SPOOKY & SCARY SSP BENEFITS: OVERCOMING YOUR FEARS OF STATE SUPPLEMENT PROGRAM BENEFITS!

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Legal Aid Society
NORTHEASTERN NEW YORK

URBAN JUSTICE CENTER
Mental Health Project

EMPIRE JUSTICE CENTER

PRELIMINARY POINTS

- Please stay muted and use the question or chat box to communicate with us. Select “host and panelists” if you do not want everyone to see your question.

- You should have received the materials, including the attorney affirmation, by email in advance of today’s webinar. Please notify Maia Younes at myounes@empirejustice.org if you need them re-sent.

- If you are seeking CLE, please complete the mandatory evaluation via the QR code in the last slide and return the attorney affirmation to Aida Afonso at aafonso@empirejustice.org.

- This webinar is being recorded. It will be made available on the Empire Justice DAP Portal.
    - Live transcription is available for this webinar.

TODAY'S AGENDA

- Introduction (1:00-1:05)
- SSP Basics (1:05-1:30)
- Advocacy Tips & Best Practices (1:30-1:55)
- Questions (1:55-2:00)

ABOUT EMPIRE JUSTICE CENTER

The Empire Justice Center is a statewide not-for-profit law firm. Its mission is to protect and strengthen the legal rights of poor, disabled or disenfranchised people in New York through systems change advocacy, training and support to other advocates and organizations, and high quality direct civil representation.

As part of its mission, it represents numerous low-income disability claimants before the Social Security Administration (SSA) under New York State's Disability Advocacy Program (DAP). Empire Justice also provides training, legal support, and administrative services to DAP-funded providers statewide.

ABOUT THE LEGAL AID SOCIETY OF NORTHEASTERN NEW YORK

The Legal Aid Society of Northeastern New York fights for fairness, dignity, and justice for those living in poverty and for a society which is inclusive and equitable for all. It transforms lives, builds community, and empowers people by using the law to address individual and systemic wrongs and inequities.

It provides free civil legal aid to low-income upstate New Yorkers residing in Albany, Clinton, Columbia, Essex, Franklin, Fulton, Greene, Hamilton, Montgomery, Rensselaer, Saratoga, Schenectady, Schoharie, St. Lawrence, Warren, and Washington Counties as well as the St. Regis Mohawk Reservation.

ABOUT URBAN JUSTICE CENTER'S MHP

The Mental Health Project (MHP) started in 1994 as a foundational project of the Urban Justice Center (UJC), and our mission today is to disrupt and dismantle the cycle of hospitalization, homelessness and incarceration that traps low-income people with mental health concerns in New York City.

We are a DAP provider, and we represent individuals in their appeals before SSA and we advocate broadly for improvements and policy changes in the disability process and related systems that impact our clients.

SSP BASICS

ACRONYM SOUP

- **SSP (State Supplement Program) benefits:** the State portion of SSI benefits paid by the New York State Office of Temporary and Disability Assistance (OTDA).
- **SSI (Supplemental Security Income):** federal benefits for aged, blind, and disabled people who meet resource, income, and other requirements.
  - Title XVI of the Social Security Act
- **SSD (Social Security Disability):** federal benefits for disabled individuals with payments and eligibility based on their work history.
  - Title II of the Social Security Act
  - Other names: DIB, SSDI
  - Other Title II benefits: DWB, RIB, CDB (formerly called DAC).
- **SSA (Social Security Administration)** pays Title II (RIB, SSD, CDB, etc.) and Title XVI (SSI) benefits.

INTRODUCTION TO SSP

- States have the option to provide additional payments to supplement SSI payments (NY has done so).
- OTDA took over SSP effective October 1, 2014.
  - Previously SSP was administered by SSA.
- SSA shares info with OTDA through the State Data Exchange (SDX).
- SSI/SSP recipients receive two monthly payments instead of one (one SSI check and one SSP check).
- We have given cites to the unofficial NY regs on Westlaw for free (official cite is NYCRR).

INTRODUCTION TO SSP

- No separate application for SSP is accepted or required. (18 CRR-NY 398-4.1(a))
  - SSI application = SSP application
- Eligibility for SSP benefits begins the first full month following the month in which all SSP eligibility criteria are met. (18 CRR-NY 398-4.1(c))
  - It should line up with the SSI start date in most cases.
  - The minimum monthly SSP benefit is $1. (18 CRR-NY 398-4.6(c))

INTRODUCTION TO SSP

- The monthly SSP benefit amount equals the State benefit rate minus the greater of the FBR (federal benefit rate) or countable income. (18 CRR-NY 398-4.4(b))
- The SSP benefit amount is based on the individual's or the couple's State living arrangement on the first day of the month. (18 CRR-NY 398-4.4(c))

WHEN ARE SSP BENEFITS PAID?

- Some scenarios where SSP benefits are paid:
  - Client receives SSI with no other income.
  - Client receives SSI but works, so they may be eligible for a reduced SSP benefit but $0 SSI due to benefit calculations.
  - They get SSD only, no current SSI (though they had received retroactive SSI), but their SSD is low enough that they get a reduced SSP benefit (i.e, $50 SSP) due to benefit calculations.
  - They get SSD, SSI, and SSP because the SSD is so low it does not reduce SSI to $0.

WHO CANNOT GET SSP BENEFITS?

- Deceased individuals (18 CRR-NY 398-1.1)
  - Their payees, relatives, heirs, estates,
  - or on behalf of any debt
    - Including debt owed to congregate care facilities
- Inmates of a public institution (18 CRR-NY 398-4.2(b)(1))
- Residents of a medical facility receiving medical assistance for the individual at a level exceeding 50% of the cost of the individual's care. (18 CRR-NY 398-4.2(b)(2))

WHO CAN GET SSP BENEFITS?

- To be eligible for SSP benefits, an individual or couple must: (18 CRR-NY 398-4.2(a)(1)-(2))
  - (1) Be aged, blind, or disabled under Title XVI of the Social Security Act;
  - (2) Be in active receipt of SSI benefits;
    - *Active receipt of SSI shall mean an individual or couple for whom SSA has established an eligible federal SSI payment status code,* ***who is in current pay status for federal SSI benefits, or who would be in current pay status for federal SSI benefits except for countable income*** (18 CRR-NY 398-2.1(a)).

WHO CAN GET SSP BENEFITS?

