

Focus . . .

SSI and Childhood Disability: What Constitutes Disabled?

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This month's FOCUS spotlights the issue of Supplemental Security Income benefits for children. Under the Social Security Act, low-income children who are adjudged "disabled" may be eligible for Supplemental Security Income ("SSI") benefits. Practitioners should be aware that the Social Security Administration relies on specific and comprehensive medical evidence when deciding whether a child-claimant is "disabled" for purposes of SSI eligibility. This article focuses on five things a pediatric provider should know about SSI children's benefits.

Recently, a community pediatrician contacted the MLPP office seeking advice on what to do with a medical form sent by the state of Connecticut's Disability Determination office regarding an SSI evaluation. The pediatrician didn't understand what the criteria were for SSI eligibility, and what the Social Security system expected of him in terms of disability evaluation. This very complex medical-legal arena often leaves both medical and family support clinicians confused and frustrated because the Social Security Administration does not provide adequate support information to assist the clinician when faced with SSI matters.

SSI is the program emanating from Title XVI of the Social Security Act. Unlike traditional "Social Security" benefits, which are available only to those individuals who compile a fairly comprehensive work history, SSI benefits are available to low-income adults or children who are classified as "disabled." Children under eighteen years of age are evaluated in a different fashion than adults – though many of the same medical criteria

apply to both children and adults. Here are five quick tips for the pediatric provider who deals with low-income children who might be eligible or who have applied for SSI benefits.



SSI eligibility is based on two factors:

1. the family must meet income and resource eligibility limits

2. the child's medical condition must be disabling

Who is eligible for children's SSI benefits?

SSI eligibility is based on two distinct factors. First – the family must meet both the SSI income and resource eligibility limits. Income limitations are based on family size, allowable deductions, etc., while the SSI regulations provide that no member of the household may have resources (e.g. bank accounts, securities, etc.) that have a value greater than \$2,000 per individual. Second

– the child's medical condition must be disabling – in that it either meets a defined medical "listing" contained in the federal regulations, or the child's condition creates functional limitations that preclude the child from functioning in a "normal" fashion in a manner that a like child without the disability would function,

What are the medical criteria that constitute SSI disability?

The Social Security Administration ("SSA") provides medical "listings of impairments" that determine whether a child is categorically eligible for SSI benefits. The fourteen categories of impairments range from "growth impairment," to impairments of the cardiovascular, digestive, and endocrine systems, as well as classifications for "mental disorders," "neoplastic diseases," and "immune system" impairments. Each "impairment" is specifically defined according to objective criteria, though subjective claims such as pain are taken into account.

Where can I find these "listings of impairments?"

The listings are available on-line at the Social Security Administration's website by going to www.ssa.gov/disability/professionals/bluebook/childhoodlistings.pdf or by calling the MLPP office at (860) 570-5327 and asking for the project director.

How important is my medical evaluation of the child's impairment and functional limitations?

Critical. The "treating physician rule" gives great weight to the child's treating provider

– far more weight than a consultative physician who might only review the medical records or a treating physician’s report. The more comprehensive the report, the better chance the child has at winning the case?

Can you give me an example of the criteria for asthma?

The medical “listing” for asthma, is contained in section 103.03 of part B of the “Listing of Impairments.” It specifies that in order for a child under eighteen years of age to be classified as “disabled,” she must demonstrate:

1. FEV1 equal to or less than the value specified in Table I of 103.02A; or

2. Attacks (as defined in 3.00C), in spite of prescribed treatment requiring physician intervention, occurring at least once every 2 months or at least six times a year. Each inpatient hospitalization for longer than 24 hours for control of asthma counts as two attacks, and an evaluation period of at least 12 consecutive months must be used to determine the frequency of attacks; or

3. Persistent low-grade wheezing between acute attacks or absence of extended symptom-free periods requiring daytime and nocturnal use of sympathomimetic bronchodilators with one of the following:

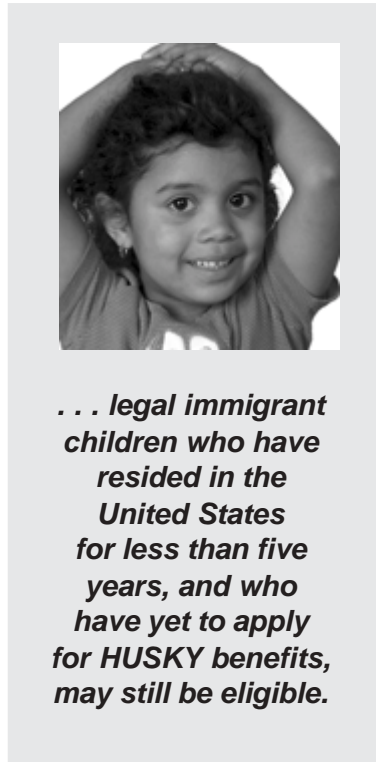
a. Persistent prolonged expiration with radiographic or other appropriate imaging techniques evidence of pulmonary hyperinflation or peribronchial disease; or

b. Short courses of corticosteroids that average more than 5 days per month for at least 3 months during a 12-month period; or

c. Growth impairment as described under the criteria in 100.00.

Practitioners should note that while a lawyer is probably not necessary for advocacy during the initial application or primary appeal stage of an SSI case, consultation with or representation by an attorney may be critical when the claimant is scheduled for a hearing before an Social Security judge. The MLPP is available for consultation or representation on these cases (545-8581 or 570-5327), or families may be referred to the Statewide Legal Services hotline at 800-453-3320.

HUSKY UPDATE: Immigrant HUSKY Benefits and the Return of Elena K.



Recently, the MLPP handled a case regarding HUSKY eligibility for a child who immigrated to the United States within the last five years. Though the state denied her initial “HUSKYA” application – the MLPP advocated with the state Department of Social Services (“DSS”) to reverse the denial and a medically fragile child is now fully covered for a range of primary and specialty care services. This section explains how medical-legal intervention demonstrated that some legal immigrant children are still eligible for Medicaid services.

Most providers are aware that the state closed HUSKYA (Medicaid for low-income children) intake after June 30, 2003. Recently, however, Elena, a former MLPP client who legally immigrated to the United States with her family in 2000, applied for and was denied HUSKY benefits on the grounds that she had not resided in the United States for at least five years. Elena is now a five year old girl who suffers from a degenerative neurological condition, and whose impairment requires ongoing primary and specialty pediatric care, including office visits, feeding supplements and diapers. While Elena

remained financially eligible for HUSKY A benefits, the fact that she returned to Connecticut (from Pennsylvania) after July 31, 2003 rendered her ineligible for HUSKY insurance coverage.

The MLPP intervened by working with Elena’s primary care physician to confirm the ongoing diagnosis, and to obtain updated medical records. The intervention then proceeded to advocacy when the MLPP contacted DSS to request a reconsideration of the denial. The premise of the appeal was based on the fact that the statute precluding ongoing HUSKY intake after June 30, 2003 still provides state funded Medicaid/HUSKY A coverage to legal immigrant children who are “have mental retardation” or are victims of domestic violence. When presented with evidence that Elena’s condition mirrors that of “mental retardation,” DSS reversed its decision and opened Elena’s HUSKY case retroactive to October 1, 2003.

The bottom line for providers is that legal immigrant children who have resided in the United States for less than five years, and who have yet to apply for HUSKY benefits, may still be eligible under these exceptions. A full medical/social history should screen for criteria that meets the DSM IV standard for mental retardation, as well as evidence of domestic violence. If patients who meet this standard inform you that their HUSKY applications are denied by DSS, you should immediately refer these cases to the MLPP, or call the project director at 570-5327.

We Want to Hear from You!

Please submit questions for the next edition of the Medical-Legal Partnership newsletter to jsickli@ccmckids.org. or, call Jay Sicklick at 860-545-8581.

For information about the Medical-Legal Partnership Project, please check the MLPP website at www.ccmckids.org.MLPP

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