specializing in HIV infection.

STATE DISABILITY INSURANCE

Eligibility

You are eligible for State Disability Insurance (SDI) if:

1. you are employed by an entity that participates in the program (i.e., deducts SDI from your wages), or are self-employed and participate in the SDI program; and

2. you become "disabled" while participating in SDI (i.e., employed and contributing to SDI).

For SDI eligibility, "disability" means any illness or injury, physical or mental, preventing you from doing your
regular work. (SDI disability standards are easier to meet than Social Security's.)

Application

SDI benefits are granted within 2-3 weeks after submission of a claim form, including a signed "doctor's certificate," to the State of California Employment Development Department ("EDD").

You must file your claim within 41 days of the date you became "disabled." Any omissions or errors on the form will delay your claim. The amount of benefits depend on wages received and SDI premiums paid.

You may collect SDI benefits for up to one year. (These benefits may provide you with income until you are eligible for Social Security disability benefits, and should be applied for as soon as you are unable to continue your employment.)

FOOD STAMPS

The Food Stamps program is a federally-funded program for low-income people administered by local DSS offices. Eligibility is based on little or no income and assets.

VETERANS' ADMINISTRATION BENEFITS

If you are a veteran, you may be entitled to pension (non-service connected disability) or compensation (service-connected disability), or for medical or dental care. Contact the local VA office or medical center for assistance. VA benefits are complex so you may need an advocate specializing in VA claims. A local legal services advocate can assist you or make an appropriate referral.

GENERAL ASSISTANCE/WELFARE

General Assistance and Welfare programs provide financial assistance to persons with little or no income and assets. These programs are county and/or city funded, and administered through your local DSS office.
Where can I go for more help?

If you need more help dealing with your legal problems, contact the AIDS legal service closet to you.

**FRESNO & CENTRAL VALLEY**

Central Valley AIDS Team  
606 East Belmont  
Fresno, CA 93701  
(209) 264-2437

**RIVERSIDE COUNTY**

Desert AIDS Project  
Legal Services  
750 South Vella Road  
Palm Springs, CA 92264  
(619) 323-2118

**LOS ANGELES**

Hospice/AIDS Project  
Los Angeles County Bar  
P.O. Box 55020  
Los Angeles, CA 90055  
(213) 622-8840

Sacramento AIDS  
Legal Referral Panel  
Voluntary Legal Services  
Program of Northern California  
515 12th Street  
Sacramento, CA 95814  
800-468-8890  
916-444-6760

LA Gay & Lesbian Community Services Center  
1213 North Highland Ave.  
Los Angeles, CA 90038  
(213) 464-7400

**SACRAMENTO & NORTHERN CALIFORNIA**

LA Gay & Lesbian Community Services Center  
1213 North Highland Ave.  
Los Angeles, CA 90038  
(213) 464-7400

**ORANGE COUNTY**

AIDS Legal Panel  
c/o Duran & Loquvam  
709 South Anaheim Blvd.  
Anaheim, CA 92805  
(714) 533-9399

**SAN DIEGO**

AIDS Legal Services Project  
1305 Seventh Ave., Suite 100  
San Diego, CA 92101  
(619) 238-8100

San Diego AIDS Project Legal Clinic  
3777 4th Avenue  
San Diego, CA 92103  
(619) 543-0300
SAN FRANCISCO BAY AREA

AIDS Legal Referral Panel
114 Sansome Street, Suite 1103
San Francisco, CA 94104
(415) 291-5454

SAN JOAQUIN

San Joaquin
AIDS Foundation
4410 N. Pershing Ave., CS
Stockton, CA 95207
(209) 476-8533

SANTA CLARA COUNTY

AIDS Legal Services
480 North 1st Street, Suite 214
San Jose, CA 95112
(408) 293-3135

SANTA CRUZ

AIDS Legal Panel
Santa Cruz AIDS Project
1606 Soquel Avenue
Santa Cruz, CA 95062
(408) 427-3900

SOLANO

Solano County AIDS
Legal Services Project
c/o Solano County
Legal Assistance
930 Marin Street
Vallejo, CA 94590
(707) 643-0054