- SSA transmits pay status with proper coding via the SDX (18 CRR-NY 398-4.2(a)(2)).
- Federal payment codes potentially eligible for SSP:
  - C01 - Current pay
  - E01 - Eligibility for federal and/or state benefits based on the eligibility determination, but no payment is due
  - E02 - Eligible for benefits but not payable in first month
  - M02 - Force Payment
  - N01 - Non-pay - recipient countable income exceeds Title XVI federal benefit rate
  - (18 CRR-NY 398-2.1(p)).

WHO CAN GET SSP BENEFITS?

- To be eligible for SSP benefits, an individual or couple must: (18 CRR-NY 398-4.2(a)(3))
  - (3) Have monthly countable income less than the State standard of need as set forth in section 209 of the Social Services Law; and
    - The State standard of need is the maximum level of countable income that an individual or couple may have and still be eligible to receive SSP (18 CRR-NY 398-2.1(ae)).
    - While SSI increases with cost of living adjustments (COLA), SSP does not change with COLAs.

WHO CAN GET SSP BENEFITS?

- To be eligible for SSP benefits, an individual or couple must: (18 CRR-NY 398-4.2(a)(4))
  - (4) live in NYS with the intention of making their home in NYS, but is not required to maintain a permanent residence or fixed address.
  - Includes individuals:
    - placed by NYS agencies into facilities in other states, or
    - considered temporarily absent* from NYS
  - Excludes individuals placed in a NYS facility by agencies of other states.
  - *Temporary absence = any absence from NYS for 3 consecutive months or less, not outside US for entire calendar month, with no evidence of intent to establish residence elsewhere (18 CRR-NY 398-2.1(an)).

WHO CAN GET SSP BENEFITS?

- A minor child may be temporarily absent without time limit if:
  - they are away from their permanent residence to attend school AND
  - intend to return to their permanent living arrangement during the summer or extended holidays, or upon graduation or completion of training and remain under parental control. (18 CRR-NY 398-2.1(an))

STATE LIVING ARRANGEMENTS

- SSP amount depends on State Living Arrangement (SLA).
- SLA Code A: “Living Alone”
- SLA Code B: “Living with Others”
- SLA Codes C, D, and E: Congregate Care Level 1-3
- SLA Code Z: Title XIX Facilities (Medicaid certified institutions)

2025 SSI and SSP Maximum Monthly Benefit Levels Chart
(reflects the 2.5% federal COLA increase, effective January 1, 2025)

Fed L/A Code	State Supp Code	New York State Living Arrangement	Federal Benefit/ Individual	State Benefit/ Individual	Total Benefit/ Individual[1]	Federal Benefit/ Couple	State Benefit/ Couple	Total Benefit/ Couple[1]
A	A	Living Alone	$967	$87	$1,054	$1,450	$104	$1,554
A, C	B	Living with Others	$967	$23	$990	$1,450	$46	$1,496
B	F	Living in the Household of Another[2]	$644.67	$23	$667.67	$966.67	$46	$1,012.67
A	C	Congregate Care Level 1- *Family Care* NYC, Nassau, Rockland, Suffolk, and Westchester Counties	$967	$266.48	$1,233.48	$1,450	$1,016.96	$2,466.96
A	C	Congregate Care Level 1- *Family Care* Rest of State	$967	$228.48	$1,195.48	$1,450	$940.96	$2,390.96
A	D	Congregate Care Level 2- *Residential Care* NYC, Nassau, Rockland, Suffolk, and Westchester Counties	$967	$435	$1,402	$1,450	$1,354	$2,804
A	D	Congregate Care Level 2- *Residential Care* Rest of State	$967	$405	$1,372	$1,450	$1,294	$2,744
A	E	Congregate Care Level 3- *Enhanced Residential Care*	$967	$694	$1,661	$1,450	$1,872	$3,322
D	Z	Title XIX (Medicaid Certified) Institutions[3]	$30	$0[4]	$30	N/A	N/A	N/A
A	Z	See Next Page[5]	$967	$0	$967	$1,450	$0	$1,450

Revised October 17, 2024

[1] The combined Federal and State SSI benefit provided to eligible individuals and eligible couples with no countable income.
[2] The *Living in the Household of Another* Category includes recipients whose federal benefit has been reduced by the "value of 1/3 reduction" (VTR) due to the federal determination that they are both: a) Living in someone else's household *and b)* receiving some amount of free or subsidized food and shelter (room and board).
[3] Applies when an SSI recipient is residing in a medical facility, is not expected to return home within 90 days, and Medicaid is paying for at least 50% of the cost of care.
[4] Recipients in nursing homes licensed by DOH receive an additional monthly grant of $25 issued by OTDA called a State Supplement Personal Needs Allowance (SSPNA). Residents of other medical facilities receive a SSPNA of $5.
[5] No State supplement is provided: a) when a SSI recipient is residing in a private medical facility and Medicaid is paying for less than 50% of the cost of care, or b) when a recipient resides in certain publicly operated residential facilities that serve fewer than 16 residents, or c) when a recipient resides in a public emergency shelter for 6 calendar months during a 9-month period.

Minimum Personal Needs Allowance	
Congregate Care Level 1	$186
Congregate Care Level 2	$213
Congregate Care Level 3	$255

Limits on Countable Resources	
Individuals	$2,000
Couples	$3,000

Statutory References: Chapter 56 of the Laws of 2024

LIVING ALONE

- Living alone, if the individual or couple: (18 CRR-NY 398-4.5(a))
  - Rents room but pays flat fee & during month takes majority of meals outside dwelling OR prepares majority of meals separately;
  - Pays a fixed, pre-established flat fee for both room & board in a commercial establishment which meets no other SSP living arrangement criteria (e.g., not congregate care facility or a public emergency shelter);
  - **Lives with others, but takes the majority of their meals during the month outside the dwelling;**
  - **Lives with others, but separately prepares, or has someone separately prepare, the majority of their meals during the month;**

LIVING ALONE – CONTINUED

- Living alone, if the individual or couple:
  - **receives a fixed, pre-established flat fee for room and board from all others in the dwelling;**
  - **lives with only a foster child;**
  - lives with only a homemaker authorized by a social services district (district);
  - lives with only a family care resident placed by: the NYS OMH, OPWDD, or a district;
  - lives with only an aide paid for under the Medical Assistance program; or
  - ***has no permanent living arrangement*** **(e.g., a transient person or homeless person) AND is** ***not living with an ineligible spouse or a minor child for whom they have primary responsibility*****.**

NOT LIVING ALONE

- Not living alone if: (18 CRR-NY 398-4.5(a)(2))
  - (i) Individual **lives with an ineligible spouse**;
  - (ii) Individual or couple **lives with a minor child for whom they have primary responsibility** (*unless the minor child is a foster child*);
  - (iii) the individual **is a minor child**; or
    - Minor child=under age 18 OR under age 22 and a student regularly attending school, college, or vocational training and who is neither married nor a head of a household (18 CRR-NY 398-2.1(t)).
  - (iv) the individual or couple resides in a **dwelling with others and prepares food in common** with at least one other person in the dwelling.

