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Preface



Introduction

Twenty five years ago it was almost impossible to find resources on SSI and SSDI. While there is certainly no glut in the market today, there is a growing number of such publications, especially ones regarding the impact of work on benefits.

One of the things that distinguishes this manual is the strong advocacy orientation that accompanies the information. Its intent is to share information about “the rules,” and then offer suggestions about how to act within the framework of those rules to maximize each individual situation.

As with all best practice information, there is no “cookie-cutter” approach that will work for everyone. What you will learn here needs to be applied *one-person-at-a-time* according to each person’s particular circumstance, needs, and dreams.

Most, if not all, changes that occur in policy or procedure can be obtained from the Social Security website, www.ssa.gov, or from your local Social Security office or State Medicaid Agency. You can also check some of the other websites listed in the Appendices.

NOTE:

This manual is written generically to apply to all states. Following this introduction is a list of all the dollar figures you should check at the beginning of each year for changes (like the yearly cost-of-living increase in the SSI Federal Benefit Rate). Also included are figures that may change as a result of federal legislation affecting SSA policy. There is room on the “Numbers That Do (or Might) Change Yearly” chart for you to insert updated dollar figures for your state in subsequent years.

NUMBERS THAT DO (OR MIGHT) CHANGE YEARLY

Description		2005 Figures	Fill in the updated dollar figures for your state		
			2006 Figures	2007 Figures	2008 Figures
SSI Eligibility & Payment Amounts					
SSI-Federal Benefit Rate (FBR)		\$579.00	\$603.00		
SSI Amounts for Selected SSI Living Situations The Federal Benefit Rate (FBR) will be the same for all states and will increase yearly. If your state supplements the Federal Benefit Rate (FBR), there will be one or several other benefit amounts. Check yearly with your state Medicaid Agency.	Independent /Sharing FBR	\$579.00	\$603.00		
	Couples FBR	\$869.00	\$904.00		
	Household of Another (1/3 reduction)	\$386.00	\$402.00		
	Medicaid Institution	\$30.00	\$30.00		
	Other				
	Other				
	Other				
	Other				
SSI Resource Limits		\$2,000 - Individual \$3,000 - Couple	\$2,000 - Individual \$3,000 - Couple		
SSI Deeming Breakeven Points (see chart on page 58)					
Medicare Premium Cost/monthly		\$78.20	\$88.50		

Description	2005 Figures	Fill in the updated dollar figures for your state		
		2006 Figures	2007 Figures	2008 Figures
SSI Work Related Amounts				
SSI Student Earned Income Exclusion (SEIE)	\$1,410/mo up to \$5,670/year	\$1,460/mo up to \$5,910/year		
1619b Threshold, varies by state (see Appendix 10)				
SSDI Work Related Amounts				
SSDI Trial Work Period (TWP) gross earnings/month and hours/month for self-employment	\$590.00 80 hrs/month for self- employment	\$620.00 80 hrs/month for self- employment		
SGA for Non-Blind gross earnings/month	\$830.00	\$860.00		
SGA for Blind gross earnings/month	\$1,380.00	\$1,450.00		
SGA for Self-employment (hours per month)	40 hours and/or \$830	40 hours and/or \$860		
Federal Poverty Level for one person (usually changes the first quarter of the year)	\$9,570/yr in 48 contiguous states & D.C.; \$11,950/yr in Alaska; \$11,010/yr in Hawaii			

ALPHABET SOUP—A SURVIVAL PORTION

AC	Appeals Council
ALJ	Administrative Law Judge
AWIC	Area Work Incentives Coordinator
BPAO	Benefits Planning Assistance and Outreach
BWE	Blind Work Expense
CFR	Code of Federal Regulations
DAC	Disabled Adult Child
DDS	Disability Determination Service
DHU	Disability Hearing Unit
DN	Disability Navigator
DO	District Office
EPE	Extended Period of Eligibility
ESR	Employment Support Representative
FBR	Federal Benefit Rate
IRWE	Impairment Related Work Expense
NESE	Net Earnings from Self-Employment
OASDI	Old Age, Survivors, Disability Insurance
RSMDI	Retirement, Survivors, Health, and Disability Insurance (either OASDI or RSMDI may be used to indicate the Title II programs that include SSDI)
OHA	Office of Hearings and Appeals
OP	Overpayment
OSS	Optional State Supplement
PASS	Plan for Achieving Self Support
PESS	Property Essential for Self Support
POMS	Program Operations Manual System
RMA	Retrospective Monthly Accounting
SEIE	Student Earned Income Exclusion
SGA	Substantial Gainful Activity
SSA	Social Security Administration
SSDI	Social Security Disability Insurance
SSI	Supplemental Security Income
SSN	Social Security Number
TVR	Tribal Vocational Rehabilitation
TWWIIA	Ticket to Work and Work Incentives Improvement Act
TWP	Trial Work Period
VR	Vocational Rehabilitation (states may use other names for their respective VR agencies)
WIA	Workforce Investment Act



Chapter I

General Advocacy



Marsha's Three Rules

Since about 1980, everyone who has attended an SSI/SSDI training that I have been a part of has heard *Marsha's Three Rules for Surviving Bureaucratic Balderdash*.

Rule # 1: Save Everything.

Rule # 2: Copy Everything.

Rule # 3: Don't Look for Logic.

There are reasons for each rule. They are the product of on-the-job training I received as I routinely made a fool of myself at Social Security when I first started this work. My three rules are my gift to you—general advocacy strategies that will hopefully spare you the frustration and embarrassment I experienced while learning them so very long ago.

Rule #1: Save Everything

Once people begin to receive SSI and/or SSDI, Social Security will send you mail from a variety of different places—the local Social Security office; the regional Social Security office; the Regional PASS Cadre office; the Baltimore, Maryland Payment Center and SSA headquarters; various overpayment collection offices; and your checks are sent from Birmingham, Alabama. While the local office keeps copies of the letters it sends, it doesn't get copies of the letters that come from Baltimore or the regional offices. It is not unknown for an SSI/SSDI recipient to receive a letter from the local office that directs one thing, while a letter from Baltimore or the regional office the next day directs something else. In my advocacy work, it has not been uncommon for people to come to my office with a grocery bag of letters from Social Security. We dump them onto a table or the floor, put them into chronological order, and then I try to translate what Social Security THOUGHT it was saying.

At times, this same routine has been repeated at the local Social Security office so staff there would understand that someone wasn't following their written directions because a letter came the next day from Baltimore directing something else entirely. In Administrative Law Judge hearings, a massive collection of letters from SSA has been known to effectively illustrate a relevant point about “confusing official communications.”

Rule #2: Copy Everything

Social Security will ALWAYS want to see original documents, not copies. If you take the documents to an SSA office, they will be copied while you wait, date stamped and certified as copies of an original, then returned to you to take home. On the other hand, if you need or choose to send in original documents, it is good practice to copy them first in case they are inadvertently lost before SSA can send them back to you.

When I first started doing Social Security advocacy, I inherited a case that had been waiting two years for a hearing. When I called SSA to check on the status of the case, I was told that the entire hearing file had been lost. Because copies had been kept of everything on our end, I was able to recreate much of the hearing file. As we waited again for months to get a hearing date, I called once more only to hear the old refrain, “we can't find the hearing file.” After recreating it a second time from our copies, we finally got our hearing. After winning the hearing, which wouldn't have happened without all the documentation, SSA had to pay the woman in question nearly \$25,000 in retroactive benefits. In systems governed by paper, being able to create a paper trail of your own goes a long way toward leveling the playing field.

Rule #3: Don't Look for Logic

Just because it's third, don't underestimate the importance of Rule #3. In fact, this is the one that will keep you from tearing out your hair. As you navigate the complex waters of the SSI and SSDI programs, don't expect things to make sense, because, all too often, they don't. Rather, just concentrate on learning everything you can about SSA's rules, and then use those rules to help your situation or the situations of people you assist.

Part of the lack of logic comes from having two different programs with two different sets of rules. Another part comes from the fact that SSI and SSDI are both programs that are subject to the whims of Congress as well as internal SSA policy changes. The Social Security Retirement program was created by law in 1935. In the 1950s, Social Security Disability Insurance (SSDI) was added, and in the early 1970s, Supplemental Security Income (SSI) was born. Every two to four years, public sentiment and congressional elections have changed the political makeup and expertise of both the U.S. Senate and U.S. House of Representatives. Every Congress since 1935 has left its own particular stamp on the Social Security Act. When all of these facts are combined, the Social Security Act comes out looking like Grandma's Crazy Quilt—many different shapes in all colors and textures and sizes, all sewn together with different stitches in a variety of threads and yarns in different colors. Nothing seems to go with anything else, but its all contained in the same blanket binding. It is what it is, but...Don't Look for Logic!



SSI & SSDI: How They're Alike and How They Differ

SSI and SSDI are both administered by the Social Security Administration, and both are based on disability. Beyond those two things in common, there are more differences than similarities. The charts on the following two pages summarize key similarities and differences.

There are additional differences between SSI and SSDI when it comes to the impact of work on benefits. These are discussed in detail in later chapters.

Q & A

Why do some people get both SSI and SSDI?

If an individual receives an SSDI benefit that is lower than the SSI Federal Benefit Rate for that year, that person can also receive enough SSI to bring the total of the two benefits up to the SSI Federal Benefit Rate, plus \$20 (plus any state supplement). For instance, in 2006 the SSI Federal Benefit Rate is \$603 per month. A person whose SSDI (or retirement benefit) is only \$300 per month could be eligible to receive \$323 per month in SSI in 2006, if they meet all the other SSI income and resource limits. People who receive both SSI and SSDI are called “concurrent recipients.”

In states where SSI automatically comes with Medicaid, concurrent recipients will have both Medicare and Medicaid, and Medicaid will pay the Medicare premium. See Appendix 1 to check if Medicaid comes automatically with SSI in your state; or if receiving SSI means a person is eligible for Medicaid but must fill out a separate application at a state Medicaid office; or if your state has its own Medicaid eligibility criteria that are more strict than those of SSI.

If you get an SSDI check that is larger than the SSI Federal Benefit Rate, you might still be eligible for at least partial help from Medicaid if your SSDI benefit is under the federal poverty guidelines for the year. Check with your state Medicaid agency and ask about Medicaid eligibility under “medically needy” as well as “Qualified Medicare Beneficiary.”

SSI AND SSDI SIMILARITIES & DIFFERENCES

	SSI	SSDI
Also Known As	Supplemental Security Income	Social Security Disability Insurance
Eligibility Criteria	<ul style="list-style-type: none">• Disability according to SSA rules• Must have little or no income and resources	<ul style="list-style-type: none">• Disability according to SSA rules• Insured status as a worker, or a child, widow, or widower of an insured worker• No resource limits, no limits on unearned income
Monthly Benefit Amounts	<ul style="list-style-type: none">• Amount based on Federal Benefit Rate, which increases yearly (\$603 in 2006).• Amount of check depends on:<ul style="list-style-type: none">a) living situation,b) earnings, anda) unearned income.• Some states supplement the federal amount for some or all living situations.	<ul style="list-style-type: none">• Amount based on:<ul style="list-style-type: none">a) earnings history of wage-earner,b) age when benefits begin, andc) number of people in addition to the wage-earner who are receiving benefits.• If benefit amount is less than FBR (\$603), may be eligible for SSI• Either eligible for a full benefit check, or ineligible and receive no benefits.
When Checks Arrive	First day of the month; if the 1 st is a holiday or weekend, checks arrive on the business day before the 1 st	<ul style="list-style-type: none">• People who qualified for SSDI before May 1997 receive checks on the 3rd of the month, if it doesn't fall on a holiday or weekend• Those who qualified after May 1997 with a birthday between:<ul style="list-style-type: none">a) 1st -10th, checks arrive 2nd Wednesday of each monthb) 11th - 20th, checks arrive 3rd Wednesday of each monthc) 21st - 31st, checks arrive 4th Wednesday of each month
Funding Source	United States "General Fund," annual Congressional appropriation	Social Security Trust Fund, created from FICA taxes
Payment Starts	Benefits are payable the calendar month after the month in which you apply.	You must be disabled for 5 months before payment can begin.

	SSI	SSDI
Laws and Regulations	<ul style="list-style-type: none"> • Title XVI (16) of the Social Security Act (Title 42 US Code, the Public Health and Welfare, Chapter 7, Subchapter XVI) • Regulations in 20 CFR; Part 416 	<ul style="list-style-type: none"> • Title II (2) of the Social Security Act (Title 42 US Code, The Public Health and Welfare, Chapter 7, Subchapter II) • Regulations in 20 CFR, Parts 400 - 499
Medical Benefits	<ul style="list-style-type: none"> • Medicaid eligible in 32 states • In other states must apply separately for Medicaid • Eligible from the month of SSI application 	Medicare eligible (Parts A and B), 24 months after person qualifies for SSDI
Monthly Cost (Premium)	None	SSDI recipients have \$88.50 (2006 premium) deducted from their check each month. If SSDI recipient also has SSI, then Medicaid will pay the monthly Medicare premium.
Deductible	None	Yes—in 2006 the Part B deductible is \$110 year. If person also receives SSI, Medicaid pays the deductible.
Co-pay	Varies by state. Generally none or small co-pay on drugs, other items, and services.	20% of costs deemed allowable by Medicare; 100% of costs not deemed allowable by Medicare. If person also receives Medicaid, then Medicaid pays “co-pays.”
Range of Coverage	Very comprehensive, but varies by state. May cover doctor visits, prescriptions, dentures, glasses, hospital, hospice care, home health, personal assistance, and other costs. Pays Medicare premium for concurrent and some Title II recipients. Pays premium for private insurance when premium cost is less than medical expenses.	Hospital costs primarily. Some home health care and durable medical equipment. Usually does <u>not</u> cover glasses, dentures, day-to-day medical costs, and all doctor visits. Will pay for comprehensive care at select clinics. New prescription benefit beginning in 2006. See www.medicare.gov for details.
Proof of Coverage	Card comes monthly. Lists person(s) covered; their recipient ID for billing; Managed Care Provider, if applicable; and contract number of other insurance (such as Medicare) that should be billed first.	Permanent wallet sized card—white with red and blue stripe. Names person covered, coverage, date coverage began, and worker’s Social Security number.

— Don't Look For Logic —



Chapter 2:

Application & Eligibility



Disability Eligibility: General Information

While both SSI and SSDI each have some of their own application forms based on program specific eligibility criteria, they share the same disability application. The disability part of the application process may start with your local Social Security Administration (SSA) office, but the actual decision on disability is made by each state's Disability Determination Service (DDS). Depending on population, each state may have only one DDS office, or several, although the "central office" is usually in the state capitol.

Until August of 1996, there was one definition of disability for adults and children that pertained to both SSI and SSDI. In August of 1996, Congress basically threw away Social Security's disability definition for children with mental impairments in the SSI program, and substituted a definition of their own. Currently for everyone who applies for SSDI as a disabled worker, disabled widow, disabled adult child, etc., and for adults applying for SSI benefits, disability will be found when the person has "...the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment(s) which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months."

For children applying for SSI, the definition of disability created by Congress is "...a medically determinable physical or mental impairment or combination of impairments that causes *marked and severe functional limitations*, and that can be expected to last for a continuous period of not less than 12 months."

Q & A

What does Social Security mean when it uses the term “medically determinable impairment?”

