



April 9, 2024

Contact:

Redmond Haskins
Director of Media Relations
The Legal Aid Society
Rhaskins@legal-aid.org
929.441.2384

*****FOR IMMEDIATE RELEASE*****

Legal Aid, Lawyers For Children Condemn Proposed ACS Policy That Would Deny Foster Children Access to Social Security Disability Benefits

Advocates Also Call on ACS to Amend Current Policy to Ensure that Foster Youth who were Previously Entitled to Survivors Benefits are Retroactively Restored those Funds

(NEW YORK, NY) - The Legal Aid Society and Lawyers For Children [condemned](#) a [proposed policy](#) from the New York City Administration for Children's Services (ACS) that fails to protect the Social Security Disability Benefits (also known as Supplemental Security Income or "SSI") of disabled children in foster care - most of whom are Black and Latinx children from impoverished communities. The deadline to submit comments on this proposed policy ends later today.

Advocates also called on ACS to amend current policy in order to ensure that foster youth whose Survivors Benefits ACS has already collected and kept are retroactively made whole.

Background

In 2022, ACS Commissioner Jess Dannhauser [acknowledged](#) that "This is their [benefits-eligible children in foster care] money and they deserve to use it as they see fit."

Disability Benefits:

However, the draft policy opts to pause SSI benefits for many eligible children in care or decline to apply for them altogether - even when ACS knows a child has a disability. For others, ACS intends to function as the representative payee and [use the child's benefits to help pay for the foster care system in general](#) - instead of conserving the funds or using them to support the individual child for whom the benefits are intended.

[Specialized savings accounts](#) exist to protect SSI benefits from the federal social security benefits cap and preserve them for current or future needs of a disabled child. These accounts were created specifically to allow disabled individuals to maintain their independence, pay for their disability-related expenses, and climb out of poverty. However, ACS's draft policy ignores the existence of these types of accounts, limits children in foster care to

\$2,000 in savings, and does not inform families about accounts that they could use to legally and safely save up to \$102,000.

ACS contends that they are limited to saving \$2,000 by federal regulation - but jurisdictions, including [Arizona](#), [Washington D.C.](#), and others, use those specialized accounts to ensure that disabled children can use the benefits to which they are entitled.

Survivors Benefits

Survivors Benefits are a federal insurance program all wage earners automatically pay into intended to stabilize a child's future if a parent dies. However, for over a decade, ACS identified children who entered foster care eligible for Survivors Benefits and had itself automatically assigned as their representative payee and took their money.

ACS also identified children who tragically lost their parents while in foster care, applied for benefits on their behalf, and kept that money as well. While ACS reformed this abhorrent practice in 2022, its new policy does not create any mechanism for children and families to recoup previously taken money nor does it allow youth to use the benefits to meet their needs while they are in foster care. ACS must create a system to allow children whose Survivors Benefits were confiscated while they were in foster care, to seek grants or obtain funds back from ACS directly to make themselves economically whole, as intended by the Survivors Benefits program itself.

Case Examples

Disability Benefits

- Shirley was eligible for Disability Benefits between 2018 - 2021. During this time, ACS collected almost \$28,000 of her Disability Benefit and the agency kept these funds to pay themselves for providing care. Meanwhile, Shirley is homeless and staying in a shelter, even though she is still technically in foster care. Had her benefits been conserved, she would not face daily financial insecurity while struggling with a disability.

Survivor Benefits

- Ms. Alyssa Snow recently found out from the SSA office that ACS had taken tens of thousands of dollars from her child while the child was in foster care, and continued to take funds for a year and a half after she had been discharged from care. Ms. Snow advocated for the return of the funds directly with ACS. While ACS has promised to return the money collected after the child was discharged, they have refused to return any of the money that they collected while the child was in foster care.
- Another client was a toddler when his parents died and he was placed in foster care. ACS collected Survivors Benefits due to him. His foster parent hoped to keep him in the daycare he attended prior to placement, in order to maintain some continuity in his life. The private daycare provider did not accept ACS vouchers for payment, and the foster parent was unable to afford the cost. If the Social Security benefits were used for the benefit of the client, they could have subsidized the cost of the daycare.

“This proposed policy deprives New York City’s most vulnerable children of critical benefits that would help them succeed after leaving foster care, instead perpetuating their continued marginalization. It also does nothing to make children whole who were in foster care and eligible for Survivor Benefits prior to the 2022 shift in practice,” said **Dawne Mitchell, Chief Attorney of the Juvenile Rights Practice at The Legal Aid Society** “We call on ACS to revise this proposed policy to allow children in foster care to access and utilize desperately needed federal benefits.”

“No other children in foster care are required to pay for their placement, whether they inherit a fortune when their parents die, win the lottery, or are awarded a sum of money as the result of a lawsuit. It is particularly egregious, then, that ACS continues to take the funds of orphaned and disabled youth - the most vulnerable children - in order to reimburse themselves for those children’s placement in foster care despite having recognized over two years ago that this is their money and should be used as they see fit. ACS must revise the draft policy to ensure that children in foster care are treated equitably and provided with the benefits to which they are entitled,” said **Betsy Kramer, Director of Policy & Special Litigation at Lawyers For Children.**

###

The Legal Aid Society exists for one simple yet powerful reason: to ensure that New Yorkers are not denied their right to equal justice because of poverty. For over 145 years, we have protected, defended, and advocated for those who have struggled in silence for far too long. Every day, in every borough, The Legal Aid Society changes the lives of our clients and helps improve our communities. www.leagaidnyc.org

Founded in 1984, Lawyers For Children represents children in foster care and in the following matters or proceedings: abuse and neglect, permanency hearings, termination of parental rights, adoption, custody, guardianship, visitation, and juvenile delinquency cases. Every child that LFC represents is assigned both an attorney and an LFC social worker to protect their rights, advance their safety, and give voice to their needs and wishes. www.lawyersforchildren.org