IMPORTANT NOTE

- Many of the scenarios for living alone have the client living with other people and not actually living by themself.
- **Preparing food in common can determine living alone v. living with others so important to get that clarified.**

LIVING WITH OTHERS

- Living With Others = when individual or couple lives in a private household with at least another person, including: (18 CRR-NY 398-4.5(b))
  - residing in a dwelling with others and **prepares food in common** with at least one other person in the dwelling.
  - **living with an ineligible spouse, despite the separate preparation of food**.
  - **living with a minor child for whom they have primary responsibility (*unless the minor child is a foster child*).**
  - **a minor child not living in a congregate care facility or congregate care level III facility;**

LIVING WITH OTHERS – CONTINUED

- Living With Others = when individual or couple lives in a private household with at least another person, including:
  - living in a religious community and room and/or board is provided in full or in part by the religious community;
  - **having no permanent living arrangement** (i.e., transient person or homeless person), **but is with an ineligible spouse or minor child for whom they have primary responsibility**; or
  - **is categorized by SSA as Living in the Household of Another for purposes of SSI benefits.**

CONGREGATE CARE FACILITIES

- Read definitions in regs, but short overview:
- Congregate Care Level 1 (18 CRR-NY 398-4.5(c)):
  - receiving **family care in a family type home** for adults which is certified by the NYS Office of Children and Family Services (OCFS) **or a family care home certified by OMH**.
- Congregate Care Level II (18 CRR-NY 398-4.5(d))
  - receiving **residential care in a residence for adults or in a privately operated community residence, residential substance abuse treatment program or a community residential facility for alcoholism**, certified by the appropriate Office of the Department of Mental Hygiene or a **residential care center for adults** certified by OMH.
    - Most common type we see!

CONGREGATE CARE FACILITIES

- Congregate Care Level III (18 CRR-NY 398-4.5(e))
  - **receiving enhanced residential care in a privately operated school for the mentally retarded and developmentally disabled** which is certified by OPWDD **or an adult home or enriched housing program** certified by the New York State Department of Health (DOH).
  - Enhanced residential care facilities include: adult homes and enriched housing programs certified by the DOH or schools for the mentally retarded certified by OPWDD.
  - Note: "mentally retarded" is the language used in the regulations.
- Congregate care does not include nursing homes or medical care facilities (18 CRR-NY 398-2.1(f)).
- *Note: Only Levels 1 and 2: benefit amounts in NYC, Nassau, Rockland, Suffolk, and Westchester counties are different than the rest of the State.

STATE LIVING ARRANGEMENT EXAMPLES

- SSI-eligible couple residing only with each other is:
  - Living Alone
- SSI-eligible 5-year-old living with their birth parent in an apartment is:
  - Living With Others
- SSI-eligible father living full-time with his non-foster minor children is
  - Living With Others
- SSI-eligible adult who prepares food separately from their roommate is:
  - Living Alone
- SSI-eligible single adult who rotates between various friends' couches is:
  - Living Alone

UNDERPAYMENTS

- Difference between the amount of benefits that the recipient was eligible for AND
- the lesser amount of benefits that were actually issued while receiving SSP benefits.
    - E.g., received living with others rate ($23) instead of living alone rate ($87).
  - Underpayments only issued to current active SSP recipients.
  - Underpayments limited to the month the change was reported and 3 prior consecutive months when due to untimely reporting by a recipient.
    - In practice it does not appear OTDA keeps that 3 month limit for rep notification.
  - (18 CRR-NY 398-11.3)

RETROACTIVE BENEFITS

- SSP benefits that accrued **between the month of initial federal SSI eligibility and active receipt of SSI** or for any period in which the SSP benefit is reinstated after a period of suspension or termination.
- May only be issued to an individual or couple **currently eligible** for SSP benefits (18 CRR-NY 398-2.1(aa)).

RETROACTIVE BENEFITS

- SSP is intended to support current and ongoing needs.
- Not intended to retroactively redress any claimed need for support for past periods of SSI eligibility when the individual or couple is no longer eligible for benefit issuance (18 CRR-NY 398-1.1).

RETROACTIVE TITLE II BENEFITS EFFECT ON SSP

- When amount of client's SSD monthly benefits result in no current SSI and SSP benefits, client will not receive retroactive SSP.
- Who does this effect?
  - Concurrent SSI/SSD cases where client received retroactive SSI benefits during the 5 month waiting period for SSD benefits but due to amount of current SSD was never eligible for current SSI and SSP.

LITTLE HISTORY LESSON!

- DAP advocates successfully overturned this previous rule in Article 78 proceedings in NY Supreme Court.
- OTDA responded by issuing its current regulations which administratively overruled those cases among other changes.
- Legislation concerning the regs has been introduced over the years, which this year passed both houses of the NY Legislature.
- In October 2025, Governor Hochul vetoed legislation which would have restored the rulings of the Article 78s.
    - See further reading at end.

OVERPAYMENTS

If client has an overpayment, they can: (18 CRR-NY 398-11.2(h))

- Appeal determination and liability;
- Request waiver or change in rate of repayment, so long as overpayment not the result of fraud; and
- Offer to repay substantial amount if OTDA agrees to waive recovery of balance, so long as overpayment not the result of fraud.
    - Tip: advise clients to notify OTDA if you discover any possible overpayment to avoid future headaches for them!

OVERPAYMENTS

- Overpayments are recovered through repayment **or** by reducing SSP benefits by no more than 10% of monthly SSP until overpayment repaid. (18 CRR-NY 398-11.2(b))
- If overpaid individual is no longer an SSP recipient, recovery is made by appropriate legal authority against any income and resources of the former recipient, **but not if** overpayment is less than $125 and the overpayment was not a result of fraud. (18 CRR-NY 398-11.2(d))
    - Recovery may be reinstated if the individual is subsequently found eligible for SSP benefits.