This is one of the tricky concepts to understand, especially when a variety of cognitive disabilities (mental impairments) or chronic pain, etc. may not easily produce “clinical” measures of their existence. However, SSA (sometimes with Congress’s participation) makes the rules, and so they will be looking for “...anatomical, physiological, or psychological abnormalities which can be shown by medically acceptable clinical and laboratory diagnostic techniques,” and which are “...established by medical evidence consisting of signs, symptoms, and laboratory findings—not only by the individuals’s statement of symptoms.” (These above definitions are quoted from Disability Evaluation Under Social Security, also called the “Blue Book,” which can be found online at www.ssa.gov/disability/professionals/bluebook or obtained from SSA.

When deciding whether or not you meet SSA’s disability criteria, the District Office and DDS (Disability Determination Service) go through a series of steps, which SSA calls “sequential evaluation.”

Step 1

SSA will determine whether or not you are performing Substantial Gainful Activity (SGA)

If you are working, the local SSA office will examine your “work activity.” SSA will look at your gross earnings to see if they are under or over “SGA” (Substantial Gainful Activity—\$860/month in 2006 unless you are blind, then SGA in 2006 is \$1,450/month). For more information about SGA, see Chapter 7, *How Working Affects Your Benefits*.

If your gross earnings are over SGA, SSA can make a determination that you are “not disabled” by SSA standards, and your application will be denied. If special circumstances exist, a denial can be prevented by submitting information about those circumstances at the time you apply. SSA will look at the circumstances and may determine that you are not performing SGA even though your gross earnings are above the SGA level. SSA would then send your application on to DDS (Disability Determination Service) for the next step.

NOTE:

If you are self-employed, SGA will be measured by your “net earnings,” which is the money left after you pay all your business related bills, in addition to other factors (see SGA in Chapter 7).

EXAMPLE:

Jesse, who is grossing \$890 per month working at his uncle's gas station, is applying for SSI. His application will be denied by SSA unless there are unusual circumstances. When SSA contacts Jesse's uncle to find out more about Jesse's work, the uncle can explain to SSA that Jesse is family and he is trying to help him out by giving him a job. He may tell SSA that, while he pays Jesse \$890 per month, Jesse's only job is sweeping out the gas station and around the pumps, and it takes him four hours a day to get the job done, rather than the one hour a day it would take anyone else. Jesse's uncle might also let SSA know that, in reality, Jesse's dad contributes half the money for Jesse's wages and that they both just want Jesse to feel included and valued.

In a case like Jesse's (above), SSA would quickly see that, even though Jesse's gross earnings are above the 2006 SGA level of \$860 per month, he is not performing SGA. SSA would send his application to DDS for the next step. There it would join the applications from persons who hadn't been working, or, if working, were grossing below \$860 per month.

As you can see from Jesse's example, when someone is working, the time of application is the time to alert SSA to special circumstances, such as:

- you are being paid more than appropriate for the job being done, or the number of hours worked (see *Subsidy* in Chapter 7 *How Working Affects Your Benefits* for more information);
- you are receiving a great deal of support from co-workers, or others who are paid to provide support (see *Subsidy* in Chapter 7 for more information);
- you are paying out of your own pocket for disability related items that you need in order to work (see *IRWE and BWE* in Chapter 7 for more information); or
- your employer provides information indicating he/she allows you to perform fewer duties, work more slowly, produce less, etc.(see *Subsidy* in Chapter 7 for more information).

Step 2

The Disability Determination Service will screen each application for a “...medically determinable impairment”

DDS will collect all known medical records in order to verify your disability. If there are not sufficient medical records or if a disability is alleged and no documentation is available, DDS will seek a “consultative exam (CE).”

The consultative exam is a good thing on one hand, because it means that DDS is seeking more information instead of just denying your application. On the other hand, the consultative exam doesn't help, and can even work against you, if the doctor who provides the consultative exam:

- doesn't take enough time;
- doesn't have the necessary specific experience (e.g., with Fetal Alcohol Syndrome/Fetal Alcohol Effect [FAS/FAE] or other brain injuries/syndromes/neurological disabilities);
- isn't an appropriate specialist (e.g., neuropsychological exams may give the best information about a neurological mental disability, but are hard to get DDS to order, especially using truly qualified people); or
- doesn't get enough information to get an accurate and comprehensive picture of your functioning.

If you are not able to list your symptoms and describe your functional limits, it can be very helpful for a friend, advocate, or family member to contact the consultative examiner ahead of time. This contact should provide the examiner with a real picture of you and the impact of your disability that prevents you from working or impedes your work. If you “meet the listings” of a disability in the “Blue Book,” DDS will find that you are disabled according to Social Security rules and will award you benefits.

If DDS finds you don't “meet the listings” of approved “medically determinable impairments,” DDS disability examiners are supposed to evaluate whether your signs and symptoms or condition “equals” the listings. For instance, again using Fetal Alcohol Syndrome to illustrate, the SSA medical listings contain no entry for Fetal Alcohol Syndrome, even though specific medical diagnostic criteria exist. However, when looking at “mental impairments” and/or “neurological impairments,” there is frequently a very good match between the criteria listed and the observable signs if you have FAS/FAE.

EXAMPLE:

Mindy, a little girl I encountered a number of years ago, was born with a genetic condition called Cornelia de Lange syndrome. There is no mention in the listings of that syndrome. However, there were a number of manifestations of the syndrome that were found in the listings under other names. One of those was “growth impairment.” Mindy at three years old was tiny compared to her typical peers, and her height and weight fell well within SSA's range for *equaling the listings* for “growth impairment” even though it was but one result of her Cornelia de Lange syndrome.

In determining if you “equal” the listings, DDS is also supposed to consider the combined effect of multiple partial disabilities. SSA calls this a “combination of impairments.”

EXAMPLE:

Sandy had one very arthritic knee, was significantly overweight and short of breath, had high blood pressure, and was not able to read, despite having a typical IQ—albeit on the lower end of what is labeled “normal.” None of Sandy’s disabilities alone met or equaled the listings, but their *combined* effect did.

While DDS must consider the combined effect of your disabilities, this is often the hardest case to make, and one that DDS disability examiners sometimes give short shrift and don’t fully consider. If you are applying for disability benefits and have a “combination of impairments” and DDS denies the application, you should give serious consideration to appealing the negative DDS decision. If DDS finds your disability is severe, but doesn’t equal the severity required by the “Blue Book,” they will then look at your ability to do work.

NOTE: DRUG ADDICTION AND ALCOHOLISM

In the 1996 Welfare Reform Legislation, Congress mandated that Social Security no longer consider Alcoholism and Drug Addiction as disabilities for SSI purposes. People who had been receiving benefits on that basis were all cut off and then given the opportunity to reapply under a different disability. Since many of the people who had received benefits on the basis of alcoholism/drug addiction also had mental illness or brain injuries, they were able to reapply under those categories. However, Congress mandated that these re-applications had to prove that their disabilities were not due to their ongoing drinking/use of drugs. Currently, if you apply for SSI and list only alcoholism or drug addiction as your disability, you will be immediately denied. If you list a psychiatric disability, and also list alcoholism/addiction as an additional disability, you will have to prove that the symptoms/behaviors you list as evidence of your psychiatric disability are not, in fact, due to your use of alcohol/drugs. For instance, if you said that you had schizophrenia and this was evidenced by the fact that you hear voices and engage in delusional thinking, you would have to show that you have these symptoms even when you are not consuming drugs and/or alcohol, since certain drugs and too much alcohol can also cause someone to hear voices or have delusional thinking.

Step 3

The Disability Determination Service will evaluate your ability to work

First DDS will examine how your disability affects your ability to do your prior work. For example, if you were a construction worker who was seriously injured in an auto accident, you may no longer be able to lift and bend and kneel and squat after you recover. Therefore, DDS would agree that you couldn't go back to your construction job.

If DDS finds you can't do your past work, (or if you are someone who has never worked), DDS will then look at what remaining skills and abilities you have that could allow you to do any other work. Social Security calls these remaining skills and abilities “Residual Functional Capacity,” (RFC) and they look at both your physical abilities and your mental ones.

Going back to the example of construction work, if you can't return to that occupation, DDS will look at your remaining abilities to determine if there is any other work you can do. Perhaps DDS will conclude you still have the ability to be a bank teller or a security monitor attendant.

It is important to know that when DDS is looking at your remaining abilities, your “Residual Functional Capacity,” they are looking to see if you have any ability to do even the lightest work, at a sedentary (sitting) job which is easily learned and takes little education and supervision. Therefore, if you want DDS to understand that your disability prevents you from earning SGA, you will need to explain why you can't do that kind of work as well as why you can't do your previous work. This is not an easy standard to meet and so it helps to provide all the information, details, documentation, and supporting letters that you can gather.



Filling Out the Application

The disability part of an application for SSI or SSDI is written to elicit answers about what you can do. Therefore, it is very important when filling out this form to qualify items that need qualification. For instance, if you (or someone you are assisting with the application) can walk, but only for a few steps at a time, or only if you rest five minutes after each ten minutes of walking, don't write “yes, I can walk” and stop there. Describe all the limits that apply when you walk or attempt to walk. If you get very short of breath, or experience pain, describe it fully. Don't feel limited by the space provided with each question. You can always attach additional sheets if needed to fully answer the questions. SSA has put out a “Disability Report Form Guide” on its website, located at www.ssa.gov/disability/3368, which answers common

questions and gives some guidance for completing the Disability Report Form. The SSA website also now has a Disability Application Toolkit to help people gather needed information.



Application Do's

- If you can't get to the Social Security Office to apply right away, call the SSA "800" number, 1-800-772-1213, to establish what Social Security calls "protective filing." When you do a "protective filing," Social Security will treat the day you call as the day you file your application. This can be important because SSI benefits are payable as of the first of the month **after** the date you file your application. (e.g. Whether you apply on the 2nd, 17th or 23rd of April, benefits can only begin as of May 1.) However, you **are eligible for Medicaid as of the date you file**, but you must apply with your state Medicaid agency if you need/want Medicaid coverage for the partial month before your SSI benefits begin.
- List all disabilities/impairments/conditions that pertain to you. This includes listing pain and the ability/inability to read and/or write and/or speak. Don't try to decide whether certain conditions are "disabling" enough. List anything that interferes in any way with typical functioning.
- When the application asks when you became disabled, list your date of birth if you were born with one or all of your disabilities. For acquired disabilities/medical conditions, list the earliest date you can remember having symptoms, even if a formal diagnosis wasn't made until sometime later.
- Fully describe any pain you have, where it occurs, how long it lasts, how often you experience it, what you have tried to relieve the pain and whether it worked or not, what medications you currently take, and any medication side effects.
- When you list medications you take for any condition, always describe any side effects that occur if the side effects cause problems in your functioning in any way. Common side effects of medications that could impede your functioning might include drowsiness, lethargy, nausea, etc.
- Try to gather copies of all your medical records yourself, so you know exactly what information is going to Social Security, and what your healthcare providers have said about you. It's amazing how much misinformation may have made its way into your medical (or school or other) records. Reading copies of the records yourself allows you to correct any misinformation and tell your doctor about any signs, symptoms, or problems not currently listed in records. Reading your records also allows you to see where the

gaps are in the information about your disability so you can take action to fill those gaps.

- Follow up with doctors and schools and others to make sure they have responded to Social Security Releases of Information requesting records. If treating sources are reluctant to release your records to you, an advocate or organization assisting you can send a release for the records and often get them more quickly.
- Periodically check with the Disability Determination Services disability examiner to see if records have arrived and whether anything else can be provided, or is needed. Please note that in many states all medical records are now transmitted to SSA electronically. Soon all medical records in every state will be sent to SSA electronically as email attachments.
- Ask family members, friends, teachers, social workers, VR counselors, neighbors, your pastor, former co-workers and any other people you are comfortable asking to write statements to SSA that describe their observations of your functional difficulties, and any help they provide. These statements don't need to make any diagnosis, and shouldn't contain conclusions about your eligibility for benefits. They should focus on what you need help with, any pain and its effects that they have observed, and all the functional limits they have witnessed first hand. Ask these people to describe what it's like on your worst days so SSA can get a complete picture of how your disability (disabilities) impacts your ability to function from day-to-day. These statements can be sent directly to SSA, if people are more comfortable, but should always contain your name and Social Security number at the top. These statements can make all the difference in your case, so don't hesitate to solicit them from people you trust. If others are unsure about what to write, or how to say things, it can be helpful to have an advocate work with them, or to provide them copies of the medical listings so they can note the "signs and symptoms" they have observed.
- If you are an advocate assisting someone to apply, get copies of the disability application to fill out with the person ahead of time. Applicants will be less nervous, you can frame information emphasizing how someone meets/equals the listings, and you can secure releases to send for copies of all medical and other records that will support the person's application. If a doctor is slow to respond or is altogether unresponsive to SSA, ask the person for a signed Release of Information to view the doctor's records, and make an appointment to personally view the records. Using the SSA medical listings as a guide, write a letter to SSA reporting the pertinent information, findings and documentation from the doctor's records. Then ask the doctor to read it for accuracy, make any corrections needed, and sign it so it can be sent to SSA. Many doctors are happy to cooperate because of the time and energy you are saving them and their staff.
- Descriptions of your limits on the application, and statements from family, friends, and medical sources should all talk about your limits as they relate to "typical" work-like activities. Examples may include to what extent you experience difficulty in:

- concentrating,
- remembering,
- following directions,
- picking objects up,
- bending,
- lifting,
- carrying,
- getting along with others,
- telling time,
- handling stress,
- sitting,
- standing,
- reading,
- communicating,
- moving,
- hearing,
- seeing,
- manipulating objects,
- understanding, etc.
- following a schedule

Along with functional limits, these statements should also discuss how slowly you may do things, if you need frequent written or spoken reminders, or hands-on assistance to accomplish a task, how you get along with others, and how you respond to supervision. If you experience pain, seizures, stiffness, intermittent memory problems, etc., these statements should also describe what triggers these things to occur (e.g., stress, too little sleep, too much medication). If your disability is epilepsy, having statements from others is essential because you aren't able to observe your own seizures. The information from persons who have observed your seizures should include what they look like, how long they last, how long recovery from the seizure takes, how frequent the seizures are, and anything else they have observed.



Special Instructions for Children

Since Congress changed the eligibility criteria in 1996, children have different standards to meet that necessitate advocacy to assure all information submitted fits the new rules. Specifically, you need to know that the new definition of disability for children in the SSI program is

...a child under age 18 will be considered disabled if he or she has a medically determinable physical or mental impairment or combination of impairments that causes marked and severe functional limitations and that can be expected to cause death or that has lasted or can be expected to last for a continuous period of not less than 12 months.

“Marked and severe functional limitations,” while not defined by Congress in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, (Public Law # 104-193, 110 stat. 2105—also know as the 1996 Welfare Reform Legislation), has been defined by Social Security to be of “listing level severity” when a child’s disability meets or equals, functionally and/or medically, the severity of one of the impairments listed in the medical listings. On the forms that treating and/or consultative physicians will be asked to complete, they will have to mark whether the disability exerts “marked” or “severe” functional limitations. It may be helpful to discuss these new standards with a child’s doctors so they can understand the implications of their check marks and (possibly arbitrary) judgment calls. For instance, a pediatrician may be reluctant to check “marked” or “severe” in an effort to not take hope away from the family or hurt someone’s feelings, even when, by SSA standards, there may well be “marked” or “severe” functional limits. Again, this is why it is important to describe a child’s disability by the limits imposed on the worst days.

