

## Children of Incarcerated Parents Series

**MYTH:** Child welfare agencies do not need to plan family reunification for children in foster care if they have incarcerated parents.

**FACT:** Child welfare agencies should make efforts to involve parents in planning for children in foster care, even if the parents are incarcerated.

Child welfare agencies are required to engage parents, including absent, noncustodial or incarcerated parents, in case planning for their children in foster care whenever possible and appropriate. Incarceration alone should not be considered an obstacle that changes the child welfare agency's efforts:

- to work with the child's parents through caseworker visits or contacts with the parent;
- to identify relatives who may be able to serve as a resource for the child;
- to encourage, where appropriate, parent visitation or contacts with the child;
- to work to preserve the parent-child relationship; and
- to involve the parent in case planning for the child.

Reunification between incarcerated parents and their children in foster care is not always feasible, but social workers can and should plan for reunification when possible. While federal child welfare law requires child welfare agencies to initiate Termination of Parental Rights (TPR) if a child is in foster care for 15 out of the most recent 22 months, the law provides exceptions to this mandatory TPR rule at the option of the state in the following circumstances:

- The child is being cared for by a relative.
- The state agency has documented in the case plan a compelling reason that filing such a petition would not be in the best interests of the child.

- The state has not provided to the child's family the required services necessary for the safe return of the child to the home.

These exceptions give child welfare agencies flexibility to work within the TPR requirements and work towards unifying incarcerated parents with their children after release.

### For More Information:

When a Parent is Incarcerated Guide:

<https://cbexpress.acf.hhs.gov/index.cfm?event=website.viewArticles&issueid=133&sectionid=5&articleid=3443>

A Toolkit for Working with Children of Incarcerated Parents:

<https://cbexpress.acf.hhs.gov/index.cfm?event=website.viewArticles&issueid=115&sectionid=17&articleid=2856>

The Adoption and Safe Families Act: Barriers to Reunification between Children and Incarcerated Mothers:

<https://cbexpress.acf.hhs.gov/index.cfm?event=website.viewArticles&issueid=139&articleID=3641&keywords=parental%20rights>

Child Welfare State Policies:

[http://www.childwelfare.gov/systemwide/laws\\_policies/state/](http://www.childwelfare.gov/systemwide/laws_policies/state/)

### What is the Reentry Myth Buster/Children of Incarcerated Parents Series?

This Reentry Myth Buster is one in a series of fact sheets intended to clarify federal policies that affect formerly incarcerated individuals and their families. On any given day, nearly two million children under 18 have a parent in prison – and many more have had an incarcerated parent at some point during their childhood. Children of incarcerated parents often face financial instability, changes in family structure, and social stigma from their community. This series is designed to help these children, their caregivers, and the service providers who work with them.

## Children of Incarcerated Parents Series

**MYTH:** When parents are incarcerated, their children lose eligibility for Medicaid.

**FACT:** Many children remain eligible or gain eligibility for Medicaid coverage while their parents are incarcerated.

When parents go to prison, their children's living situations may change. The children may move in with family or friends, or they may enter foster care. As children change living situations, their Medicaid eligibility may change, but parents' incarceration does not itself make children ineligible for federal or state health insurance programs. Many children with incarcerated parents remain eligible for Medicaid, and, in fact, some children who were previously ineligible for Medicaid may become eligible in their new living situations.

Many different factors determine children's eligibility for Medicaid, including the income of the parents and siblings with whom they live, their ages, the states where they live, and whether they are under state guardianship.

If children with one incarcerated parent live with another parent, it is the income of the parent with whom they live that determines their eligibility for Medicaid or the Children's Health Insurance Program (CHIP). Starting in 2014, children may become eligible for subsidies for private health insurance purchased through the Health Insurance Marketplace. Eligibility for such subsidies is based on who claims the children as tax dependents. Children in foster or guardianship care and receiving Title IV-E payments are automatically eligible for Medicaid.

If children live with friends, or relatives other than their parents, while their parents are incarcerated, the children's caretaker's income is not counted towards determining eligibility for Medicaid or CHIP.

Rules for eligibility and coverage vary among the states, but every state allows caregivers to apply for Medicaid or CHIP on behalf of children who live with them. Family member caregivers may also be eligible for Medicaid coverage of their own healthcare needs.

### For More Information:

Kinship Caregivers and the Child Welfare System:

[https://www.childwelfare.gov/pubs/f\\_kinshi/f\\_kinshi.pdf](https://www.childwelfare.gov/pubs/f_kinshi/f_kinshi.pdf)

Medicaid/CHIP Eligibility for Children:

<http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Eligibility/Eligibility.html>

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**MYTH:** When police arrest parents, they must call child protective services to make decisions about the children's placement.

**FACT:** At the time of their arrest, parents can make decisions regarding placement of their children.

Since arrest does not necessarily indicate child abuse or neglect, arrested parents can still make decisions about the welfare of their children. Children may be placed in the care of relatives, friends, or neighbors recommended by the arrested parents. If the police find that arrested parents were not providing a safe environment for children -- for example if the parents were fabricating drugs inside the home -- police may call child protective services to investigate the situation and assess whether out-of-home placement is needed.

In every situation, it is important for police officers to assess the immediate safety of the children and if the situation warrants, work with child protective services to ensure the suitability of a temporary placement for children.