OVERPAYMENTS

- Where both an underpayment and an overpayment have occurred, OTDA must offset one against each other and make the appropriate adjustment. (18 CRR-NY 398-11.2(f))
- OTDA may discontinue recovery of the overpayment for current recipients if it is determined that the cost of recovery is greater than the cost of collection and reasonable efforts to recover the overpayment have been made, provided that the overpayment was not the result of fraud. (18 CRR-NY 398-11.2(g))
    - Reasonable efforts must include:
        - notification of the amount of the overpayment,
        - overpayment reason,
        - and that repayment is required.

SSP BENEFITS AS RESOURCES

- Underpayments shall not count as a countable resource for SSP purposes in the month of receipt and 9 calendar months following the month in which the individual receives the benefits. (18 CRR-NY 398-2.1(h))

RECOVERY OF EQUIVALENT BENEFITS

Interim Assistance Reimbursement (IAR)

- SSA reimburses DSS for payments made for Safety Net benefits out of a client's retroactive SSI benefits for the months that a client is paid SSI benefits and Safety Net benefits.

Recovery of Equivalent Benefits (REB)

- OTDA reimburses DSS for payments for Safety Net out of a client's retroactive SSP benefits for the months that a client is paid SSP and Safety Net benefits when the IAR process does not fully reimburse DSS.

RECOVERY OF EQUIVALENT BENEFITS

What can happen is a triple recovery into the retroactive SSI/SSP benefits:

- SSA pays retroactive SSI benefits to DSS for Safety Net benefits as part of IAR recovery.
- OTDA pays REB benefits out of retroactive SSP benefits to DSS for outstanding IAR not recovered from initial payment of SSI benefits.
- OTDA corrects mistake in retroactive SSP benefits calculations (incorrect start date, incorrect living arrangement, etc.) and pays REB benefits to DSS for further SSP benefits not recovered in first payment to DSS from REB recovery.
    - 18 CRR-NY 398-12.3

RECOVERY OF EQUIVALENT BENEFITS

- DSS has one attempt to recover from IAR but with REB there is no limit. 18 CRR-NY 398-12.3

ADVOCACY TIPS & BEST PRACTICES

SSP REPORTING

Note: When SSP eligibility starts, OTDA should contact the recipient about their current living arrangement and information. Submit the State Living Arrangement Form at the time of the favorable SSI decision or to request a change.

SSP REPORTING

- Must timely report any change that may affect eligibility for and amount of SSP benefit.
  - Timely = within 10 days of change (18 CRR-NY 398-6.1).
- Must respond to OTDA's requests for information and/or documentation
  - Within 10 days of date of request (18 CRR-NY 398-6.2).
- Fail or refuse to comply without good cause?
  - Ineligible to participate in SSP and may face termination or denial of benefits (18 CRR-NY 398-7.1(a))
  - OTDA determines whether good cause exists. (18 CRR-NY 398-7.1(b))
  - OTDA must consider facts & circumstances, including info submitted by recipient. (18 CRR-NY 398-7.1(b))
  - Recipient responsible for notifying OTDA of reasons for failing to comply and for proving good cause. (18 CRR-NY 398-7.1(c))

SSP REPORTING

- SSP website for more information and forms
- my SSP portal **(new!)**
  - See current benefit month, amount, and scheduled date that benefit will be available
  - Request a Benefit Verification Letter (BV Letter)
  - Download or print the BV Letter
  - View documents and notices sent to client or their payee in the last 12 months
  - View additional helpful resources and documents
  - Access forms to update information with OTDA

CONTACTS FOR CLIENTS

01

Mail

NYS OTDA State Supplement Program
PO Box 1740
Albany, NY 12201

02

General Email

otda.sm.ssp@otda.ny.gov

03

Fax

(518) 486-3459

04

Customer Support Center

(855) 488-0541
Monday - Friday, 8:30 a.m. - 4:45 p.m.

Reporting – Living Arrangement & Other Changes

- Client is on SSI and SSP and has change in marital status, address, living arrangement, income (including SSD benefits), and/or bank account. (18 CRR-NY 398-5.2(b))
  - Advise client of the need to contact SSA and OTDA.

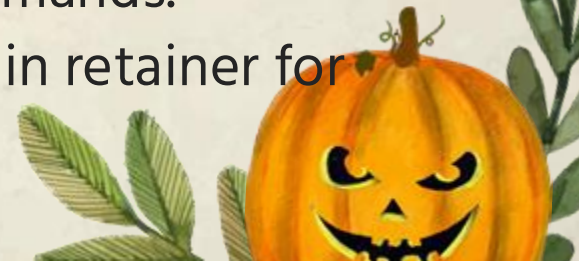
- For living arrangement changes, clients can call OTDA or submit the Living Arrangement Form by mail, email, or fax.
  - Remember, client must report change to OTDA within 10 days of the change. (18 CRR-NY 398-6.1).

GENERAL TIPS

- Advocates do not get notices automatically so advocates need to contact OTDA for notices.
- Best practice is through emailing OTDA through the DAP email at SSPDAP@otda.ny.gov (not for general public.)
- Send signed SSP Authorization to Disclose to Legal Representative Form and request SSP notices that went out to client.
    - OTDA will not accept 1696s.
- Wait 10 business days to hear back and then follow up.

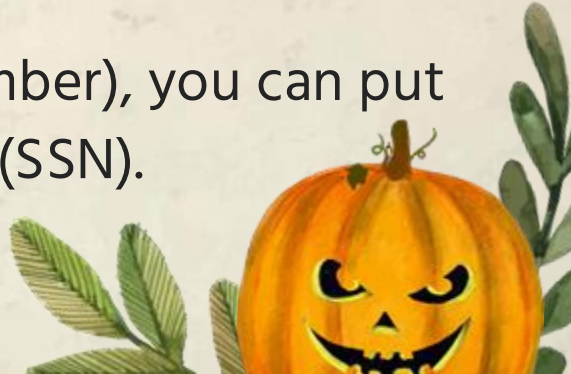
GENERAL TIPS

- The Authorization to Disclose to Legal Representative is only valid for 12 months.
- You can request it be extended when emailing OTDA.
    - I.e., 12 months just expired 2 months ago while we were waiting for ALJ's decision and SSI payments.
- It is best practice to obtain new form when you get updated releases to request records, especially in remands.
- Obtain the form at the same time you obtain retainer for acceptance and 1696.



GENERAL TIPS

- Once you are the legal representative, then OTDA *should* automatically send you notices.
- You may have to remind them if you do not get notices.
- It is best practice to email them to withdraw as the rep once you are finished with the case to prevent notices coming to you forever.
- If you do not have the PID (Personal ID Number), you can put the last four of the Social Security Number (SSN).
- Legal Representative is different from Designated Representative.