Along with describing the child’s functional limits in previously listed terms, it may be helpful to describe how a child is functioning in comparison to how a child of that age typically functions. For example, a mom might say, “my first child was walking by 13 months of age, but Cindy is now 27 months old and still isn’t able to stand by herself, let alone walk.” As a bottom line, remember that children currently have a higher disability standard to meet, and act accordingly. When children who receive SSI turn 18, they will have to “requalify” for SSI under the adult rules for disability.



Additional Information on HIV/AIDS

Over the years, SSA has generally improved its record in responding to applications for SSI/SSDI based on HIV/AIDS. However, there are a few things to remember that can help you when you apply.

- Social Security will look at whether or not you are currently showing symptoms, not simply that you have been diagnosed as having HIV/AIDS. Also, even if you fit the HIV/AIDS criteria for the Centers for Disease Control (CDC), which compile surveillance data, you may not be considered “disabled” by Social Security rules. Therefore, if you are having symptoms of any HIV/AIDS related condition, even intermittently, it is important to list them on your application.
- Many of the HIV/AIDS related conditions/infections are now specifically listed in the blue book entitled Disability Evaluation Under Social Security. However, some still are not, and it is those that are particularly important to document and explain the effects they have on functioning. Social Security suggests, and I strongly endorse, keeping a calendar of your symptoms, how you feel from day-to-day, the effects of medication, any difficulty you have with daily activities, problems you have in your social functioning, and any impairment in your ability to concentrate, keep up, stay with and complete tasks in a timely manner. Social Security will be looking for “marked limitations” in one or more of these areas in order to find you disabled.

- After being seriously criticized for not processing HIV/AIDS claims quickly enough, which resulted in people dying before their first check arrived, SSA has made efforts to process these claims more quickly. There are many HIV/AIDS organizations, advocacy groups, and medical facilities that are now working actively with SSA to get medical documentation to SSA quickly. Also, both the local office (at the time you apply) and the Disability Determination Services (which evaluates your disability) have the ability to order that SSI payments begin immediately on the basis of “presumptive disability.” This means that SSA is “presuming” you are disabled by their rules and will begin paying you immediately while they process paperwork. These presumptive payments can go on for as long as six months if necessary. If the DDS makes this “presumptive disability” decision and later decides you aren’t disabled by SSA rules, you won’t have to repay any of the “presumptive disability” payments you received.
- SSA recognizes that HIV infections can progress differently in children than they do in adults, and that HIV in women may be evidenced by conditions that men do not exhibit (e.g., pelvic inflammatory disease, invasive cervical cancer, vaginal yeast infections, and others). Even so, SSA will still be looking for the degree of severity necessary to find you disabled according to their rules.



Non-citizen Eligibility for SSI

Since the 1996 Welfare Reform Legislation (8/22/96), SSI eligibility criteria for non-citizens has changed, as has availability of food stamps. Following is a brief guide to eligibility. Note the use of the term “Qualified Alien.” Congress defined this to include the following groups:

- Non-citizens who are “legal permanent residents” of the United States and have a total of 40 qualifying quarters of work.

Or

- Non-citizens who are on active duty in the U.S. military (or who have status as honorably discharged veterans due to prior active duty), their spouses, and dependent children.

Or

- Legal immigrants who were residing in the U.S. on August 22, 1996 and who are blind or disabled, or legal immigrants who were residing in the US and receiving SSI on August 11, 1996.

Or

- Non-citizens who are considered to be refugees, asylees, or whose deportation is on hold (eligibility can last for up to seven years).

Or

- Non-citizens from Cuba/Haiti who fit the criteria in 501e of the 1980 Refugee Education Assistance Act (eligibility can last for up to seven years).

Or

- Non-citizens who have worked in the United States long enough to accumulate 40 quarters of coverage under Social Security.

If you are a non-citizen and you want to apply for SSI, you will need proof of your immigration status or naturalization. If you have a “sponsor,” you will also need information on your sponsor’s income and resources. Getting in touch with INS (Immigration and Naturalization Service) can often present a challenge. If this occurs (i.e., you only reach automated messages, the phone is never answered, you leave messages that are never returned, or you can’t get to a real person to talk to), you should be able to get assistance from the local staff of your federal Representatives or Senators.

The chart on the following page summarizes non-citizen eligibility for SSI.

NON-CITIZEN ELIGIBILITY FOR SSI

If you are . . .	Then . . .
1. A “qualified alien” who was receiving SSI on 8/22/96	(a) You are eligible for SSI as long as you were disabled on 8/22/96 and you continue to be disabled, or you were 65 years old or older on 8/22/96. (b) You are eligible for Food Stamps as long as you were disabled on 8/22/96 and you continue to be disabled, or you were 65 years old or older on 8/22/96.
2. A “qualified alien” who was residing in the U.S. legally on or before 8/22/96 and, who has subsequently become disabled	(a) You are eligible for SSI, but only on the basis of disability. If you turn 65 and are not disabled, you will not be eligible for SSI. (b) You are eligible for Food Stamps as long as you were disabled, blind or 65 years old or older on 8/22/96
3. Any other non-citizen and you were receiving SSI on 8/22/96	(a) You are eligible for SSI because Congress passed a law in September of 1998 that returned eligibility that was taken away in the 8/22/96 Welfare Reform Legislation (b) You are not eligible for Food Stamps
4. A non-citizen who is a refugee, someone who has sought asylum in the U.S., or someone whose deportation is on hold	(a) You are eligible for SSI for the first seven years you are in the United States. After that time, you must be disabled or blind, <u>and</u> a U.S. citizen or “qualified alien.” (b) As of 11/1/98, you are eligible for Food Stamps for the first seven years you are in the United States.
5. Any non-citizen who comes to the United States after 8/22/96	(a) You are not eligible for SSI until you become a U.S. citizen or “qualified alien.” (b) You aren't eligible for Food Stamps until you become a U.S. citizen or a “qualified alien”—unless you are a “refugee,” an “asylee,” or unless your deportation is on hold.



Financial Eligibility for SSI

Because SSI is a needs based program, Social Security will investigate whether your income and resources/assets are below their allowable limits. If you are a child, Social Security will look at the income and resources of your parents who are living with you. If you are married, Social Security will look at your husband's/wife's income and resources as well as yours.

Because SSDI is not needs based, your unearned income and assets have no impact on eligibility. Only your earned income will be looked at, particularly as it reflects (or appears to reflect) your ability to perform Substantial Gainful Activity (\$830 gross earnings per month in 2005, generally).

Therefore, this section will focus on the income and resource/asset limits for the SSI program. In general, asset limits are \$2,000 for a single person and \$3,000 for a couple. For a family with a disabled child who is applying for SSI, there is an additional \$2,000 asset limit for the child.



What are Assets?

When Social Security looks at a person's assets, a spouse's assets, or the assets of the parents of a minor child, the following things will be examined:

- Cash on hand, in a bank, or other financial institution (e.g. credit union)
- Stocks and bonds, CDs, IRAs.
- Contents of a safe deposit box.
- Valuable coins/stamps, other collections, art, or antiques.
- Property and homes, including a home you may own, but don't live in.
- Funeral/burial agreements, etc.
- Insurance policies and their "cash surrender value."

ALERT !

Many families buy insurance policies for children at birth, regardless of whether or not there is a disability. Nearly all of these policies automatically become the property of the child when he/she reaches the age of 18. When a child has significant disabilities, parents may assume they continue to own the policy because, even as an adult, their child couldn't transact business. While parents of an adult can purchase and own an insurance policy on that adult child, policies purchased when the child is a minor almost always contain language that says the policy will become the property of the child when he/she reaches the age of 18. What is important is, "who has the *legal ability* to cash in a policy?" whether or not they possess the physical/cognitive ability to do so.



Assets SSA Won't Count

- Up to \$2,000 total of any assets combined.
- A home, as long as you live in it.
- An irrevocable funeral agreement of up to \$2,000 (irrevocable means it can't be cashed in—it is unchangeable).
- If there is no irrevocable funeral agreement, up to \$1,500 (plus interest, and it must be in a separately identifiable account or form) that is designated "for future burial expenses."
- An insurance policy that has a face value of under \$1,500.
- An insurance policy owned by someone other than you (or your spouse if you're married), the applicant, (if an adult), or your family (if you, the applicant, are a minor child).
- "Term" insurance policies—"Term" means that there is no cash surrender value until the insured person dies.
- Personal possessions and household goods.
- Property essential to self-support (for instance, land that you [or your parents if you are a minor] farm to have some income, tools needed to work, rental property that brings in some net income, a business bank account). While this property won't be counted as a

resource, any income it generates can affect the amount of SSI payable to you. Property essential to self support also includes any bank accounts you have for your business, but these accounts must be entirely separate from your personal accounts, and you must not use any of the money in the “business account” to pay “personal” bills.

- Assets excluded as part of a *Plan to Achieve Self Support* or PASS (see more about PASS in Chapter 7.)
- Trusts that are not under your control, meaning you can't ask for cash and the trustee has total discretion as to expenditures. Also, the trust principal or interest must not be available to be used for food, clothing, or shelter, or cash payments to you.



OBRA '93 Trusts

One kind of trust that would not be counted by SSI is an “OBRA '93 Trust.” OBRA stands for “Omnibus Budget Reconciliation Act,” the final budget bill Congress passes each session. In order to fit the criteria for an OBRA '93 Trust, the trust must be:

- Created after August 11, 1993; and
- Contain the assets of a disabled individual under age 65; and must be
- Created by a parent, grandparent, legal guardian, or a court for the person, and include a provision stating that upon the person's death any remaining assets in the trust will be used to repay Medicaid, unless the trust is being managed by a nonprofit association in a corporate account for the person, and the assets at the person's death are retained by the nonprofit. These trusts must also state that they are not subject to change once created. (Legal Citation OBRA93; 20CFR 416 Subpart L; 42CFR 435.60)
- These trusts can also be useful if you come into money while you are receiving SSI.

EXAMPLE:

Serena won \$20,000 in a Fair Housing lawsuit. After paying some bills and buying some things she needed, she still had \$15,000 left and with the help of an attorney went to court and the court ordered that the money be put into an OBRA '93 trust. Once the money was in the trust, it was not counted by SSI or Medicaid and was available for things like a trip, club memberships, or car repairs when Serena needed or wanted these things.



What is Income?

SSI counts both earned and unearned income, but counts them differently. In addition, some income is excluded from being counted. If you are a minor child or married, Social Security will count, or *deem*, the income of your parents/spouse as well as counting any income you may have. (For more about deemed income, see Chapter 4, *SSI Check Amounts*.)



Unearned Income

Most unearned income is all counted except for a \$20 general income exclusion (see Example 1, below). Two exceptions are: when the unearned income is child support (see Example 2); and, when the unearned income is in the form of in-kind support and maintenance (see Example 3). For further explanation of these exceptions, see Chapter 4, *SSI Check Amounts*.

EXAMPLE 1: MOST UNEARNED INCOME

George is applying for SSI. He currently receives \$200 monthly from SSDI based on work he did before he became disabled. George has no other income. SSI won't count the first \$20 (general income exclusion) out of the \$200, and will therefore consider \$180 as countable income that will reduce the amount of George's SSI benefit.

\$603 monthly SSI possible for 2006
-180 countable income
\$423 actual SSI (plus any state supplement payable)

His "concurrent benefits" would total \$623 in 2006, plus any state supplement payable.

\$200 SSDI
+423 SSI
\$623 (plus any state supplement payable)

EXAMPLE 2: CHILD SUPPORT

SSI will count only two thirds of child support:

Zeke is 10 years old and his financial eligibility for SSI is based on both his mother's income (see Deemed Income in Chapter 4, *SSI Check Amounts*) and his own income. Because his mom makes so little money at her part-time job, there is no reduction in Zeke's SSI check due to her wages. Zeke is eligible to receive \$603 per month, before any deductions are made based on the \$330/month in child support Zeke receives from his father. SSI will not count one third (\$110) of Zeke's child support. The remaining \$220 will be counted—dollar-for-dollar, after his \$20 general exclusion.

\$603 monthly SSI benefit possible
- 200 countable child support (2/3 of \$330)-\$20
\$403 actual SSI check due (plus any state supplement)

In Zeke's case, he will receive \$403 from SSI each month plus \$330 child support from his father for a total of \$733 per month (plus any state supplement due).

Child support counts as a child's income, not the parent's income. Therefore, if Zeke's Mom earned enough money to reduce the \$603 per month he is eligible for, SSA would first figure how much SSI Zeke was due based on his Mom's wages, and then it would reduce that amount by Zeke's countable income from his child support.

EXAMPLE 2A: CHILD SUPPORT

If Zeke had two sisters without disabilities and their dad was paying \$600/month in child support for all three children, SSI would only consider Zeke's portion.

\$600 ÷ 3 children = \$200/child/month
\$200 = Zeke's share of the child support
\$200 X 1/3 = \$66.66 uncountable child support (1/3 of \$200)
\$200 - \$66.66 = \$133.34 countable child support (2/3 of \$200)
\$603
- 133.34 (2/3 of \$200 - \$20)
\$469.66 = SSI due (plus any state supplement)
\$469.66 SSI + \$200 child support = \$669.66 monthly income for Zeke

EXAMPLE 3:

IN-KIND SUPPORT & MAINTENANCE

Mary is 20 and lives with her parents who provide all her food and shelter. When Mary applies for SSI, unless she tells Social Security she will pay her share of the household expenses when her SSI starts, Social Security will only send Mary \$386 per month in SSI (for 2005), also known as the “1/3 reduced amount.”

\$603.00	
<u>-201</u>	(1/3 of \$579)
\$402.00	(monthly benefit for person living in the household of another and not sharing expenses).

However, if the value of the food and shelter Mary receives from her parents is less than \$201.00 per month, then her possible SSI check will be reduced only by that amount. For example, if the value of Mary's food and shelter is \$150 per month, Mary would receive a check in the amount of \$449.

\$603	possible SSI per month
<u>- 130</u>	value of food and shelter from parents, minus the \$20 general income exclusion (\$150 - \$20 = \$130)
\$473	actual SSI due Mary

If the value of food and shelter is \$250 per month or even \$500 per month, Social Security will only reduce Mary's possible SSI by one third, and she will receive \$402.00 per month federal benefit plus any state supplement due.

When an adult (or the parents of a minor child) who applies for SSI is receiving food and/or shelter from someone else, the SSI federal benefit will be reduced by either one third or by the actual value of the in-kind support, whichever is less.

Please see Chapter 4, *SSI Check Amounts* to learn more about “sharing,” (paying your fair share of household expenses) which allows you to receive \$603 per month (the full Federal Benefit Rate) in the year 2006 instead of \$402 per month (the 1/3 reduced amount).



Individual Indian Money (IIM) Accounts and Per Capita Payments, etc.

Many American Indians and Alaska Natives receive periodic payments. Some of these count as excluded resources, others count as excluded income, and only a few kinds of payment will be counted as earned or unearned income. Most of the payments that don't count are specifically excluded under Federal Law. Some of the payments are allotments administered by the tribes, and some go directly to the person. The SSI POMS has policy on all the various sources of these payments, but it pays to check with the tribal office that handles these payments, or the closest Bureau of Indian Affairs (BIA) office, as well. (POMS 830.9600, 830.830,830.850, 1120.105, 130.150). If you receive a “per capita” payment from your tribe’s gaming operations, it will count as “earned” income if you are living off the reservation. In this case, you will also pay income tax on these payments.



Earned Income

Generally, earned income is wages, salary, or the value of products/services received from working. SSI does not count the first \$65 of earned income (earned income exclusion), and if there is no unearned income, SSI will not count an additional \$20 of earnings (general income exclusion). After the first \$65 (or \$85) of earnings, SSI will only count half of what remains.

