



## Disability Law Center

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December 9, 2022  
(via [DCF.RAO@state.ma.us](mailto:DCF.RAO@state.ma.us))

Attorney Steven Treat  
Primary Records Access Officer  
Assistant General Counsel  
Department of Children and Families  
600 Washington Street, 6th floor, Boston, MA 02111  
857-338-3018

Re: State Public Records Request to Department of Children and Families

Dear Attorney Treat:

This is a request of the Disability Law Center (DLC) under the Massachusetts Public Records Law (M. G. L. Chapter 66, Section 10), addressed to the Massachusetts Department of Children and Families (DCF).

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### Definitions

**Child; Young Adult**-Pursuant to M.G.L. Chapter 119, Section 21, “child” shall refer to “a person under the age of 18”, and “young adult” shall refer to “a person between the ages of 18 and 22.”

**Benefits:** Unless otherwise specified for a given subsection, “benefits” shall include, though not be limited to, Supplemental Security Income [SSI] and/or Title II benefits (including dependent or survivors’ benefits), and Veterans’ Benefits. Youth over age 18 who have worked enough to qualify for Social Security Disability Insurance [SSDI], this shall be included under under Title II benefits as well.

The Protection and Advocacy System for Massachusetts



**Public Records; Records:** Pursuant to M.G.L. Chapter 4, Section 7(26), “public records”, as well as “records”, shall refer to “all books, papers, maps, photographs, recorded tapes, financial statements, statistical tabulations, or other documentary materials or data, regardless of physical form or characteristics, made or received by any officer or employee of any agency, executive office, department, board, commission, bureau, division or authority of the commonwealth, or of any political subdivision thereof, or of any authority established by the general court to serve a public purpose, or any person, corporation, association, partnership or other legal entity which receives or expends public funds for the payment or administration of pensions for any current or former employees of the commonwealth or any political subdivision as defined in section 1 of chapter 32,” unless such materials or data fall under one of the exemptions enumerated in said Section 7(26).

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### **List of Requested Records**

We are requesting that we be provided a copy of the following records listed below. As to all records listed below, we request them from the dates **January 1, 2020 to November 30, 2022:**

1. All records documenting the number of children and young adults in DCF’s care or custody for whom DCF has applied for benefits each year, the percentage approved or denied, and all data pertaining to any appeals of said denials.
2. All records, practices, policies, guidance, procedures, and instructions documenting how and when DCF provides/has provided notice to children and young adults in its care or custody, their parent(s), guardian(s), and/or lawyer(s) regarding application for and eligibility for benefits and DCF’s application to be appointed representative payee to manage said benefits.
3. All records, practices, policies, guidance, procedures, and instructions relating to DCF’s role in applying for and serving as representative payee for children and young adults in its care or custody.
4. All records related to the total amounts of SSI, Title II and Veteran’s benefits, designated separately, of children and young adults in the care or custody of DCF, for whom DCF serves/has served as representative payee or fiduciary.
5. All records documenting the numbers of children and young adults in DCF’s care or custody for whom DCF serves/has served as representative payee or fiduciary, who are receiving (a) only SSI, (b) only Title II (c) SSI *and* Title II and (d) Veteran’s benefits.
6. All records, practices, policies, guidance, procedures, and instructions documenting the administration of accounts for the personal needs of children and young adults in DCF’s care or custody, for whom DCF serves/has served as representative payee.
7. All records practices, policies, guidance, procedures, and instructions related to the treatment of assets due to benefit asset limits, of children and young adults in DCF’s care or custody, for whom DCF serves/has served as representative payee.

- 8.** All records, practices, policies, guidance, procedures, and instructions related to the processes to use benefits of children and young adults in DCF's care or custody, for whom DCF serves/has served as representative payee, on behalf of said children/young adults, including but not limited to: any documentation or record of how a child/young adult's benefits are used to support that specific child/young adult directly; services, therapies, or equipment related to the child/young adult's disability; how and which records are kept to ensure a child/young adult is the beneficiary of their own benefits; and how benefits are conserved for or distributed to the child/young adult.
- 9.** All records documenting all types of Title IV-E benefits (e.g., administrative and maintenance benefits) for children and young adults in DCF's care or custody, for whom DCF serves/has served as representative payee, including but not limited to all practices, policies, guidance, procedures, and instructions governing decisions to forego the collection of said benefits.
- 10.** All records, practices, policies, guidance, procedures, and instructions relating to the processes for screening, application, collection, accounting, information transmittal and use of benefits from children and young adults in DCF's care or custody, for whom DCF serves/has served as representative payee.
- 11.** All records, practices, policies, guidance, procedures, and instructions documenting the stated purposes for which DCF uses the benefits of children and young adults in its care or custody, for whom DCF serves/has served as representative payee.
- 12.** All records, practices, policies, guidance, procedures, and instructions governing the payment, into the General Fund of the Commonwealth of Massachusetts, of all benefits of children and young adults in DCF's care or custody, for whom DCF serves/has served as representative payee, including but not limited to records related to the total amounts of benefits paid into the General Fund.
- 13.** All proposals, contracts and requests for proposals in response to requests for proposals or bid notices, and any other records regarding DCF and/or the Commonwealth of Massachusetts using or seeking to use contractors, consultants, or any other third-party vendors to: (a) screen/determine eligibility, increase or obtain, or use benefits of children and young adults in DCF's care or custody for whom DCF serves/has served as representative payee; (b) administer Title IV-E reimbursement of said children/young adults; and/or (c) administer accounts for the personal needs of said children/young adults.
- 14.** All records, practices, policies, guidance, procedures, and instructions regarding establishment of, as well as any and all efforts to establish, Achieving a Better Life Experience [ABLE], savings, or trust accounts for children and young adults in DCF's care or custody, for whom DCF serves/has served as representative payee.
- 15.** All records documenting amounts of benefits of children and young adults in DCF's care or custody, for whom DCF serves/has served as representative payee, which are/have been conserved in ABLE, savings, and trust accounts.