SSP NOTICES

- **Current Benefits**
  - May detail the current living arrangement, the start date of the current benefits, the monthly SSP amount the client receives, and a Living Arrangement Form.

- **Retroactive Benefits**
  - Includes the dates of the retroactive time period, any Recovery of Equivalent Benefits (REB) details, living arrangement for retroactive period, and SSP retroactive amounts.

CONTACT FOR ADVOCATES

- DAP SSP email
  - SSPDAP@otda.ny.gov
  - Again, not for the general public.
  - OTDA claims they will respond within 10 business days.
  - At OTDA's request, only email about 1 client per email.
  - Format should include client's first initial and last name in the subject line of any correspondence.
    - e.g., LASNNY SSP Client J. Smith
- While you can use various OTDA contacts to escalate inquiries, it is best practice to use the above email first.

CONTACT FOR ADVOCATES

- Sample requests:
  - Attach the Legal Rep form and ask OTDA to send you all SSP benefit notices issued when the case is an SSI application denial.
  - For continuing disability reviews (CDRs)/age 18 redeterminations/suspensions ask OTDA to let you know how much the SSP was from X date to present and verify if benefits never stopped.
  - The request is relatively short.

PROBLEM SOLVING!

Review SSP notices for the following issues:

- Erroneous start date
- Missing months
- Calculation errors
- Living arrangement errors

ERRONEOUS START DATE/MISSING MONTHS

- **PROBLEM**: SSP and SSI start dates don't align or there are missing months.
- Possible reasons:
  - SSP notice has typo.
  - Client was reduced to $0 at one point during back period (i.e., resource or income issues) so the SDX only sent the period SSI was paid again and not months prior.
  - OTDA failed to note the reopened SSI app.
  - SSA had to do a "manual" payment of SSI that was not caught in the SDX.

ERRONEOUS START DATE/MISSING MONTHS

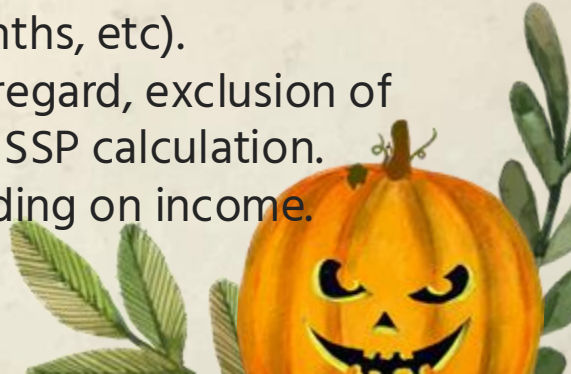
- **SOLUTION**:
  - Email OTDA the SSI notice of award (and any other applicable SSI notices) and ask OTDA to confirm with SSA the correct start date and/or months.
  - OTDA can no longer go off of us supplying the SSA notices alone (18 CRR-NY 398-4.3).
    - The info has to be received directly from SSA to OTDA.
  - Once OTDA corrects the benefits, double check that the months, living arrangement, and amounts are correct.

CALCULATIONS NOT ADD UP

- **PROBLEM:**
  - The notices you receive for retroactive benefits will typically give a lump sum amount with a range of months.
  - You need to divide that lump sum amount by the number of months.
  - It should equal the SSP monthly rate for the living arrangement.
  - But what if the math doesn't equal the SSP monthly rate?

CALCULATIONS NOT ADD UP

- **SOLUTION:**
  - Email OTDA and ask for a monthly breakdown.
    - OTDA will provide an Excel sheet or print out of the client's monthly benefits.
  - Typically the math being off is due to income/resource issues or incarceration that may have resulted in SSI being $0 for that month.
    - Could also be due to the REB calculation.
  - But could be other issues (i.e., typos, missing months, etc).
- SSI budgeting rules, including $20 general income disregard, exclusion of $65 plus one-half of earned income, etc., apply to the SSP calculation.
- Some clients may receive only SSP and no SSI, depending on income.



TITLE II AND SSP CALCULATIONS

- Double check concurrent SSI + Title II math.
- Example: Client is SSI and SSD eligible, has no other income, and lives by herself.
- Client's SSI without reductions is $967 monthly, receives $997 monthly SSD.
- SSI is reduced by $977 ($20 SSD offset), such that SSI is $0.
- SSP=$967-$977+$87=$77 SSP per month.
- Total of $1074 to client:
  - SSI=$0
  - SSD=$997 (assuming no reductions)
  - SSP=$77

LIVING ARRANGEMENT ERRORS

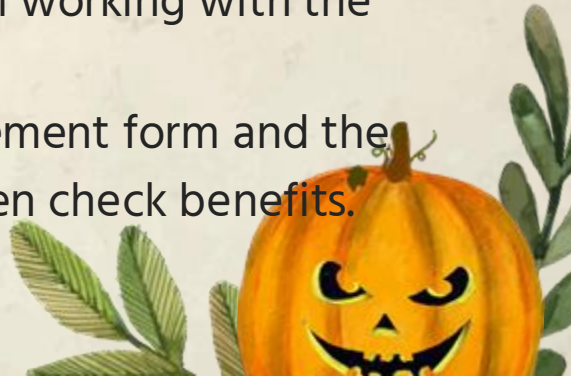
PROBLEMS AND SOLUTIONS

- Client is currently designated as living with others (LWO), but they are really living alone.
  - **If your client never returned the living arrangement form, OTDA will automatically place them at the $23/month LWO rate.**
  - Ensure the living arrangement form is completed properly, send it to OTDA, and make sure they pay the client the right amount.
    - Sample email: “Please find enclosed an updated living arrangement form. We ask that the SSP benefits be adjusted.”
- Client has changed living arrangements multiple times in their retroactive period.
  - Same but note in margins when each living arrangement began and ended (i.e., living with others 10/1/24-7/31/25 and living alone 8/1/25 to present).