See also, SEIE—*Student Earned Income Exclusion* in Chapter 7, *How Working Affects Your Benefits*. If you are a student, SSI won't count the first \$1,460/month you gross, up to a total of \$5,910/year (in 2006).

EXAMPLE 4: EARNED INCOME

Ann has no income beyond her wages and her SSI, and her gross wages are \$285 per month. SSI will exclude the first \$65 (earned income exclusion), and then exclude an additional \$20 (general income exclusion), and then divide what remains in half to determine her countable income.

1.	\$285 gross earnings	4.	\$603	SSI possible in 2005
	- <u>\$65</u> earned income exclusion		- <u>100</u>	countable earned
	\$220			income
			\$503	SSI due
2.	\$220		+ <u>285</u>	wages
	- <u>\$20</u> general income exclusion		\$788	Total Income/month
	\$200			(plus any state
				supplement)
3.	<u>\$200</u> ÷ 2 =			
	\$100 countable income			

SSI will then consider only \$100 of Ann's gross earnings as countable income when figuring how much SSI to send her.



How to Move the Application Process Along

It is not uncommon for SSA to take up to six months before sending you an initial decision on your application. Often the lengthy delays occur because DDS is waiting for your healthcare providers to send records. Along with the *Application Do's* cited earlier, preparing the following will help prevent unnecessary delays;

- Bring or send your birth certificate, state ID or driver's license, and Social Security card. If you don't have and can't get a birth certificate, bring school records, a baptismal certificate, entries made in the family Bible, etc. A passport can substitute for a license or state ID. If you are a non-citizen, bring your green card.
- Make a list of all your healthcare providers and their addresses and phone numbers, when you saw them first, the date you saw them last, the reason they are seeing you (e.g., general healthcare, cancer, mental illness, cerebral palsy, etc.), and what they do (checkups, prescriptions, chemotherapy, psychotherapy, monitoring, etc.).

- Make a list of any/all medication you take, prescriptions and over the counter, showing the name of each medication, how much of it you take, how often you take it, who prescribed it, and what it is for. Most of this information is on your prescription bottles and the pharmacist can help with anything you aren't sure of.
- Make a list of any/all jobs you have held, the addresses and phone numbers, what your duties were, the dates you worked, how much you were paid, why you left, and the problems you had doing your job because of your disability or disabilities.
- For SSI, list all your other income and any assets. Bringing any recent bank statements and/or pass books can be helpful, along with titles to vehicles, etc.
- If you have a work history, bring your W-2 form, or your tax return if you are self-employed.



Medicaid & Medicare

As discussed earlier, Medicaid comes with SSI, and Medicare comes with SSDI. Persons who receive both SSI and SSDI have both Medicaid and Medicare. Because there is some helpful information about these programs that isn't included elsewhere in this manual, it is collected here.

- Medicare begins 24 months after SSDI eligibility for benefit payments.

EXAMPLE 1:

Gerry applied for SSDI in July 2000 after five months of continuous disability. He was eligible for SSDI payments from July 2000 on, and his Medicare began in July 2002.

If you had a parent die, retire, or become disabled when you were under 18, it is likely you received a monthly Social Security check from that parent's account. The check you received as a child wasn't based on your disability, and didn't come with Medicare. Therefore, when you turn 18, you will need to go into Social Security to apply as a "disabled adult child" if you want your checks to continue. If Social Security finds you eligible as a "disabled adult child," you will have to wait 24 months, until you turn 20, before your Medicare will start.

EXAMPLE 2:

Sue Ellen applied for SSDI in March 1996. She was denied, she appealed, and finally had a hearing in January 1998. In April 1998 Sue Ellen was notified that the Administrative Law Judge had approved her SSDI and had determined that her disability began in May 1996. Her first SSDI check was, therefore, payable in November 1996 for October 1996 (the first month she was eligible for payments), and her Medicare began in October 1998. She received her Medicare card six months after receiving the decision about her appeal. (Social Security will owe Sue Ellen SSDI benefits retroactive to October 1996.)

Note

Read this if your SSDI began after July 1, 1987 and your eligibility is as a child who is a Disabled Adult.

(If you are a “DAC” the Social Security number on your SSDI check is that of your retired, deceased, or disabled parent.)

Persons who receive SSI are required by Social Security to apply for any other benefit for which Social Security feels they might be eligible. This is why an SSI recipient who has a parent die, retire, or become disabled must apply as a Disabled Adult Child (DAC) for SSDI on that parent's account. If your disability began before you turned 22, and you have not earned SGA since that time, you will begin to receive SSDI as a Disabled Adult Child on your parent's account. If the amount of SSDI you are due is \$20 (or more) greater than the amount of SSI for which you have been eligible, you will no longer be financially eligible for an SSI check. For instance, if you were receiving \$603/month from SSI, and your parent died, and you began to receive a \$700/month SSDI check from your parent's Social Security account, you will no longer be financially eligible for SSI. However, if you only receive \$400/month from your parent's account, you will still be eligible for some SSI in 2006 (\$223, since SSI won't count \$20 of the \$400 SSDI check).

Prior to July 1, 1987 this loss of SSI also meant the loss of Medicaid. However, since July 1, 1987, persons who lose SSI because they become entitled to a greater amount of SSDI as a Disabled Adult Child, still retain their eligibility for Medicaid. Some states have Social Security administer this automatically. In other states, however, a separate Medicaid application is required. This application can be made at any local office of your state Medicaid agency. In all states, state Medicaid policy directs workers not to count any SSDI you receive as a Disabled Adult Child (DAC) if your SSDI began after July 1, 1987. Other income, however, will still be counted according to normal policy. In a great majority of cases, this particular policy will result in Medicaid eligibility for persons affected.

— Don't Look For Logic —



Chapter 3

Representative Payees



Introduction

When you first apply for SSI/SSDI, the disability portion of your application is sent to the Disability Determination Services (DDS). Along with deciding whether or not you meet Social Security’s rules for disability, the DDS may do a “capability determination” to decide if you can receive your checks yourself or if they feel you need a “representative payee.” A representative payee receives your checks for you, and must use them to “meet your needs.”



Payee Duties & Responsibilities

Meet Current Needs:

Your representative payee is responsible for making sure your current needs are met. Current needs include food, shelter, clothing, and money for your personal needs. Your payee should pay your rent and utilities, pay for your groceries (or give you a reasonable food budget), and buy basic clothes when you need them. After your food and shelter are paid, your payee will likely use some or all of what’s left to give you as personal spending money. Some payees divide spending money equally into four envelopes—one for each week of the month.

Separate Payee Account:

If you are appointed as a payee, you should set up a separate payee account. You should NEVER put the beneficiary’s funds in one of your own accounts. This is called “co-mingling” and Social Security doesn’t allow this. If you set up a separate payee checking account, you can write checks for the beneficiary’s rent or fair share, and other things, and you will have a built-in accounting system with duplicate or canceled checks. By using checks you will save yourself much of the work of saving receipts and writing down every expenditure.

Save for Future Needs:

If there is money left once your payee has paid your bills and given you spending money, your payee is supposed to save it so it will be there for anything you need in the future. If the savings account gets too close to \$2000, your payee will probably want to spend some of it on something you need or want, or your payee can start a separate account labeled “for future burial expenses.” Of course, this separate account can only be started if you don't already have an approved “irrevocable burial fund” with a funeral home. In addition, your payee can buy you a burial plot and/or headstone or other marker, which also won't be counted by Social Security.

Report to Social Security:

Payees are responsible for reporting all changes to Social Security. Changes might include if you move to a different address, if you earn money, if you win or inherit money, if anyone moves in or out of your home, or any other change. If a payee isn't sure that the change makes a difference to Social Security, the payee is supposed to report it and then let Social Security decide whether or not it matters.

If you receive SSI and work, your payee is also supposed to report your gross earnings every month. If you have Impairment Related Work Expenses, or Blind Work Expenses, your payee should report them every month along with your wages. Payees are supposed to report all changes, earnings, etc. by the 10th of the month after the change occurs or wages are earned. While many employment programs and/or case managers have assumed responsibility to report wages because they have easy access to the wage information, if there is ever a problem, SSA will hold the payee ultimately responsible. If you are a payee, and an employment program or case manager is assisting by making the monthly wage reports to SSA, be sure to ask that they send a copy to you also so you will have complete records and can handle any issues that arise.

There are other things Social Security will expect your payee to report. One is a yearly accounting of how your payee spends your money. When things work the way they should, payees will get a one page form each year that shows the total of the benefits you received over the past year. Out of that total, your payee needs to show how much was spent on your food and shelter, how much was spent on other things, how much (if any) was saved, and what kind of account it's in.

If you receive SSI, your payee should also be asked to come in to the Social Security office once a year to complete a “Redetermination.” I've always explained it as sort of a “yearly checkup.” In the redetermination, Social Security is checking to see if your income, assets, address, or anything else has changed. It's a checkup on your “financial eligibility” for SSI, and Social Security will be wanting to make sure that nothing has changed to affect that eligibility.

At times, your payee may get both the one page accounting form and the request to come in for a redetermination at the same time. While it seems like overkill, and some payees wonder what they've done wrong and why they're being harassed, it's all really just routine, and there's nothing to be afraid of as long as everything is in order.

Over the years many family payees, usually parents, came to see me every year like clockwork when the one page accounting form arrived. These were parents who squeezed every penny and took the best care of their sons and daughters, but just could never understand how to do the math Social Security wanted. It's really a lot easier than it all felt to them. On the next page is the model I used, followed by an example using real numbers.

Payees know what's in savings, and they know the amount of the monthly share (or rent and food costs), but they don't usually keep a running account of what they spend on other things. So, by simply subtracting the amount in savings and the yearly share total, what's left is the "other" total.

As always, your payee should keep copies of these yearly one page accounting forms before sending the original back to Social Security. Not only will this be proof of completing the accounting form, but it will make filling out next year's form a lot easier.

FORMULA FOR ANNUAL REPORTING

Formula	Explanation	Example
\$ _____ Total of benefits for the year	SSI benefit amount for the year 2006 is \$603 per month, so total of benefits for the year is \$7,236. (\$7,236 will actually be printed on the form Social Security sends to the payee.) If you have wages, the amount of SSI you actually receive may be less than the \$7,236 used here, and if you receive SSDI, the amount will also be different.	<u>\$7,236</u> Total of benefits for the year
- \$ _____ monthly share x 12 (total for the year)	If your monthly “fair share” is \$300 (which includes your share of rent, food, utilities) then the total share for the year = \$3,600. \$3,600 would be the amount your payee would enter in the space for “Amount spent on food and shelter.”	<u>- 3,600</u> Total of share for the year (food and shelter) = \$3,636 remainder
- \$ _____ amount of savings	If your payee has saved \$473, then \$473 is the amount your payee should enter in the space for “Amount of Savings.”	<u>- 473</u> amount of savings = \$3,163
= \$ _____ amount spent on other things	The amount left after subtracting your fair share and any savings from the total of benefits received is the amount that was “spent on other things.”	\$3,163 = amount spent on “other” things



Who Can Serve as Payee?

Payees can be individuals or organizations. Individual payees may be related to you, or they may not be related at all. If Social Security decides you need a payee, they may choose a friend of yours, someone else who acts as a volunteer, a guardian who is not related to you, other persons with disabilities, a public official, or other groups with EINs (Employer Identification Number).

If DDS recommends that you have a payee and your local Social Security office agrees, the local office will first ask you for suggestions. If there is someone you trust to be your payee, now is the time to speak up. If you don't know anyone to suggest as your payee, Social Security may ask your family, an advocacy organization, social services staff, whoever brings you to the Social

Security office, or people you live with. If there isn't anyone suitable or willing, Social Security will look through the records in your file to see if any possible people might be mentioned there. As a last resort, Social Security may ask a volunteer from the lists they keep in their offices. Social Security commonly asks organizations like the Salvation Army, Catholic Charities, Travelers Aid, or the Alliance for the Mentally Ill to serve as a payee for someone being served by them with funding they receive from the Recipients Public Health Service Act for the care of persons who have mental illness and who are also without a place to live.

If there are multiple possibilities for people to be your payee, Social Security will give preference to certain people over others. For instance, parents, spouses and legal guardians who would make good payees will be chosen before unrelated persons or agencies or institutions. The only exception to this "order of preference" is if you have, along with other disabilities, a problem with drug abuse or alcoholism. In that case, Social Security will give preference to a licensed community-based social services agency or a social service/healthcare-related governmental agency. Only if these or other agencies are unavailable will Social Security look for a person as a payee.

When Social Security asks people to consider being your payee, they will ask a number of other questions to get enough information to decide if the person is the best choice to be your payee. For instance, everyone who applies to be your payee will be asked if they know what your needs are.

If you have a payee, it is important for your payee to know what your expenses are for rent, food, utilities, and other things you need. Your payee should also provide you with some spending money. Many payees are willing to partner with you to help you learn how to budget and pay bills.

NOTE:

If you disagree with Social Security's decision to give you a payee, you can appeal. See the subheading, *How to Change Your Payee*.

Conflict of Interest Payees:

From an advocacy perspective, the last person who should be made your payee is your landlord. This is especially true if you live in a “board and care home,” “foster home,” or similar arrangement. However, it can also be true in some cases where your payee is a relative with whom you live. Payees are responsible for making sure your needs are met. An adult foster care home operator, or board and care home operator is responsible for meeting your needs. If the person who is responsible for meeting your needs is the same person who is supposed to make sure/monitor that your needs are met, it is a “conflict of interest.” Even when a foster care/board and care operator does a very good job of managing your funds and meeting your basic needs, there is still a “conflict of interest.” There are no checks and balances—someone could take advantage of you or misuse your money, and no one would know.



Pros & Cons of Having a Payee

The “Cons” of having a payee are self-evident. Basically, it removes control and choice about your benefits from you, and gives them to someone else. If you want to change or remove your payee, or if you disagree with Social Security’s decision to give you a payee in the first place, the information under the subheading *How to Change Your Payee* can help you.

For those of you reading this who are family member payees, one of the reasons you may want to assist your son or daughter, etc. to become their own payee is to remove the yearly reporting requirement. As long as people have the support they need with reading, writing and math, nearly everyone can be their own payee. What’s necessary is that a person be able “to direct the use of their benefits.” For many years I assisted people who had significant cognitive disabilities. The great majority of them knew that food and other goods cost money. They knew they paid rent at the beginning of each month, and they knew when their SSI and SSDI checks came. With support from family, supports coordinators (formerly known as case managers), friends, assisted independent living or group home staff, they were able to take their checks to the bank, get money orders or write checks for bills, and then deliver or mail the payments.

Having said that, there were occasions where having a payee was a good and helpful thing. Usually this happened when there weren’t reliable family members or others to provide assistance. Sometimes I even asked Social Security to appoint a payee in order to prevent someone from being exploited. In one instance, an otherwise capable woman was continually approached by various family members wanting money. She wanted her family to love her and she would always weaken when they begged, cajoled, or threatened. If she said no to them, she risked losing their time, attention, and in her mind, their love; so she always finally said yes, even when she wanted to say no. She asked me for help, and after trying a few less drastic but unsuccessful interventions, she agreed that a payee was probably the best option. Her payee met with her monthly, paid her bills, and had no trouble saying “no” to family members who wanted some of her very meager resources.

In another situation, a young woman I assisted asked for a temporary payee so her live-in so-called “boyfriend” couldn’t take her money to buy drugs. Once he lost his free ride, the “boyfriend” decided he didn’t love her after all, and moved out to prey on someone else. We then filled out the necessary paperwork to change her back to being her own payee.