### For More Information:

Child Welfare Information Gateway:

<https://www.childwelfare.gov/>

Promising Practices Toolkit:

<http://www.whitehouse.gov/ondcp/promising-practices-toolkit>

When a Parent is Incarcerated: A Primer for Social Workers:

<https://cbexpress.acf.hhs.gov/index.cfm?event=website.viewArticles&issueid=133&sectionid=5&articleid=3443>

Keeping Children Safe when their Parents are Arrested: Local Approaches that Work:

<http://www.library.ca.gov/crb/07/07-006.pdf>

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## Children of Incarcerated Parents Series

**MYTH:** Families of persons convicted of crime and incarcerated for more than 30 continuous days can no longer receive a portion of their social security payments.

**FACT:** If the family was eligible to receive a portion of the social security benefits prior to the conviction and incarceration, they should continue to receive the benefits.

Other family members are sometimes eligible to receive a portion of one family member's social security retirement or disability check. For example, benefits can be paid to a spouse aged 62 or older, or any age if the spouse is caring for a beneficiary's child who is under 16 or disabled. Benefits can also be paid to the person's unmarried children under 18; to those between 18 and 19 who are full-time elementary or secondary school students; or to those 18 or older who became severely disabled before age 22.

Persons convicted of crime and incarcerated for more than 30 continuous days no longer receive social security retirement or disability payments while serving their sentences. But family members eligible to receive a portion of the incarcerated person's benefits should continue receiving payments.

It is important to note that this rule does not apply to benefits paid from the Supplemental Security Income Program (SSI). SSI pays benefits to disabled adults and children who have limited income and resources, but because these benefits are paid only to individuals, not to families, the benefits are suspended when the beneficiary is incarcerated for a full calendar month.

### For More Information:

Social Security:

<http://www.ssa.gov/>

<http://www.ssa.gov/pubs/10024.pdf>

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## Children of Incarcerated Parents Series

**MYTH:** If parents become ineligible for TANF assistance due to a felony drug conviction, their children also lose TANF assistance.

**FACT:** Children may be eligible for TANF assistance even if they live with ineligible parents.

Children may still be eligible to receive TANF assistance even if one or both parents become ineligible. A state may provide assistance to the children of a family with ineligible parents through a “child-only” case, as long as the family meets all other eligibility criteria. Child-only cases may include cases in which the parents present in the home are ineligible to receive TANF due to sanctions or prohibitions, such as felony drug convictions. In many cases the ineligible parents could be designated the “non-recipient parent payee” and receive benefits on behalf of the children. In these cases the parents are not members of the “assistance unit” -- that is, the parents’ needs are not taken into account when calculating the assistance payment.

Two-parent households where only one parent is ineligible due to a felony drug conviction would not warrant a child-only case because one eligible parent remains. Any parent living with children receiving assistance is still subject to the TANF work-requirements, unless exempted.

The specific rules governing eligibility determination and calculation of assistance vary from state to state.

### For More Information:

The Welfare Rules Database provides information on state benefit and eligibility criteria:

<http://anfdata.urban.org/wrd/WRDWelcome.cfm>

Office of Family Assistance in the Administration for Children and Families:

<http://www.acf.hhs.gov/programs/ofa>

To contact local TANF agencies: <http://www.acf.hhs.gov/programs/ofa/help>

For more information on states that have bans on TANF eligibility due to felony convictions see the Reentry Myth Buster on TANF Benefits:

[http://www.nationalreentryresourcecenter.org/documents/0000/1064/Reentry\\_Council\\_Mythbuster\\_TANF.pdf](http://www.nationalreentryresourcecenter.org/documents/0000/1064/Reentry_Council_Mythbuster_TANF.pdf)

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## Children of Incarcerated Parents Series

**MYTH:** If parents become ineligible for Supplemental Nutrition Assistance Program (SNAP) benefits, their children also lose eligibility.

**FACT:** Children may be eligible for SNAP assistance even if their parents are not.

Children may be eligible to receive SNAP benefits (formerly known as the Food Stamp Program) even if other members of the household are ineligible, as long as the household meets the program's other eligibility criteria.

Some states have a lifetime or modified ban on SNAP eligibility that applies to individuals with past drug felony convictions. In such cases, ineligible family members may not receive benefits themselves but their income and resources will be considered in determining SNAP eligibility and the benefit amount for other members of the household.

If parents are ineligible for SNAP because they are incarcerated, their children may still be eligible for benefits. The children's guardians or caregivers can apply on behalf of the children or may include them as a part of their own SNAP household if they are also participating in the program.

### For More Information:

The SNAP website:

<http://www.fns.usda.gov/snap>

To contact local SNAP agencies:

[http://www.fns.usda.gov/snap/contact\\_info/hotlines.htm](http://www.fns.usda.gov/snap/contact_info/hotlines.htm)

For more information on states with bans on SNAP eligibility due to drug felony convictions see the Reentry Myth Buster on SNAP Benefits:

[http://www.nationalreentryresourcecenter.org/documents/0000/1085/Reentry\\_Council\\_Mythbuster\\_SNAP.pdf](http://www.nationalreentryresourcecenter.org/documents/0000/1085/Reentry_Council_Mythbuster_SNAP.pdf)

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