LIVING ARRANGEMENT ERRORS

PROBLEMS AND SOLUTIONS

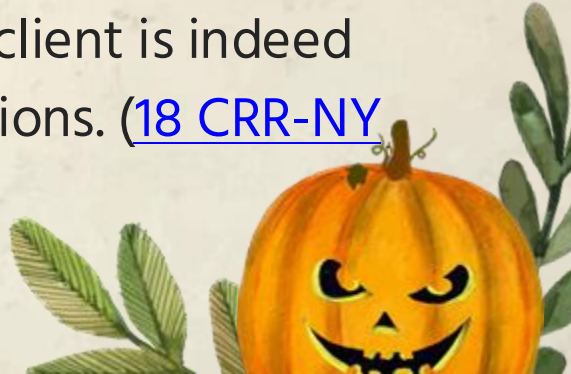
- Client was in congregate care during the retroactive payment period but is being paid the living alone or living with others rate for the entire time period.
  - You will need the congregate care facility (or facilities) to complete the Congregate Care Change Report Form noting when the client moved in and out of congregate care and the type of congregate care facility.
  - This can take some detective work to track down contacts at these facilities, but you may already have them based on working with the client's advocate at the facility.
  - Once you have the form(s), send the living arrangement form and the Congregate Change Report Form to OTDA, and then check benefits.



LIVING ARRANGEMENT ERRORS

PROBLEMS AND SOLUTIONS

- Your client is receiving $23/month due to being classified as living in the household of another by SSA.
  - You need to fix the SSI ISM (in-kind support and maintenance) being applied.
  - Once the ISM is fixed, you need to fill out and send in the SSP Living Arrangement Form, assuming client is indeed living alone, according to the SSP regulations. (18 CRR-NY 398-4.5(a))



LIVING ARRANGEMENT ERRORS

PROBLEMS AND SOLUTIONS

- Your client receives statutory benefit continuation (SBC) for SSI due to an age-18 redetermination and $23/month for SSP.
  - Parents likely have not realized client may be entitled to $87/month because no longer a minor.
    - I.e., does adult child separately prepare their own meals majority of month?
  - If no longer living with others, obtain a new Living Arrangement Form, submit to OTDA, and check the benefits are changed retroactively and currently.
- Similarly, your continuing disability review (CDR) client receives $23 a month in SBC benefits.
  - Verify the living arrangement and get OTDA to fix benefits.

LIVING ARRANGEMENT ERRORS

- When the SSP recipient receives both SSP and SNAP (food stamps), and there is a difference between the state living arrangement information reported to SSP by the client and info in the client's SNAP case record:
  - The info regarding household composition in the SNAP record will be used to determine the living arrangement for SSP. (18 CRR-NY 398-4.5)
- In other words, if client claims they are living alone but there are multiple people on the SNAP household, the SSP recipient could be classified as living with others.
  - Generally, a "SNAP household" consists of everyone who buys food and **prepares meals together (i.e., in common).**

LIVING ARRANGEMENT ERRORS

- Talk to your client to determine they are in the right living arrangement.
  - If SSP notice reveals $87/month and client lived alone during entire period, then that is correct.
  - If SSP notice reveals $23/month and client has their minor, non-foster children living with them then that is correct.
- Depending for how long the case has been pending, you could be looking at several years of living arrangement changes, so it is best to keep track in your casenotes each time the client has moved addresses and/or living arrangements.
- Congregate care payments are messy as the living arrangement form only asks for the **current** living arrangement.

LIVING ARRANGEMENT ERRORS

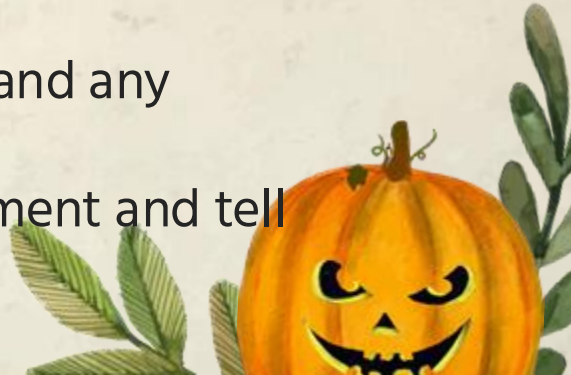
- Hundreds of dollars per month are missed if congregate care is not accounted for especially when the client no longer lives there.
- If you see $23/month, you should hear alarm bells to double check your client's living arrangement.
- A difference of living alone v. living with others is $64 a month or $768 for the year for individuals.
    - That money can be really helpful for our clients to pay for rent/mortgages, food, clothes, and utilities.
- The definitions of living arrangements are confusing.
    - You can live with other people but be "living alone" for SSP purposes.

LIVING ARRANGEMENT ERRORS

- It is imperative that you ensure SSP benefits are correct before closing files or we relegate clients to possibly a lifetime of reduced benefits.
- If you cannot locate your client to fix these benefits or verify the amount of the SSP, your closing letter should advise them to contact OTDA's SSP unit to ensure their SSP benefits are correct.
- If possible, you can be proactive in emailing OTDA your rep form and the correct Living Arrangement Form to prevent delays once you receive a win in the SSI case.

CONTINUING DISABILITY REVIEWS AND NON-DISABILITY SUSPENSIONS

- If Statutory Benefit Continuation (SBC) or Goldberg Kelly (GK) payment continuation is requested for SSI, SSP should also continue.
- If SBC or GK payment continuation is not in place, then once SSI is resolved:
  1. Obtain signed Legal Rep form and if needed, Living Arrangement Form.
  2. Contact OTDA regarding monthly benefits and any retroactive benefits due.
  3. Attach SSA notices regarding SSI reinstatement and tell OTDA to confirm with SSA.



FAIR HEARINGS

- Request for fair hearing must be filed within 60 days from the date on the letter for SSP benefits. (18 CRR-NY 398-10.1)
- Via fax is best to submit the request, relatively easy.
- Monitor appeal timelines for SSI letters.
- Withdrawal of fair hearing and/or representation is allowed.
- DAP best practice is to not bill SSP fair hearings to the DAP grant.
    - Use other funding (JCLS or IOLA), given OTDA funds the DAP grant.
- Specifics of fair hearings for another day!
    - There is right to aid continuing. (18 CRR-NY 398-10.2(a))
    - After fair hearings are Article 78s in NY courts.

FAIR HEARINGS

- OTDA cannot fix issues related to SSI benefits (18 CRR-NY 398-10.4).
  - Those are the exclusive jurisdiction of SSA.
  - You need to fix any SSI issues before OTDA can adjust SSP.
    - e.g., income, resources, suspended for lack of contact, etc.