Finally, there was a woman who had lived with her parents for many years. During that time she was her own payee and her parents assisted her to manage her benefits. When their daughter moved into a group home, the parents, an older couple, decided to become her payee. They came to see me when the home operator kept billing them for additional charges. This billing was illegal, but others had paid the “extra” charges, so the home operator kept billing. The parents, of course, wouldn’t pay what they didn’t owe, and the home operator took them to small claims court. We arranged with someone from the state to appear and explain to the judge that the home operator was acting illegally. The parents, as payees, had kept scrupulous records, and in the end, the judge ordered the home operator to make reparations to the woman and her parents. If the woman had been her own payee, or worse, if the home operator had been her payee, there would have been no checks and balances to prevent her entire check from going to the home operator.



Who Does What?

When dealing with Social Security, there are some things almost anyone can do, and other things that must be done only by certain people. On the next page is a chart that lists some tasks/responsibilities and shows whether they can/must be done/carried out by you, by your payee, if you have one, and/or by a guardian, if you have one.

NOTE:

Only an applicant can sign medical release forms unless:

- The applicant is a minor child, in which case the parent signs

Or

- The applicant has a Plenary Guardian or a Partial Guardian with the power to sign releases, in which case the guardian would sign.

WHEN DEALING WITH SOCIAL SECURITY, WHO IS RESPONSIBLE FOR WHAT?

Who is responsible for...	If there is an Applicant only, or if the Applicant has a guardian	If there is an Applicant with a Representative Payee
Signing the General Application?	The Applicant (or a guardian)	The Representative Payee
Signing the Disability Report?	The Applicant or anyone else	Anyone can sign
Reporting changes and/or Doing Redeterminations?	The Applicant (or a guardian)	The Representative Payee
Signing an Authorization to Represent?	The Applicant (or a guardian)	Good practice is to have the authorization signed by both the Applicant and the Representative Payee



How to Change Your Payee

If you simply want a different payee, you can tell or write Social Security why at any time. You can also take someone with you to the Social Security office to apply to be your payee. Social Security will expect you to have a good reason, unless your current payee has notified them that he/she no longer wants to be your payee.

If you want to be your own payee, there are two forms you will need. The first is a payee application, or “Request to be Selected as Payee.” You simply enter your name and Social Security number, check the box that says you want to be your own payee, answer the question about whether or not you have a court appointed guardian or conservator, and then sign the form and submit it.

The second form you need is one that one of your doctors must sign. It’s a “Physician’s Statement of Capability.” Your doctor must check the box that says you are capable of managing your benefits, and can then explain that you understand the concept of money, you know you have bills to pay for food and shelter, and that you have any assistance you need. The form also asks for the last date the doctor saw you. Once a doctor signs this form you shouldn’t have any trouble getting to be your own payee.

If you disagree with Social Security's decision to give you a payee in the first place, you can usually appeal this decision. But first you should know that in some cases Social Security is mandated to give you a payee, and while you can appeal some things about having a payee, you can't appeal others. Social Security must pay you through a payee when:

- a court has judged you to be “legally incompetent;”
- you are known to have alcoholism or a drug addiction that is material to the determination of your disability;
- you are a child under the age of 15.

Some decisions that you can appeal regarding your having a payee include:

- If you disagree with Social Security's decision to appoint a representative payee for you, you can appeal that decision.
- You can appeal who is appointed as your payee, but you can't appeal because someone you wanted wasn't appointed as your payee.
- If you are under 18 and have been declared an “emancipated minor” by a judge, you can appeal a decision to appoint a payee for you that is based on your being under 18.
- If you are a parent, you can appeal Social Security's decision to appoint a payee other than you for your minor child.
- If you are a payee and Social Security determines you were negligent and misused benefits, you can appeal that determination if you disagree with it.
- Finally, you can appeal if Social Security decides its OK to not pay you in one lump sum any accrued or conserved funds that have come from your benefits.

Decisions you cannot appeal regarding the appointment of a representative payee for you include:

- If you are a minor child and you are still under parental control, you can't appeal Social Security's decision that you need a payee.
- If you are a beneficiary or a payee, you can't appeal Social Security's decision to pay you retroactive benefits you are owed in installments instead of paying you all at once in one lump sum.
- While you can appeal Social Security's determination that you were negligent, you can't appeal Social Security's decision that benefits were misused.

- You can't appeal Social Security's decision to appoint a payee for you if a court has found you to be "legally incompetent."
- You can't appeal when Social Security "suspends" your benefits until they appoint a payee for you.

When Social Security is looking at evidence to determine if you are "capable" of managing your benefits, they will look at what your doctor says, and what others who know you say. They will also make their own observations. In the POMS (SSA's Program Operations Manual System), Social Security staff are reminded that you are probably "capable" if you can tell them how much money you receive each month, where the money comes from, and how much you need for rent (or mortgage) and groceries and other things. If you have become eligible for SSI/SSDI benefits because of a mental impairment, especially, it will be important to be able to tell Social Security these things so you can be your own payee.

Teens Age 15-18:

Minors who live with their parents will usually have their parents named as their payee. However, about 10 years ago I assisted a 16 year old with a physical disability to become payee both for herself and for her mother who had a mental disability.

Other minors who are at least 15 can usually be their own payees if they are legally emancipated, are eligible for benefits on their own work record, are in the armed forces, are a parent and have some experience managing money, are 17 ½ years old, or there is no one else available to serve as payee and the minor has shown the ability to manage money.

Special Note for Payees of Minors:

Pursuant to a law passed in August of 1996, when there are large amounts of retroactive benefits due for a minor, an additional separate account must be opened. This separate account is called a "dedicated account" by Social Security and can only be spent for certain disability related items. The restrictions on the "dedicated account" remain in effect until all the funds are used, even when the minor turns 18 and is responsible for his/her own benefits and finances.

These dedicated funds are to be used for medical treatment, education and/or job training, personal assistance, modifications made to the home because of the child's disability, rehabilitation therapy or equipment, and certain emergencies. Funds might also be used to purchase special food, respite care, assistive technology, disability related transportation, counseling, etc.



Because organizations are allowed by Social Security to collect payee fees from your benefits, it is usually better to have a trusted individual serve as your payee. When an individual payee is not available or can't be appointed due to Social Security policy, here are a few things you should know.

In order for an organization to charge a fee for serving as your payee, it must be either:

- a governmental agency with a mission that is healthcare related, social services related, income maintenance related, or having regular fiduciary responsibilities; or,
- a non-governmental agency that is located in the community, is bonded or licensed, and is providing non-profit social services.

In addition, all organizational payees charging fees must be payee for at least five beneficiaries, cannot be a creditor, and cannot collect more than 10% of the monthly benefits or \$25, whichever is less.

Payee organizations can't collect fees if:

- the beneficiary doesn't get a check that month;
- if the payee doesn't perform any services that month; or
- if the organization is being paid by someone else.

Payee fees also can't be taken from conserved (saved) funds, or from money meant to be your personal allowance funds. Fees for prior months also can NOT be collected from benefits received this month.

Fees can only be collected AFTER all your current needs are met and before unneeded funds are conserved in a separate account.

No payee organization can collect fees before being authorized to do so by Social Security.

– Don't Look For Logic –



Chapter 4

SSI Check Amounts



Letters from SSA

SSDI is not reduced when you start earning money. However, if you earn over Substantial Gainful Activity (SGA) for enough months, you may not be due your SSDI check at all, and your eligibility may also be lost. More information about this will be found in Chapter 7, *How Working Affects Your Benefits*, under *Trial Work Period, Substantial Gainful Activity, and Extended Period of Eligibility*.

On the other hand, SSI is reduced based on your earnings, as well as any other income you may have. As a result, you may receive multiple conflicting and confusing letters from Social Security. While I don't have the power to stop all the letters, I can explain a little about Social Security letters in general and then about why you might receive those multiple letters.

Perhaps the first thing to know about letters from Social Security is that most of them are not written specifically to you about your individual situation. They are generally form letters that are designed to be "one size fits most." As you can imagine, anything that is made to fit a lot of people isn't specifically tailored for any one person.

This is complicated even more when wages enter the picture, or when your benefits go up and down for other reasons. When an event occurs that will result in an increase or decrease in your SSI check (like wages), Social Security enters the information into their computer where it stays until newer, different information is entered. Each entry of new information generates a letter to you that may read as though the increase/decrease in your check will be permanent. The letter may even end with "This determination replaces all previous determinations."

What Social Security is really saying is that the change being made in your SSI check will remain in effect until they receive different, newer information from you. So, a decrease in your SSI check because you earned more working a few hours of overtime, will stay in effect until you send in wage information that shows you are earning less again. Don't be surprised if every

time you report a change you get a new letter from SSI that promises some permanent alteration in your check and ends with “This determination replaces all prior determinations.”

There are also times when Social Security will “clean up” your record after the fact, or retroactively. Perhaps they have just now verified wages from several years ago, or, perhaps they have realized you were also entitled to some Impairment Related Work Expense you didn't get credit for at the time. In these situations the letters you get may say “We are changing your benefits as follows” and then list dates in the past with SSI check amounts that bear no resemblance to the checks you actually received.

If Social Security's revisions result in them owing you money, you should expect a check for the difference. If, on the other hand, their revision results in you having been sent too much, expect another letter to follow soon that notifies you that you have been overpaid. In Chapter 5, *Overpayments*, you'll find more information about overpayments, and what to do if you receive a letter that says you've been overpaid.



Unearned Income: How it Affects SSI

Unearned income includes money a person may receive from a variety of sources. Please note, child support payments, which are handled differently by SSI, are explained under the subheading that follows—*Child Support*. Sources of unearned income discussed here can include:

- annuity, pension, retirement and disability benefits including veteran's compensation and pensions, worker's compensation, old age, survivors and disability insurance benefits, railroad retirement annuities and pensions, and unemployment insurance benefits;
- death benefits paid to an individual upon the death of another person (after expenditures related to the last illness and burial);
- alimony and support payments, gifts (cash and other), inheritances, trusts;
- support and maintenance furnished in-kind for shelter, food, and clothing up to a maximum of 1/3 the monthly FBR for that year;
- prizes and awards;
- rent, dividends, interest and royalties that are not considered earned income (see information under the subheading, *Earned Income: How it Affects SSI*).

SSI will not count the first \$20 of unearned income you receive. After the first \$20, every dollar of unearned income you receive will result in SSI reducing your check by \$1. For instance, if you receive \$100 per month from a trust, SSI will count \$80.

EXAMPLE:

\$100 unearned income from trust
-20 general income exclusion
\$80 countable unearned income

If your monthly unearned income is \$623 per month or more at the time of application, in 2006 you would not be financially eligible for SSI.

\$623 SSDI, trust payment or other unearned income
- 20 general income exclusions
\$603 countable unearned income

\$603 possible SSI federal benefit in 2006
-603 countable unearned income
\$ 0 SSI payable

If you are already receiving SSI and win \$623 or more in the lottery in 2006, you won't be due your SSI check for that month even though you may have already received it (see *Retrospective Monthly Accounting* below.) If this happens, after you report this change by the 10th of the next month, expect a letter from SSI telling you that you have been overpaid.



Child Support

If the unearned income you receive is child support, it is counted differently. SSI will NOT count one third of what you receive in child support. The remaining two thirds will count dollar-for-dollar and reduce your SSI check, although you are still allowed the general exclusion of \$20 before SSI reduces your check.

EXAMPLE:

\$300 received monthly from child support
 $1/3 \times \$300 = \100 , the amount of your child support that SSI won't count

\$300 child support received per month
-100 child support not counted by SSI
\$200 countable child support
-\$20 general exclusion
\$180 countable child support
\$603 SSI federal benefit possible in 2006
-180 child support counted by SSI
\$423 SSI check due based on child support



Deemed Income

If you are a child under 18, or if you are married, SSI will count some of the income received by your parent or spouse. SSI calls this *deeming* and it means that your financial eligibility for SSI depends, in part, on someone else's income as well as on your own income.

For example:

- if an individual who is eligible for SSI has a spouse who is not eligible, and that spouse has income, SSI will consider that the ineligible spouse uses some of his/her income to provide support to the eligible spouse; or
- if the eligible individual is a minor child, SSI must determine whether to deem income of the parent, or spouse of the parent, for the needs of the eligible child.
- if a non-citizen who is found eligible for SSI is being sponsored by another individual, the sponsor's income may be deemed for three years after the non-citizen is admitted to the United States.

On page 58 is a chart, *SSI Monthly Deeming Breakeven Points* for 2006. You can use it to see if your parents' or spouse's income is low enough for you to receive a whole or partial SSI check. You will also be able to see if their income is so high that you won't be financially eligible for an SSI check at all.



How to Use the Deeming Chart

Step 1

The Deeming Chart has three major sections across the top

CHART OF MONTHLY DEEMING BREAKEVEN POINTS FOR A FEDERAL SSI PAYMENT						
(effective 1/1/2006)						
	Parent to Child		Spouse to Spouse		Spouse to Spouse to Child	

- Parent to Child - use this section if one or both parents have income, neither one has a disability, and there is at least one disabled child in the family who is applying for SSI.
- Spouse to Spouse - use this section if you are married, and either or both of you are disabled and applying for SSI.
- Spouse to Spouse to Child - use this section if your family has at least one parent and one child with a disability who are both applying for SSI.

Once you have chosen the right section for your situation, go on to Step Two.

Step 2

Under each of the sections listed in Step One, income is divided into columns for “Earned” or “Unearned.”

	Parent to Child				Spouse to Spouse		Spouse to Spouse to Child	
Number of Ineligible Children	Earned Income		Unearned Income		All income of both persons is earned	All income of both person is unearned	All income is earned	All income is unearned
	1 parent	2 parents	1 parent	2 parents				

- If all income comes from wages and/or salary, go to the “Earned Income” column.
- If all income is unearned, go to the “Unearned Income” column (see *Unearned Income: How it Affects SSI*, page 52.)
- If you have both “earned” and “unearned” income, this chart won’t work for you and you’ll need to ask Social Security about your financial eligibility or your benefit amount.

NOTE:

For the section “Parent to Child,” when you are selecting the “earned” or “unearned” column, you must also choose a sub-column for “1 parent” or “2 parents” depending on the number of parents living in the household. If a child’s parents are divorced or separated, and living in different residences, use the column for 1 parent.

Once you find the section that is right for you (Parent to Child; Spouse to Spouse; or Spouse to Spouse to Child), and the correct column (depending on whether you have “Earned” or “Unearned” income), move on the Step Three.

Step 3

Number of Ineligible Children
0 reduction begins at: eligibility ceases at:
1 reduction begins at eligibility ceases at:
2 reduction begins at eligibility ceases at:
3 reduction begins at eligibility ceases at:
4 reduction begins at eligibility ceases at:

In the far left column labeled “Number of Ineligible Children” find the number of children in your household who are NOT applying for SSI. If there is only one child in your household and that’s the child applying for SSI, there are no ineligible children and you will go to the “0” row. If you are part of a married couple and you have no children at all, you will also use the “0” row. If you have five children and there is one child applying for SSI, you will go to the “4” row, and so on.

Step 4

Starting with the number of ineligible children that applies to you, follow the row across the chart until it meets the column that applies to you. Here you will find two numbers, and the larger number will be shaded. If your income is less than the smaller number, you will be eligible for a full SSI federal benefit (\$603/mo in 2006); if your income is more than the smaller number but less than the larger number, you will be eligible for a reduced SSI check; if your income is more than the larger amount, you are not financially eligible for an SSI check.

