

Update on “Fleeing Felons”

Yvonne M. Perret, MA, MSW, LCSW-C
Director of TA and Training, SOAR TA Center

Background

SSA has had a policy requiring anyone applying for SSI/SSDI, who has had an outstanding felony warrant, to satisfy the warrant before having his/her application processed. In addition, SSI or SSDI recipients found to have outstanding felony warrants were placed in overpayment and suspended pay status for the duration of the warrants and needed to address them before benefits resumed. This has been especially difficult for people who are homeless, many of whom had been arrested for minor charges (e.g., trespassing, loitering, etc), failed to appear for hearings, and had bench warrants (which were often felony warrants) issued.

In 2009 a class action court case, *Martinez v. Astrue*, challenged SSA’s policy implementation. A court settlement was reached at the end of September 2009 that changed the way such warrants will be considered. There is an appeal period, but it is unlikely that SSA will appeal the settlement.

Details of Policy Change

Beginning April 1, 2009, SSA will suspend or deny benefits *only* if an individual’s felony warrant was issued for one of the following offenses:

- Escape
- Flight to avoid prosecution, confinement, etc. or
- Flight-Escape

Individuals who have legal violations of parole or probation filed against them will still have to satisfy these before being processed or they will still face suspension of benefits.

Other Settlement Information

For individuals whose benefits were suspended or denied since January 1, 2007 OR who had an administrative claim pending on August 11, 2008, SSA will stop collecting overpayments from these individuals and will repay retroactive benefits. These individuals will not have to file a new application or have a continuing disability review (CDR). This change should happen automatically. However, SOAR trainees need to be aware so as to follow up with SSA as needed.

For individuals whose benefits were suspended or denied since January 1, 2000, SSA will notify them that its policy has been changed and that they might now be eligible to receive benefits. They can re-establish eligibility with a protective filing date of April 1, 2009 IF SSA is contacted within 6 months of its notifying individuals of this possibility.

Please contact your local SSA office for further information or if you have questions.