HOW TO REQUEST FAIR HEARINGS

01

Phone

(800) 342-3334

02

Online

Fair Hearing Request Form

03

Mail or Fax Fair Hearing Request Form

NYS OTDA
Office of Administrative Hearings
P.O. Box 1930
Albany, NY 12201-1930
F: (518) 473-6735

04

In-Person (NYC and Albany)

NYC OTDA
Office of Administrative Hearings
5 Beaver Street
New York, NY 10004

NYS OTDA
Office of Administrative Hearings
40 North Pearl Street
Albany, NY 12243

REQUESTING A FAIR HEARING VIA FAX

- The SSP notice you are appealing may have a page that can substitute as the fair hearing request form.
- You would just need to provide your reason for filing a fair hearing.
- You can then fax to OTDA:
  - a cover sheet (i.e., Please find enclosed a fair hearing request),
  - the fair hearing request form from the notice,
  - and a copy of the SSP notice being appealed.

BEST PRACTICE POST-SSI WIN

Obtain signed Living Arrangement Form

Submit form by email after PERC along with your Legal Rep Form

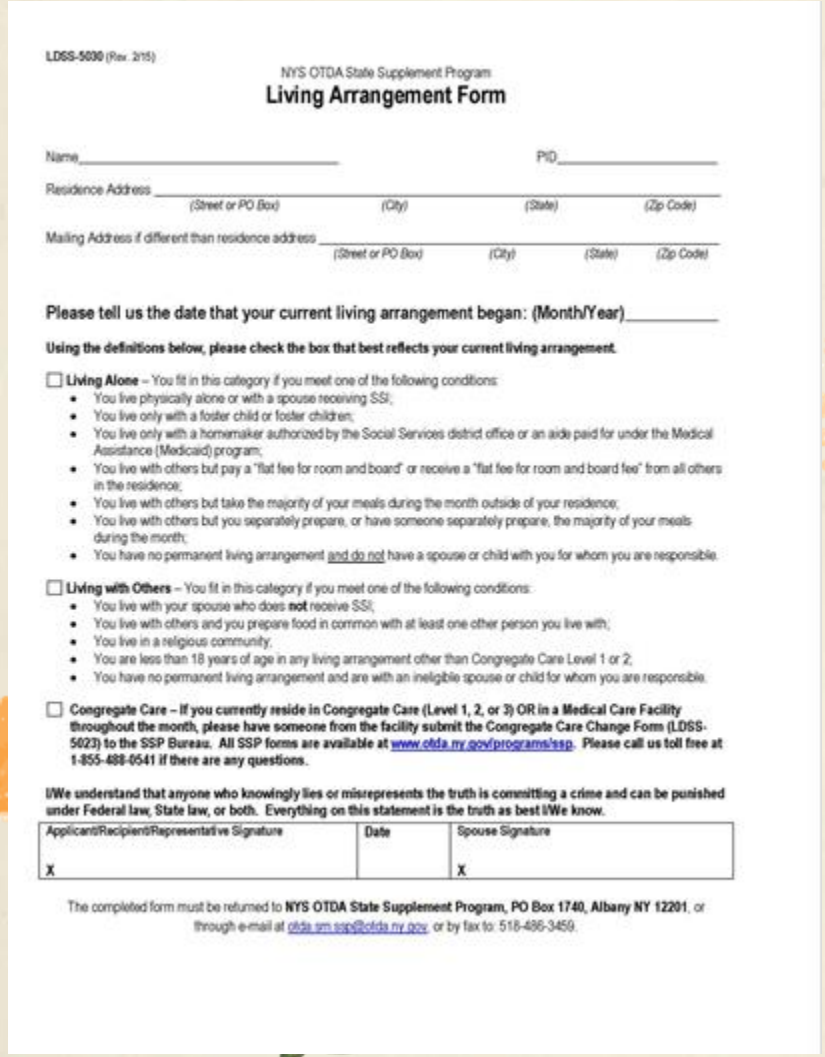
Contact OTDA re: SSP notices after SSI notice of award is issued

Check math and request revision of benefit amounts as needed.

Monitor the Fair Hearing request deadline throughout!

FUTURE READING (FOR FUN?)

- SSP regs
  - Beginning at 18 NYCRR 398-1.1 (link is to unofficial regs).
- Article 78s
  - administratively overturned by OTDA's regulations but provide a good history
  - Goyer v. Roberts, 65 Misc. 3d 1203(A), 118 N.Y.S.3d 363 (N.Y. Sup. Ct. 2019).
  - Torres v. Roberts, 63 Misc. 3d 1229(A), 115 N.Y.S.3d 610 (N.Y. Sup. Ct. 2019).
- A1817
  - Bill vetoed by Governor Hochul concerning closed period of SSP benefits.
- OTDA Fair Hearing Decision Database
- OTDA's SSP website



LDSS-5030 (Rev. 2/15)

NYS OTDA State Supplement Program

Living Arrangement Form

Name_____ PID_____

Residence Address _____
(Street or PO Box) (City) (State) (Zip Code)

Mailing Address if different than residence address _____
(Street or PO Box) (City) (State) (Zip Code)

Please tell us the date that your current living arrangement began: (Month/Year)_____

Using the definitions below, please check the box that best reflects your current living arrangement.

☐ **Living Alone** – You fit in this category if you meet one of the following conditions:
- You live physically alone or with a spouse receiving SSI;
- You live only with a foster child or foster children;
- You live only with a homemaker authorized by the Social Services district office or an aide paid for under the Medical Assistance (Medicaid) program;
- You live with others but pay a "flat fee for room and board" or receive a "flat fee for room and board fee" from all others in the residence;
- You live with others but take the majority of your meals during the month outside of your residence;
- You live with others but you separately prepare, or have someone separately prepare, the majority of your meals during the month;
- You have no permanent living arrangement and do not have a spouse or child with you for whom you are responsible.

☐ **Living with Others** – You fit in this category if you meet one of the following conditions:
- You live with your spouse who does **not** receive SSI;
- You live with others and you prepare food in common with at least one other person you live with;
- You live in a religious community;
- You are less than 18 years of age in any living arrangement other than Congregate Care Level 1 or 2;
- You have no permanent living arrangement and are with an ineligible spouse or child for whom you are responsible.

☐ **Congregate Care – If you currently reside in Congregate Care (Level 1, 2, or 3) OR in a Medical Care Facility throughout the month, please have someone from the facility submit the Congregate Care Change Form (LDSS-5023) to the SSP Bureau. All SSP forms are available at www.otda.ny.gov/programs/ssp. Please call us toll free at 1-855-488-0541 if there are any questions.**

I/We understand that anyone who knowingly lies or misrepresents the truth is committing a crime and can be punished under Federal law, State law, or both. Everything on this statement is the truth as best I/We know.