Example for Using Deeming Chart

Sam and Janet have four children. Their youngest, Eli, has Cerebral Palsy and may be eligible for SSI. Sam is the only parent working outside of the home, and all of the income in the household is earned.

The appropriate section in Eli's case is "Parent to Child." Within the "Parent to Child" section, the appropriate subsection is the one labeled "Earned Income." Under "Earned Income" the correct column is the one for "2 Parents." Because three of Sam and Janet's children are not disabled and not eligible for SSI, "3" is the appropriate number under the heading of "Number of Ineligible Children." Starting with the "3" follow the row across until it meets the "Parent to Child/Earned Income/2 Parents" column. The first or smaller number (for the year 2006) is \$2,718 and the larger number is \$3,876

For any month in which Sam's gross wages are less than \$2,718, Eli will be due a full federal SSI benefit of \$603; if Sam's wages are between \$2,718 and \$3,876, Eli will be due some SSI; in any month Sam is paid more than \$3,876, Eli won't be financially eligible for an SSI check. If Sam's paychecks go up and down, Eli may be due an SSI payment in some months, but not in others.

NOTE:

These rates assume that all children have no countable income and that there is only one eligible child in the household. If there is more than one eligible child, or if there is both earned and unearned income, contact Social Security to find out about eligibility and amount of SSI.

Parent to Child Deeming: These figures are correct only if the eligible child has no countable income; and the ineligible children, if any, have no countable income; and if the parent(s) has either earned or unearned income, but not both; and there is only one eligible child (i.e. one child applying for SSI).

Spouse to Spouse Deeming: These figures are correct only if all income of the ineligible spouse is either earned or unearned, but not both; and the ineligible children, if any, have no countable income; and the eligible individual's own countable income is less than the \$603 Federal Benefit Rate (FBR).

Spouse to Spouse to Child Deeming: These figures are correct only if the eligible child has no countable income; and the ineligible children if any, have no countable income; and all income of the ineligible spouse and eligible individual is either earned or unearned, but not both, and there is only one eligible child in the household.

CHART OF MONTHLY DEEMING BREAKEVEN POINTS FOR A FEDERAL SSI PAYMENT

(effective 1/1/2006)

Number of Ineligible Children	Parent to Child				Spouse to Spouse		Spouse to Spouse to Child	
	Earned Income		Unearned Income		All income of both persons is earned	All income of both persons is unearned	All income is earned	All income is unearned
	1 parent	2 parents	1 parent	2 parents				
0 reduction begins at:	1331	1933	643	944	687	321	1933	944
eligibility ceases at:	2537	3139	1246	1547	1893	924	3139	1547
1 reduction begins at	1632	2234	944	1245	988	622	2234	1245
eligibility ceases at:	2838	3440	1547	1848	2194	1225	3440	1848
2 reduction begins at	1933	2535	1245	1546	1289	923	2535	1546
eligibility ceases at:	3139	3741	1848	2149	2495	1526	3741	2149
3 reduction begins at	2234	2836	1546	1847	1590	1224	2826	1847
eligibility ceases at:	3440	4042	2149	2450	2796	1827	4042	2450
4 reduction begins at	2535	3137	1847	2148	1891	1525	3137	2148
eligibility ceases at:	3741	4343	2450	2751	3097	2128	4343	2751
5 reduction begins at	2836	3438	2148	2449	2192	1826	3438	2449
eligibility ceases at:	4042	4644	2751	3052	3398	2429	4644	3052
6 reduction begins at	3137	3739	2449	2750	2493	2127	3739	2750
eligibility ceases at:	4343	4945	3052	3353	3699	2730	4945	3353



Earned Income: How it Affects SSI

Earned income for SSI purposes includes income from the following sources:

- wages;
- net earnings from self-employment;
- payment for activities performed in a sheltered workshop or work activity center;
- royalties in connection with publication of an individual's own work;
- honoraria (these are payments people receive for giving presentations, lectures, etc.).

When you are earning money from a job, SSI counts less than half of what you earn. The first \$65 you earn doesn't count at all. If you have no unearned income, SSI will also not count another \$20 (\$85 total). After this first \$65/\$85, SSI will only count half of what you earn.

EXAMPLE

You are working in a plant store and you gross \$485 per month. You have no income other than your SSI and your wages.

\$485	gross earnings
<u>- 65</u>	earned income exclusion
\$420	
<u>- 20</u>	general income exclusion
\$400	

$\$400 \div 2 = \200 *countable earned income*

\$603	SSI federal benefit possible in 2006
<u>-200</u>	<i>countable earned income</i>
\$403	SSI check due based on your earnings (plus any state supplement you are due)

In most cases, any income you have in one month affects your SSI check two months later. An exception to this is when you have enough income to make you financially ineligible for an SSI check, it affects the month in which you receive the excess income, not two months later. See

Chapter 7, *How Work Affects Benefits* for more information, and use the worksheets in Chapter 7 to calculate your SSI due based on your wages, work related factors, and unearned income.



Retrospective Monthly Accounting

If trying to understand the effects of earned and unearned income wasn't tough enough, you also have to understand Retrospective Monthly Accounting (RMA) in order to know how much your SSI check should be.

In the 1980s SSI began RMA, a three month cycle that was designed to prevent underpayments and overpayments. While the system is capable of working—if you report all income changes in a timely fashion, and if SSA puts your information into the computer in a timely fashion—it often doesn't work the way it was designed to. In theory, RMA looks like this:

Month One

You work and earn income or experience any other change that can affect your SSI checks.

Month Two

You report your income from Month One by the 10th of Month Two, and SSA puts it into their computer by about mid-month, which is the deadline for information to be reflected in next month's check.

Month Three

On the 1st of Month Three, when your SSI check comes, the amount reflects your earnings from Month One, which you reported in Month Two.

As you might guess, RMA has the potential to wreak havoc on your life if things don't happen exactly when and how they should. This is especially true if your wages go up and down regularly. If you have high earnings in Month One, and lose your job early in Month Two, Month Three will find you with a greatly reduced SSI check and no wages to help you pay your bills. If, at the end of each month, you use the work sheets that appear in Chapter 7, *How Working Affects Your Benefits* to help you figure how much your SSI check should be two months later, you will always know if your SSI check is correct or not. Hopefully, this will help you plan ahead and minimize crises.

Note:

When your income in Month One is so high it results in no SSI check payable, it won't be reflected in your Month Three check. Instead, Social Security will say you shouldn't have received your SSI check in Month One. (Remember Rule # 3 "Don't Look for Logic.") The RMA cycle is then altered somewhat. The income you got in Month One affects that month and

the cycle starts again in Month Two and Month Three. It isn't until Month Four that the RMA cycle is wholly back on track. (See the examples outlined below.)

EXAMPLE 1:

Month One	Month Two	Month Three
You have gross earnings of \$485.	You report Month One earnings of \$485 by the 10 th of the Month Two.	SSI check comes reduced by \$200, which is the <i>countable earned income</i> from the \$485 you earned in Month One and reported in Month Two.

EXAMPLE 2:

Month One	Month Two	Month Three	Month Four	Month Five
You win \$1,000 in the lottery. (SSA will determine you shouldn't have gotten your SSI check this month and so you were "overpaid.") SSI will expect you to repay all the SSI you received on the first of this month.	You receive your whole SSI check and have earnings of \$185. By the 10 th of the month, you report your Month One lottery winnings.	You receive your whole SSI check and you have earnings of \$285. By the 10 th of Month Three, you report your Month Two earnings of \$185.	Your SSI check comes on the 1 st of Month Four, reduced by \$50, the countable earnings from Month Two. You report your Month Three earnings of \$285. SSA sends you a letter telling you that you were overpaid in Month One and shouldn't have received an SSI check.	By the 1 st of Month Five, you receive your SSI check reduced by \$100, your countable earnings from Month Three. By the 10 th of Month Five, you report any wages you earned in Month Four.



Sharing & Living in Household of Another

If you receive SSI and don't pay any of your food and shelter expenses, you will be considered to be "living in the household of another" and receiving "in-kind support and maintenance" from someone else. When Social Security views you as "living in the household of another" you are only eligible to receive the *one-third-reduced rate* (\$402 per month in 2006) and not the full Federal Benefit Rate of SSI (\$603 per month in 2006). Regardless of the value of the food and shelter you are receiving, SSI will only reduce your SSI check by one third, at the most.

If you pay for your shelter but someone else is paying \$120 per month for your food, SSI will reduce your \$603 by \$100 (\$120 - \$20 general income exclusion = \$100 *countable unearned income*) and you will be eligible for a \$503 SSI check. The same would be true if you paid for your food but someone else was giving you shelter worth \$120 per month.

Finally, if you receive SSI and live in a household situation with other people, you may be eligible for more than the one-third-reduced payment for "living in the household of another" (\$402 federal benefit per month in 2006). If you can establish having paid your "fair share" of household expenses for at least one month, and you are able to continue your contribution, your classification changes to Sharing/Independent (\$603 per month in 2006).

When you first apply for SSI, if you state that you will be expected to pay your "fair" share as soon as your benefits start, your benefits can begin at the Sharing rate (\$603) instead of the Household of Another rate (\$402).

When each person in your household receives SSI or some other income based on need (such as TANF), the Social Security Administration will presume that sharing exists. Submit evidence of your household's income—a letter from the appropriate agency, an actual check, an award notice, etc. No other investigation of household expenses will be necessary. You, the SSI recipient, must state that you are contributing to the household expenses.

When your household has income other than public assistance, SSI, etc., the following expenses are used to determine your fair share contribution.

- Food
- Mortgage (including property insurance if required by your mortgage) or rent payment
- Real property taxes (less any tax rebate)
- Heating fuel
- Gas
- Electricity
- Water
- Sewer
- Garbage removal

Every household does not have expenses in every category. Only those from the above list which apply to your household can be included in figuring your share. No other additional expenses can be considered (e.g. Cable TV, phone).

While Social Security doesn't usually require documentation for these expenses, your fair share should always be figured based on real expenses. When establishing an amount for food, use an estimate that reflects food only, not laundry soap, paper goods, personal hygiene articles, etc.

Determine the average monthly expense for each item listed above. If your household situation is new, average the expenses and contributions over the time period your household situation has existed. Add your average monthly expenses and divide the total by the number of persons in your household regardless of their age or relationship to you. Babies, grandparents, and unrelated persons living in the home should all be counted, as should any adult children away at college during the school year. After the total is divided by the number of people in your household, the resulting number will be the "pro rata" or "fair share" for each household member.

Your "fair share" will generally remain unchanged for a year, and your household expenses should be reevaluated every year to determine whether or not a change in the amount is warranted. An exception to this general policy would occur any time during the year that a normally "fixed" expense (such as mortgage or rent payment or gas "budget" amount) changes. Whenever this happens, your "fair share" amount should be recalculated immediately and reported to Social Security.

The amount of your contribution must be within \$5 of this "pro rata" share to establish the existence of a "sharing" arrangement. Any other income (earned or unearned) you receive (like wages) may be added to your SSI payment to give you sufficient income to pay your pro rata share. If you have no unearned income, you may receive or be given up to \$20 per month without a reduction in your SSI. This income must be reported to Social Security as unearned income. If need be, you can also establish your ability to pay your share by having your parents or someone else "loan" you the additional funds you need. A "loan" is not counted against you as income, and you can repay it on any basis agreeable to you and the person who loaned you the money. You can calculate your share on the worksheet that follows all of the Sharing Information.

EXAMPLE:

John Tailfeathers is a 23 year old SSI recipient who lives with his mother, father, a brother age 13, and a sister age 19 in a home being purchased by John's parents. The mortgage agreement documents a monthly payment of \$750, and indicates that this amount includes property taxes and insurance. Charges billed for the preceding 12 months by gas and electric companies were added up and divided by 12 to determine a monthly average. Food was estimated at \$120 per month per person. The family has no expenses in other identified categories because they have their own well, septic system and take care of their own garbage, although they have to pay to dump it.

Monthly Averages for:

→ Food (\$120 per person x 5 people)	\$600
→ Mortgage payment (including property taxes and insurance)	750
→ Heating (gas)	80
→ Gas (see above)	0
→ Electricity	60
→ Water (house has a well)	0
→ Sewer (house has a septic system)	0
→ Garbage removal	<u>\$10</u>
Total	\$1,500
$\$1,500 \div 5 \text{ persons in the home} = \300	

So, the fair share of expenses for John (and everyone else as well) is \$300 per month.

John must pay at least \$295 per month to the household (his mother or father) to establish sharing. Because John's share is less than the \$402 per month he has been receiving, he can pay his share every month and will then have his SSI check raised to \$603 per month.

If John's share was \$450 per month, he wouldn't be able to pay it out of the \$402 amount he has been receiving from SSI. However, John can save his SSI check for two months and he will then be able to pay his share for a month and have money left over so he can continue to pay his share in future months. This allows him to apply for the Sharing rate of SSI.

Once he applies for the Sharing rate from SSI, his SSI check will increase to \$603 per month in 2006. He can easily pay the \$450 share each month out of his new SSI check amount. Here's what would happen month by month.

Month One

Before sharing, John receives \$402 in SSI and can't pay his \$450 per month share so he saves his \$402 SSI check.

Month Two

John saves his SSI check again and adds it to his check from last month. He now has a total of \$804 and pays his \$450 share for this month. After paying his share John has \$354 left ($\$804 - \$450 = \354) that he can draw on to pay his share in future months. John applies to SSA to receive SSI at the Sharing rate.

Month Three

John receives his \$402 SSI check and uses \$48 from his \$354 in the bank to pay his \$450 share for this month. At the end of the month John gets a letter from SSA saying he qualifies for sharing and will start receiving a monthly SSI check of \$603 per month (for the year 2006) He also gets a check for \$402, which is what SSI owes him for Month Two and Month Three. ($\$603 - 402 = 201 \times 2 \text{ months} = \402) The \$402 represents the additional amount (\$201/mo) John would have received in those 2 months if he had been paid at the Sharing rate.

Month Four and Continuing . . .

After establishing sharing, John receives his \$603 SSI check and pays his \$450 monthly share.



Sharing & Parental Income Tax

If you live with your parents, they can legally claim you as a dependent on their income tax return if you are receiving SSI at the “Living in the Household of Another” rate. Of course, they will have to be able to show that they spent at least 1 cent more on you than the total of all your SSI payments for the year.

Once you establish “sharing” and receive an increased SSI check (\$603 per month in 2006), your parents can no longer claim you as a dependent. Over the years I've had parents call or come to see me saying that their tax accountant said it was okay to claim their son or daughter because they could show how they spent more on them than the yearly total of SSI payments. I've had to explain that while the accountant may be correct as far as the Tax Code and the IRS (Internal Revenue Service) are concerned, claiming their son/daughter puts them in an awkward position with Social Security. If you have been telling SSA that you're paying your share (and are therefore, NOT receiving income/support from others), and should receive the Sharing/Independent rate of SSI, it is not appropriate to tell the IRS you're not really paying your own way and you can be claimed as a dependent by your parents. When most families do the math, they find they gain more by having a son or daughter receive the increased SSI check than they do by claiming them as dependents and getting a small credit on their taxes.

The only exception to this general rule is when parents can continue to carry a son/daughter on their health insurance only if the son/daughter is a dependent for tax purposes. If you are covered by Medicaid and have a number of good healthcare professionals where you live who accept Medicaid, there may be little or no benefit in being covered by your parent's insurance. However, if you have few healthcare providers or none that accept Medicaid, it may be beneficial to forego the Sharing rate and to stay at the "Household of Another" rate so you can remain covered by your parent's insurance.