### Additional Information

We respectfully ask for your cooperation and note that **we are only interested in non-exempt information**. We are available to facilitate your production of the requested records with a minimum of disturbance or cost to the agency. If you have the information in partial formats or in some form that will cause you inconvenience, please contact us to discuss the easiest way to facilitate relevant production.

The Public Records Law requires you to provide us with a **written response within 10 business days**. If you cannot comply with our request, you are statutorily required to provide an explanation in writing. If you do not have or keep the relevant information requested, a simple declaration to that effect would constitute compliance with the applicable request(s). We would very much appreciate any information you have regarding which entity (to the best of your knowledge) does have or keep the relevant information requested.

Names, addresses, and/or identifying information of child beneficiaries or other individuals, other than agency officials, **may be redacted** from any responsive documents in order to ensure compliance with Health Insurance Portability and Accountability Act [HIPAA] and other federal and state confidentiality laws.

We understand that your information management system may not correspond precisely to the terminology used above, and we ask your cooperation in applying the applicable terminology used by DCF to these requests. It is **not necessary to provide multiple documents with the same information**.

We would prefer and greatly appreciate receiving the responsive documents **by email or in electronic format wherever possible**. We ask for PDF format whenever possible, each paper record in a separately saved file, any data records in their native format (i.e. Excel spreadsheets in Excel), and for any emails to also include BCC threads. If mailing hard copies, please send them to the address below.

**Please also consider a request for waiver or reduction of fees** pursuant to 950 C.M.R. 32.06(5). We believe that waiving fees would be in the public interest for the following reasons: The Disability Law Center is a non-profit organization and is the designated Protection and Advocacy system (“P & A”) for the Commonwealth of Massachusetts under federal law. Each state’s P&A is part of a federally mandated system with the authority and obligation to protect and advocate for the human and legal rights of individuals with developmental disabilities, mental illness and/or other disabilities. See 29 U.S.C. § 794e (Protection and Advocacy of Individual Rights Program, (the PAIR Act)); 42 U.S.C. §§ 10801 et seq. (Protection and Advocacy for Individuals with Mental Illness Act (the PAIMI Act)); 42 U.S.C. §§ 15001 et seq. (Developmental Disabilities Assistance and Bill of Rights Act (the DD Act)). Our work as the P&A includes issues related to financial resources of persons with disabilities managed by other persons and entities. Our office also administers the Disability Benefits Project funded by the Massachusetts Legal Assistance Corporation, which provides technical assistance to attorneys handling SSI and SSDI cases across the Commonwealth.

Our purpose in requesting the above documents is **not commercial** but is in furtherance of the authority granted to us under federal law to serve individuals with disabilities, and in connection with the extensive work our organization does regarding access to benefits and appropriate representative payees. Therefore, the disclosure of the information requested will contribute to the public understanding of children in foster care, with and without disabilities. In addition, it will assist the public at large, who has an interest in understanding government functions, including those pertaining to the welfare of children in foster care.

If a fee waiver is not granted, we again request these records be produced in electronic format and emailed to the addresses listed below. If any records cannot be produced electronically and emailed, please contact us first and describe the reason and associated costs. If records are too voluminous to transmit via email, please advise us of the costs of transmitting the records on an electronic storage device such as a CD-ROM or flash drive. In general, **in any instance where there is no fee waiver and there will be any cost associated with transmitting records, whether electronically or in hardcopy, please contact us first for cost approval before producing any records.**

If you have any questions about this public records request or our request for waiver or reduction of fees, please feel free to contact us.

Thank you in advance for your assistance.

Sincerely,

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