Applicant/Recipient/Representative Signature	Date	Spouse Signature
X		X

The completed form must be returned to **NYS OTDA State Supplement Program, PO Box 1740, Albany NY 12201**, or through e-mail at otda.sm.ssp@otda.ny.gov, or by fax to: 518-486-3459.

NYS OTDA State Supplement Program Living Arrangement Form

NYS OTDA State Supplement Program Authorization to Disclose to Legal Representative Form

NYS OTDA State Supplement Program
Authorization to Disclose to Legal Representative

This form authorizes the State Supplement Program (SSP) to disclose information about your SSP record to the legal representative named below. It is intended for use by attorneys and law firms only.

Recipient Name (please print clearly)_____

Personal ID Number (PID) or the last 4 digits of recipient's Social Security Number (SSN)_____
Recipient (PID) number can be found in the upper left hand corner on SSP notices

To be completed by the recipient or recipient's payee:

- I appoint, _____ to act as my legal representative in
  (Name of Attorney and or affiliated law firm, legal organization)
  connection with my SSP case.
- I authorize that this individual/law firm/legal organization may make any request, provide information, get information and receive any notices in connection with my case.
- I further authorize the SSP to release information to this individual and any individual in the employ of the above-named law firm/legal organization.

This authorization will remain valid for twelve months and may be renewed upon request.

Signature of Recipient _____Date _____
(or witness if the recipient is unable to sign)

To Be Completed By Attorney:

I, _____, hereby accept the above appointment.
(Print or Type Name)

Name of Legal Firm: _____

Address:
Phone Number:
Fax:
Email:

Legal Representative Signature_____Date _____

Please return this form to:

NYS OTDA State Supplement Program
PO Box 1740
Albany, New York 12201;
by email to: SSPOAP@otda.ny.gov; OR by fax to: 518-486-3459

6-20-18

LDSS-5024 (Rev. 3/15) NYS OTDA State Supplement Program (SSP) Designated Representative Form

Termination of services

If you wish to terminate your services as designated representative, please print your name and sign below.

I, _____, wish to terminate my services as designated representative for the above name recipient. I have notified the recipient of the terminations of my services and have advised the recipient to make the necessary banking changes.

Signature of Designated Representative:	Date Signed:
X	

Please return this form to:

NYS OTDA State Supplement Program
PO Box 1740
Albany, New York 12201;

by email to: otda.sm.ssp@otda.ny.gov

OR by fax to: 518-486-3459

LDSS-5024 (Rev. 3/15)

NYS OTDA State Supplement Program

Designated Representative Form

Name of SSP Recipient:	Person ID No.:

Appointment, change, or termination of designated representative

I want to do the following *(please check one box)*:

☐ Appoint a new designated representative ☐ Change my designated representative
☐ Termination of Appointment for my designated representative
☐ Change permissions for my current designated representative

Name of Designated Representative:	
Address:	Telephone Number:

Designated representative level of permissions

I request that my designated representative provide the following services:

☐ Act as my Payee and receive and manage my monthly SSP Benefits*
☐ Represent me at Fair Hearing
☐ Provide and Receive Information on my behalf

IMPORTANT INFORMATION:** ***The Enclosed Direct Deposit form must be completed if your banking account information will be changed.

Signature of SSP Recipient:	Signature of Witness if the Recipient is unable to sign. *The witness cannot be the designated representative.*
X	X
Date Signed:	Date Signed:

Certification of designated representative

As the designated representative for the above named SSP Recipient, I certify that I have read and agree to all provisions contained in the RIGHTS AND REPSONSIBILITIES OF DESIGNATED REPRESENTATIVES FOR SSP form. I certify that the above information is correct, and hereby affirm that I will comply with the following requirements:

Signature of Designated Representative:	Date Signed:
X	

NYS OTDA State Supplement Program Designated Representative Form

NYS OTDA State Supplement Program Congregate Care Change Report Form

LDSS-5023 (Rev. 2/15)

NYS Office of Temporary & Disability Assistance

Congregate Care Change Report Form

I. Return Instructions

Please return this completed form to:
By E-mail: otda.sm.ssp@otda.ny.gov
By Fax: (518) 486-3459
Mailing Address: SSI State Supplement Program
PO Box 1740
Albany, New York 12201

II. Client Identification

Name:	Social Security Number (last four): XXX-XXX-	Date of Birth: / /
New Residence Address:		
New Mailing Address (If Different than Residence Address):		
New Provider Name and Address: County:	Former Provider Name and Address: County:	
Certificate/License/Provider #	Certificate/License/Provider #	

III. Nature of Placement, Transfer or Other Change

Type of Placement	Type of Care(Federal/State Living Arrangement)	Effective Date(s) of Change
☐Move Into ☐Moved Out of	Congregate Care Level 1 – Family Care Federal Living Arrangement Code A, State Code C	
☐Move Into ☐Moved Out of	Congregate Care Level 2 – Residential Care Federal Living Arrangement Code A, State Code D	
☐Move Into ☐Moved Out of	Congregate Care Level 3 – Enhanced Residential Care Federal Living Arrangement Code A, State Code E	
☐Move Into ☐Moved Out of	Medical facility Federal Living Arrangement Code A/D, State Code Z	
☐Move Into ☐Moved Out of	Community or Other (please specify, e.g. deceased):	

LDSS-5023 (Rev. 2/15)

NYS Office of Temporary & Disability Assistance

Congregate Care Change Report Form

IV. Custody

For children under 18 years old, who has legal Custody?	☐Parent/Guardian ☐Social Services ☐Other (specify) _____

V. Income Changes

Type of Income: (e.g. Social Security Retirement, Social Security Disability, Pension, Wages)	Amount	Date Income Changed

al: $_____ effective_____

posit

esident, I am requesting its be deposited into the ow.

☐ I am requesting that my SSP benefits be deposited into the bank account listed below.

_____
(Resident Signature)

e Payee approved by presentative (DR) Payee pply to become the DR 8-0541

Checking ☐ Savings

Title:

Date:

Telephone:

E-mail:

Have Questions or need More Information?
1-855-488-0541
www.otda.ny.gov/programs/ssp

QUESTIONS?

MICHAEL TELFER

(518) 533-5933

mtelfer@lasnny.org

SHANDANETTE CHASE

(646) 923-8368

schase@urbanjustice.org

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THANKS AND ENJOY GETTING YOUR CLIENTS MORE MONEY!!!!!!

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