SHARING WORKSHEET

1. Rent or mortgage payment (including any amount for insurance that is part of the mortgage payment and required by the mortgager.) \$ _____
 2. Property taxes (if not already included in the mortgage) \$ _____
 3. Electricity (monthly average) \$ _____
 4. Gas (monthly average) \$ _____
 5. Any other heating fuel (monthly average for coal, oil, propane, wood, etc.) \$ _____
 6. Water \$ _____
 7. Sewer cost (if any and if not included in your water bill) \$ _____
 8. Garbage removal cost (if any) \$ _____
 9. Food (do not include soap, paper products, personal hygiene articles, etc.) \$ _____
- Monthly Total \$ _____

Divide monthly total \$ _____ by # of people in household _____ = \$ _____
your pro-rata share amount



Chapter 5

What To Do If SSA Says You've Been Overpaid

If you have income that goes up and down for any reason (e.g., work, or other benefits), you can almost bet that at some time you'll receive a letter from SSA telling you that you've been overpaid. If you receive SSDI as a disabled adult child (DAC), you may also face an overpayment letter if other people come on or leave payment status on the same record.

When notified of an alleged overpayment, you have several options:

- repay the entire amount in one lump sum;
- repay the entire amount in installments;
- appeal the existence of the overpayment;
- request a Waiver of Overpayment Recovery.

If you believe that Social Security is wrong about the amount of overpayment, or wrong that an overpayment exists at all, you can appeal (third option above).

If you agree that some or all of the alleged overpayment does exist, you have the right to request a "Waiver of Recovery." A waiver means that you wouldn't have to repay some or all of the overpayment. You can ask for a waiver and file an appeal at the same time. Social Security will first deal with your appeal, and after that is resolved, if there is still any overpayment left, they will consider your request for waiver.

In order to be granted a waiver, two things must be true:

- you must be without fault in causing the overpayment, and

→ you must not be able to afford to pay the money back.

“Without fault” can be established if:

- you reported your monthly gross earnings to SSA in a timely fashion, but your SSI checks weren't properly reduced by SSA;
- you didn't know that various actions or events would have an effect on your benefits;
- you relied on incorrect information from an “official source” (e.g. Someone from SSA tells you, “Yes, that's your check. Go ahead and spend it.”);
- you reported benefit-changing events and your checks continued to come unchanged;
- you receive SSDI benefits as a disabled adult child and you weren't aware your parent's return to work could affect your benefits;
- other people you don't know became eligible for benefits on your parent's account;
- someone else receiving benefits on the same Social Security record who lives separately from you received an overpayment that you didn't know about and didn't benefit from;
- your disability limits your ability to comply with Social Security's reporting requirements. (However, if SSA grants a waiver for this reason, it is likely you will be given a representative payee.)



Relying on Incorrect Information

In the “without fault” possibilities listed above, one reason you can be found “without fault” is that the overpayment occurred because you relied on incorrect information from an official source. Usually, the official source is a person who works in some capacity for Social Security, or it can be a letter sent by Social Security. Along with being “not at fault” you must also not be able to afford to repay the overpayment, or, in Social Security language, if recovery of the overpayment would “defeat the purpose” of the SSI and/or SSDI program.

“Defeat the purpose,” which is discussed further on page 72, will have to be proved in all cases of “without fault,” except when you relied on “incorrect information from an official source.” When your overpayment results from your belief in what you were told by a Social Security letter or staff person, and the letter or person was wrong, Social Security is supposed to “waive” any recovery of the overpayment, regardless of your finances. In fact, if your overpayment was the result of “relying on incorrect information from an official source,” Social Security isn't even supposed to explore or develop whether or not you can afford to pay it back.



Circumstances That Allow Social Security To “Waive” Recovery of Your Overpayment

Overpayments of \$500 or Less

There are several situations when Social Security will not make you repay an overpayment. One of those situations is when recovery of your overpayment would cost Social Security as much as or more than the amount of the overpayment itself. Social Security language for this situation is when recovery would “impede effective or efficient administration of the SSI program.” Currently, if you owe \$500 or less, recovery of that amount should be “waived” simply because it will cost Social Security more than \$500 to recover the amount of the overpayment.

In order to be granted a waiver for this reason, you **MUST REQUEST** it. In fact, Social Security policy prohibits staff from telling you about this provision and thereby “soliciting” a waiver request from you. When you request a waiver for an overpayment of \$500 or less, Social Security is supposed to grant it without any further development because of the cost to the government.

“Against Equity and Good Conscience”

A second reason for Social Security to grant your waiver is when making you repay the overpayment would be “against equity and good conscience.” There are several circumstances that can show recovery would be “against equity and good conscience.”

One of the most common circumstances is when you change your situation for the worse, or you give up a valuable right because you believed the incorrect payments rightfully belonged to you. For example, if you signed a lease on a more expensive apartment believing you were due the benefits Social Security kept sending you, you changed your situation for the worse. Of course, you didn't know it was “worse” at the time you signed the lease. Your situation became worse when Social Security sent you a letter that told you that you weren't supposed to receive those checks after all.

Another situation where it would be “against equity and good conscience” for Social Security to take money back from you would be if you were receiving SSDI benefits as a Disabled Adult Child on the record of your disabled father who subsequently returned to work. If your father (or mother) continues to work and gross over SGA (\$860 per month in 2006) beyond his Trial Work Period, he wouldn't be due his own SSDI checks. If he doesn't tell Social Security about his earnings, he may be overpaid. If he is overpaid because he received checks he wasn't due, then anyone else (like you) who is receiving benefits on his account has also been overpaid.

When Social Security finally realizes your dad is working and grossing over SGA, his checks will stop unless his wages fall below SGA and he is still in his 36 month Extended Period of Eligibility. Since you have technically been overpaid (even though it wasn't your fault), SSA will also send you a letter saying you've been overpaid and SSA wants its money back. Because your dad's checks are already stopped, Social Security can't recover the overpayment from his monthly benefits. However, any overpayment will stay on his record (unless it is waived) and SSA will recover it from any further disability or retirement benefits he becomes eligible for in the future.

When you receive an overpayment notice that threatens to hold your checks, or penalize you in the future, to recover the overpayment from your dad's record, you should immediately request a waiver. If you weren't living with your father and didn't receive any direct benefit from the SSDI checks he kept getting, Social Security should grant you a waiver, with no development, because under the circumstances it would be “against equity and good conscience” to pursue recovery from your benefits.

Other reasons for Social Security to decide that recovery would be “against equity and good conscience” are because you:

- relied on incorrect information from an official source (discussed earlier)
- misunderstood about the gross earnings you are allowed.

In both “impede the effective and efficient administration” and “against equity and good conscience” situations, waivers can be granted without further development of your circumstances or finances. If one of these doesn't apply to your case, but you are “without fault” in causing the overpayment, Social Security will ask for information to assess whether or not you are able to repay the overpaid amount. If you are able to repay it, or if the overpaid money is still in your possession, Social Security can require you to pay it back even if you weren't at fault.



Defeat the Purpose

If your only income is SSI, Social Security will not ask you about your finances. If you receive any other income and the information you give Social Security about your finances shows that you aren't able to repay any money, Social Security will decide that requiring you to repay money would “defeat the purpose” of the Social Security Act.

“Defeat the purpose” will be found if you would be deprived of the funds you need for your necessary and ordinary living expenses. It will also be found when your only income is some form of public assistance and you don't still have any of the overpaid funds. You are allowed to have some assets. “Defeat the purpose” can be found if your assets are below \$3,000 or if you

have a dependent child or spouse and your assets are under \$5,000. In most cases, Social Security will find it would “defeat the purpose” to recover funds from a minor child.



Ordinary and Necessary Living Expenses

When Social Security staff examines the information about your income and expenses, they are supposed to view them in relation to your lifestyle and your established pattern of living. Following is a list of expenses that can be considered necessary and ordinary. Some of these are typical, fixed expenses that most people have, and others are specific to established individual lifestyles.

- Mortgage/rent/room and board
- Food
- Utilities (gas, electric, water, phone)
- Insurance
- Taxes
- Household maintenance
- Vehicle and/or other transportation costs
- Vehicle maintenance
- Vehicle insurance
- Cable/satellite TV
- Personal hygiene costs
- Laundry expenses
- Household cleaning & paper supplies
- Clothing
- Medical expenses, insurance co-pays & deductibles
- Hospitalization not covered by insurance
- Pet feeding, grooming, and medical expenses
- Entertainment costs
- Charitable donations/tithes
- Newspapers, club dues
- Barber/hairdresser
- Expenses for other people you are responsible for supporting (e.g., tuition for your college student son or costs for grandma who lives with you)
- Payments for household appliances, etc.
- Payments to credit cards/charge accounts
- Costs for household help, yard help

While Social Security staff will frown on expenses considered out of the ordinary (like a vacation home) and/or “luxuries,” they are not supposed to be rigid in what are considered “acceptable expenses.” However, Social Security staff won’t allow any expenses for items that

resulted from the incorrect payments, nor will they allow “unlimited” amounts, even for necessary food and shelter.



Assets & Waiver Requests

When Social Security evaluates your finances as part of the “defeat the purpose” determination, the following assets will not be considered as available and able to be liquidated to repay the overpayment:

- your home
- household furniture, appliances, etc.;
- clothing;
- prepaid burial contracts and burial plots;
- your car/vehicle;
- another vehicle that you or your family has for a disabled family member who isn't able to use the regular family car/vehicle;
- any asset you own that produces income you need to make ends meet;
- any retirement accounts (IRAs and Keough plans) that are now producing income you use to live on; (Exception: If you have an IRA or Keough that is not yet open and providing you with monthly income, it **WILL** be considered as an asset that can be liquidated to repay an overpayment.)
- your share of any property you own with other people who won't agree to sell it;
- a trust fund that you can not legally access; (i.e., only your trustee can decide when to spend money, or the trust is prohibited from paying debts, or you can't touch the money in the trust until you turn 40, etc.)
- an inheritance you are expecting, if it will be at least six months before you can receive the inheritance.



Filling Out the Waiver Request

When filling out the waiver request, as with all forms from Social Security, don't feel limited by the space provided for your answer. Feel free to attach additional sheets of paper. Use as much space as you need to fully explain your situation.

There is a question that asks why you felt you were due the benefits you received and why you shouldn't have to pay them back. If you were overpaid because you “relied on incorrect information from an official source,” this is the place to say so. This is also where you show that you were “without fault” in causing the overpayment, including if it would be “against equity and good conscience” for Social Security to recover the overpayment.

Part II of the questionnaire is where all your financial information will be requested. Remember: If you “relied on incorrect information from an official source” or, if it would be “against equity and good conscience” to recover the overpaid amount, you should not have to fill out Part II. If you currently receive SSI or other public assistance, you will not have to fill out Part II. If your overpayment is \$500 or less and you request a waiver, recovery would be deemed to “impede the effective and efficient administration,” and, again, you won’t have to fill out Part II.

For those who will have to fill out Part II, this is where you show that recovery would “defeat the purpose.” List your income from all sources and note whether it is received weekly, monthly, quarterly, etc. Social Security will take your figures and time frames for receipt and correct them all to show your “average monthly income.” This is also the only time Social Security will ask for your *net* earnings, rather than *gross* earnings.

List your expenses according to the information found under the previous subheading, *Ordinary and Necessary Living Expenses*. If you make payments on credit cards/charge accounts, list the “minimum payment due” because that is the amount that Social Security will use. Be sure to include each expense only once. For instance, if you buy all of your clothing by charging it, don’t list it as a “clothing expense” and as a “charge expense.” Either choose just one expense category, or make a note next to one of the categories to explain that your “clothing expenses” are paid through your “credit card payments.”

If you have any monthly expenses that are unusual or very large, explain them in the “comments” section of the form, or attach an explanation on a separate piece of paper. An example might be a very large food bill because you are on a special diet. Or you have to buy custom made clothing and/or shoes or have tailoring done to accommodate your unusual size (large, small, uneven) or other differences caused by your disability.

While Social Security will make an allowance for unbudgeted expenses, or expenses you don’t know to plan for, it is not a large allowance. You will see it listed on the form as a \$25 amount at the end of your monthly expenses. From an advocacy perspective, your best chances for showing you are not able to repay an overpayment are when your “outgo” equals, or is within \$25 of your “income.” If your monthly expenses are well under your monthly income, Social Security will likely find that you can afford to repay the overpayment.



Documentation of Income & Expenses

When reviewing your waiver request, Social Security will ask you for documentation of the income and expenses you have listed. Proof of your income can easily be provided by submitting letters of award from any veteran’s benefits you receive, or any benefits from the Railroad Retirement Board, unemployment, worker’s compensation, or public assistance. If you are working, submit your paystubs.

Your expenses can be documented by providing:

- canceled checks for bill payments;
- statements from utilities, insurance companies, healthcare providers, credit cards, and charge accounts;
- automobile and mortgage payment books;
- rent receipts;
- written explanation for unusual expenses or expenditures (such as the costs for putting a ramp on your home, widening doorways, etc. to accommodate your disability or that of a family member).

Documentation of your assets will typically be bank statements, any certificates or documents showing your IRAs, stocks/bonds, and your actual savings books (if any), etc. At times Social Security may request your yearly tax return or any other documents that can show you have fixed payments for a particular expense. You can also submit signed statements from others who can attest to either your income or expenses that aren't provable otherwise.



If SSA Denies Your Waiver Request

If you disagree with Social Security's decision that an overpayment exists, you have the right to appeal as mentioned before. Along with the appeal, you also have the right to request a waiver. If your waiver is denied, you also have the right to appeal the waiver denial. The first stage in the appeal is a "Request for Reconsideration." The reconsideration can occur by having another staff person review the same records on paper, or you can have an informal in-person conference with a staff person different from the one who denied your waiver request.

If you choose to have a conference, the Social Security staff person should do the following:

- Make you aware of all the evidence that is in your file and is being used to make a decision.
- Tell you if more evidence is needed before a decision can be made.
- Tell you if the evidence already collected by SSA "outweighs" any new information and proof you bring to the conference.
- If you submit evidence that actually hurts your cause, SSA will use it against you. However, if negative evidence comes from someone/somewhere else after the conference, SSA should either "reconvene" the conference, or otherwise communicate with you so you have a chance to see the negative information, respond to it, and even prove it wrong.

If your waiver request is again denied, you have the right to request a hearing before an Administrative Law Judge.



Timelines for Waivers

You can request a waiver at any time. This is very different than the usual timelines for appeals and other steps in becoming eligible for and maintaining your benefits. In addition, you can request a waiver even if you aren't receiving benefits; or if you have been denied a previous request for waiver; or if Social Security has begun withholding part or all of your checks; or even when Social Security has already recovered the entire overpayment.

If Social Security denied your waiver request because, at the time, you could “afford to pay it back,” and your finances have now taken a downturn, you can file a new waiver request for the remaining amount of the overpayment.



Compromise, Tax Refunds, & Credit Reports

These provisions most often affect persons who were overpaid Title II benefits (SSDI, retirement, etc.), but can also apply to persons who have SSI overpayments.

If you don't repay an overpayment or receive a waiver, Social Security will send a notice to your local credit bureau reporting the overpayment as a “bad debt.” In addition, Social Security can attach any future federal income tax refunds you may be due until the overpayment is repaid. If your overpayment hasn't been resolved by the time you are eligible to receive retirement benefits, you may have to wait until enough months go by that Social Security has recovered the overpayment by withholding your entire retirement benefit. For example, at the time you retire at age 65 your benefits are \$900 per month. However, there is still a \$7,200 overpayment on your record from a period of disability 15 years ago. At \$900 per month, it will take Social Security eight months to recover the prior overpayment ($\$900 \text{ per month} \times 8 \text{ months} = \$7,200$). Starting with the ninth month, you will begin to receive your \$900 monthly retirement benefit.

In order to recover as much as possible of the money you were overpaid, Social Security can also allow a “compromise.” Compromise is where Social Security agrees to accept less than the full overpaid amount and to then remove the overpayment from your record. Social Security is likely to agree to a compromise when an evaluation of your income and resources shows that repayment of more is unlikely, or that paying by affordable installments could take many years. In a compromise you must pay the agreed upon amount all at one time within thirty days of the agreement.

The local office has the authority to agree to a compromise amount equal to 80% or more of the overpayment. If you can only offer 60% or less of the overpaid amount as a “compromise,” everything will be forwarded by the Social Security Claims Representative to a higher level employee. This person (often a Program Analyst or the Director of one of Social Security’s Payment Centers) can accept (or reject) a compromise offer on an overpayment that is less than \$20,000.

If none of the actions above result in the overpayment being repaid or otherwise settled, Social Security may also pursue civil litigation. This is especially likely if the overpayment is very, very large or if fraud is involved.



Payees & Overpayments

When a representative payee exists in a case of overpayment, things are a bit more complex. Social Security will look at a number of factors, including:

- Were either the payee and/or the beneficiary “at fault” in causing the overpayment?
- Were either, or both, absolutely NOT at fault?
- Only the beneficiary’s finances will be examined in determining “defeat the purpose,” UNLESS the payee was at fault, in which case Social Security can require the payee to refund the overpaid amount from their own income and resources.
- In cases of payee fraud, Social Security may take the payee to court.



In Conclusion...

Overpayments are best when they are avoided altogether. Toward that end, there are several things you can do.

- Always report all changes in your income and circumstances.
- Submit your reports as close as you can to the end of the month in which they occur, but ALWAYS before the 10th of the next month.
- Use the worksheets found in Chapter 7 to keep track of what SSI and/or SSDI *should* send you each month, so you are always the first to know if you are overpaid or underpaid.

- Save receipts, canceled checks, paystubs, letters and anything else that may be needed to verify your income, expenses and benefits due.
- Keep notes about anyone you speak with at the SSA office or on the phone, and what the conversation was about.

If you are overpaid, give serious consideration to:

- Appealing the overpayment
- Requesting a waiver
- Appealing a denied waiver



Chapter 6

Due Process



Levels of Appeal

When you disagree with a decision Social Security has made in your situation, you have the right to appeal. In fact, you can appeal a number of times. The levels of appeal available to you include:

- ➔ **Request for Reconsideration**
- ➔ **Administrative Law Judge Hearing**
- ➔ **Appeals Council**
- ➔ **Federal District Court**

While you can choose to have an attorney assist you at any level, the only appeal level where an attorney is required is Federal District Court.

Anytime Social Security sends you a letter containing a “negative decision,” you will also be told that you have a right to appeal. The letter will tell you how to begin your appeal and what time limits might apply.



A Word About Time Limits

Some “negative decision” letters will include two time limits. The first may give you ten days to contact Social Security before your checks will stop. This doesn’t mean you have to have your entire appeal written and submitted within ten days. It does mean, however, that you must tell Social Security within ten days that you don’t want your checks to stop. You can tell Social Security by phone, by going to the nearest Social Security office, or by mailing or faxing a note.

Once you notify Social Security that you want your checks to continue, you can put your energy into the second time limit, typically sixty days. This is the time limit that tells you how long you have to get your written request, and any supporting paperwork, in to Social Security.

If you call Social Security to tell them you want your checks to continue, you will typically tell someone at that time that you want to appeal. This will prompt Social Security to send you the paperwork you need to fill out as part of your appeal.

If the ten-day benefit continuance time limit doesn't apply in your case, then just call or write the Social Security Administration to say you want to appeal, and they will send you the proper forms.

Q & A

Can I ever appeal after the time limit has passed?

The answer to this is a qualified “yes.” You can appeal beyond the 30 days, 60 days, or other applicable time limit if you have a good reason—also known as “good cause.”

Examples of “good cause” for filing an appeal late might include:

- Hospitalization for most of the time allowed for appeal. Perhaps you were very sick, or in an accident, or needed psychiatric hospitalization, or convalescent care after surgery.
- Illness that may not have required hospitalization, but that was extended and left you unable to see to your daily business affairs.
- Disability-related reasons such as the inability to see or read or understand, and not having the assistance you needed to help with the reading/understanding.
- Illness or death of a payee who usually took care of things.
- A move or other event that resulted in you not getting your mail.

Of course, there may be many other reasons for Social Security to find that you had “good cause” for filing your appeal late, so don't hesitate to explain your individual situation.



Why Appeal?

Some of the “negative decisions” made by Social Security result from their not having correct or complete information. For instance, Social Security may not be using correct wage figures when determining your SSI check amount. Or your doctor's office may not have sent the records

Social Security needs to find that you are (still) disabled. When you think Social Security has used incorrect or incomplete information to arrive at a “wrong” decision, appeal!

You should also appeal when you disagree with how Social Security interpreted the information used in making the negative decision. This is especially true in disability issues. Perhaps Social Security didn't fully consider the complete impact of your “combination of impairments.” Or perhaps you have a disability that doesn't appear in the medical listings and Social Security hasn't fully understood that the impact is “equal” to conditions that do appear in the listings.

It has long been true that, out of the cases that are appealed, about half of the negative decisions are reversed. That alone is reason to appeal when you disagree with a negative decision. An additional fact that contributes to negative decisions being reversed is that different forms of the rules are used at different levels of decision.

At the time the initial negative decision is made in your Social Security local office, or the Disability Determination Services for your state, the decision maker is using the POMS. POMS is Social Security's Program Operations Manual System, the day-to-day policy. At the Reconsideration level of appeal, the POMS is also used to guide the person making a decision on your situation.

Once you get to the ALJ (Administrative Law Judge) level of appeal, however, the POMS is not the guiding authority. At the hearing level (ALJ), through the Appeals Council and in Federal District Court, the legal authorities used are the Social Security Act and the Code of Federal Regulations (CFR). In addition, Administrative Law Judges have a certain latitude, due to their position, as they interpret the law and regulations.

The bottom line here is to always consider appealing a negative decision with which you don't agree. You have nothing to lose but some of your time and energy while gathering helpful information, retelling your story, and meeting with new decision makers. But you have a lot to gain if your income or entire eligibility for benefits is at stake.

Following is a brief description of the different levels of appeal. Each level will also include some helpful advocacy information to assist you as you file your appeal.

Step 1

Request for Reconsideration

At this first level of appeal, the new decision will be made by a co-worker of the person who made the negative decision you are appealing. Some would say that this stacks the deck against you because one person isn't likely to feel very comfortable overturning a decision made by a co-worker at the next desk who may also be a friend. True or not, there are still things you can do to help yourself.

The form itself is one side of one page with a few brief questions. You will be asked to check whether you want:

- a case review;
- an informal conference; or
- a formal conference.

If the denial/negative decision you are appealing is the issue of “disability,” then you can only check the box for “case review.” With anything else you can request a face-to-face conference. Case review means that a different Social Security/Disability Determination Services staff person will look at all the “paper” again, along with anything new you submit.

When you request a reconsideration on disability, Social Security will also send you new medical releases to sign, and a Reconsideration Disability Report to fill out. This is your opportunity to relate any new medical information, and to be sure you are stressing your limits, deficits, the things that give you trouble, and/or that you can not do. If you didn't submit statements at application from friends, relatives, etc., this is the time to do it. If you have written information about your disability that you didn't submit at application and that can help others understand (like FAS/FAE), send it in with the Reconsideration Disability Report.

For issues other than disability, consider requesting an informal conference. You will be able to review the information Social Security has in your file, add any new or more complete information, correct any misinformation Social Security has used, and have an opportunity to personally plead your case. The person conducting the informal conference will write up anything you submit verbally. At this time you can also get copies of anything in your file. You can take an advocate with you to the conference, or anyone else who has information, who can take notes for you, help you listen, or who just makes you feel more comfortable.

Step 2

Hearings

Disability Hearings Unit (DHU) - Continuing Disability Review/Medical Improvement Only

If your Request for Reconsideration is denied, and you request a hearing on a continuing disability/medical improvement issue, you will likely have an informal hearing with a Disability Hearings Unit (DHU) officer in hopes an Administrative Law Judge (ALJ) level hearing can be avoided. This pertains only to continuing disability cases, not initial applications. If the DHU staff denies you at this level, you can still have a hearing before an Administrative Law Judge.

Advantages of the DHU level are:

- Hearings occur much more quickly, and
- DHU staff come to you.

The greatest disadvantage I've encountered is dealing with the issue of “Medical Improvement.” If you are someone who wasn't born with a disability, but acquired it sometime later, it's quite

possible that when you first applied for SSI/SSDI you were in crisis. Perhaps you were in the hospital after an accident or experiencing a psychotic episode. One or more years later when Social Security reviews your case to determine whether or not you have “medically improved,” it’s no surprise if you are in better/more stable shape than when you first applied for benefits. However, just because you have medically improved, it doesn’t mean you don’t still “meet the listings.” The trick is getting the DHU to agree that “medical improvement” is less the issue than whether or not your disability still “meets the listings” and prevents you from performing SGA.

Therefore, when you meet with the DHU staff, be sure to present information that verifies you still meet the listings. This information should include records from your healthcare provider(s), and can also include statements from your vocational rehabilitation counselor, friends, family members, and others. Here again, you are free to have others accompany you to meet with the DHU officer.

Administrative Law Judge (ALJ)

ALJ hearings usually contain similar elements, regardless of what state you live in, but be forewarned that individual judges have very personal and distinctive ways of processing a case.

In general, you will submit a “Request for Hearing,” with or without additional information; receive notification from SSA that your request was received and forwarded to the closest Office of Hearings and Appeals (OHA); receive a notice from the OHA informing you of the ALJ assigned to your case; receive a notice of hearing informing you of the date, time, and place of the hearing and whether or not a medical and/or vocational expert will be present; appear at the hearing and present your case; await the judge’s decision.

Individual judges may “customize” this general sequence of events in any of a number of ways. For instance:

- Some judges will require any additional written information/evidence be submitted at least two weeks prior to the hearing.
- Some judges will require you to submit a written statement before the hearing that outlines your case and the proof you have, and states the “conclusions of fact” you believe exist.
- Some judges will allow you to make an opening statement at the hearing; others will not.
- Some judges will let you present your case first; others will ask their questions first and then let you add anything you want to add.
- Some judges will put their decision “on the record” at the hearing; others won’t give you any clue at all and will make you wait to read their written decision.
- Some judges will issue a “directed decision” in your favor well before a hearing that is based on the information in the file and any “brief” you have written and submitted.

- Some judges have reputations and decision records as “plaintiffs” judges, while others are known as something akin to “hanging” judges.

I’ve also run across judges who were solicitous and as nice as pie in the hearing, only to write a decision that was cut-throat and harsh. I’ve had judges actually scream at me (“Don’t your clients know they can have a real attorney!”), and a couple who have acted in ways that defy description or explanation.

While a hearing should allow you to present your case as fully as possible, many judges will allow you only one hour and no more. This one hour limit is unfair, in my opinion, because it doesn’t allow you to question multiple witnesses fully; it may not be enough time to allow you (or your client, if you’re an advocate) to communicate completely/fully if you use assistive or augmentative communication, signers, real time reporting, or if your disability affects your ability to communicate. If the judge uses most of the hour asking his/her questions, you may not be left with sufficient time to present the elements of the case you feel are essential/important. Given the likelihood of a limited amount of time at the actual hearing, it behooves you to prepare well ahead of time and to also write and submit a brief well ahead of the hearing date.

Timely and complete preparation of your case has benefits in addition to being a proactive strategy to deal with judge-imposed time limits. In a growing number of hearings offices, there are staff attorneys who read files in advance of the hearings. They may give you a call to ask for additional information or to discuss your case. They also generally put things in order, outline the case for the ALJ, and may make recommendations about “allowing” your case if they feel you have proved it. Whether there is a staff attorney or not, based on a “brief” you write and send early with supporting documents and references to records in the file, an ALJ can issue a directed decision, and he/she can also choose to not hold the hearing. While I’ve gained a number of positive decisions this way, I’ve also had one judge hold the hearing anyway just to formalize the process and meet the claimant in person.

Q & A

What Happens in a Hearing?

While some rooms used for ALJ hearings have an elevated “bench” for the judge, most of the hearings I’ve been in have been held around a large table. An assistant to the judge runs a tape recorder and changes the tapes so the hearing has a permanent record from which a written transcript can be made if necessary.

The ALJ will announce that it is your hearing, and will have everyone present introduce themselves and spell their names for the record. The table will have one or more microphones so everyone can be easily heard on the tape. At this point the judge usually has any people testifying raise their hands and promise to tell the truth.

If you don’t have an attorney, the ALJ is legally responsible for developing the case as fully as possible. If you do have an attorney, it is the attorney’s responsibility to present all the necessary

evidence. If you or your advocate don't present everything you should, the judge is supposed to make sure all the proper areas are covered. If you have an attorney and your attorney doesn't present a complete case, you may be out of luck because the judge doesn't have the same responsibility to fill any gaps. The judge will ask if you object to any documents in the file and will then hear evidence about your disability.

After you have covered all the information about your disability, its impact on you, and your ability to function, the judge will hear from any other witnesses, including the vocational and/or medical experts retained by Social Security.

Recently, every hearing I've attended related to disability has had a medical and a vocational expert present. Showing how you meet the medical criteria is only half of the battle. The other half is showing that any abilities you still retain, despite your disability, are not enough to result in your being able to perform a job available in your "regional economy." This is a mighty burden of proof, and makes things especially hard for younger persons with disabilities. It may be easy to prove that you can't do heavy, physical work on your feet all day. The challenge is to show how even light, easily learned "bench work" is not possible given the effect of your disability (or disabilities) on your ability to function.

Before the hearing, you will have time to review the file, including the resume of any vocational or medical experts. If the vocational expert doesn't have experience with people who have your disability, be sure to ask that question in the hearing. The vocational expert uses a book called "The Dictionary of Occupational Titles" (DOT) to come up with the types and numbers of jobs someone with your abilities (residual functional capacity) can perform. The DOT is old and grossly outdated, but it is still used in hearings.

If there is a possibility that other records which help your case won't be available until after the hearing, you can request that the judge "leave the record open" for as long as you need to secure the records. Most judges are cooperative about leaving the record open as long as you can give a good reason. Examples might include: a long awaited medical test has finally been scheduled; school records weren't available over the summer, but can be sent out as soon as school starts; an additional condition has just been diagnosed and the doctor still needs time to dictate a report.

Unless the ALJ puts his/her decision on the record at the hearing, you will have to wait one to two months for a written decision. When the decision arrives, it may be "Fully Favorable," "Partially Favorable," or "Unfavorable."

If your decision is fully favorable, or partially favorable and one you can live with, take the written decision to Social Security as soon as you can. While the Social Security local office will also get a copy of the ALJ decision, you will probably get yours first. By going to Social Security right away you can get the process started to continue your benefits, or start your benefits and pay you any retroactive benefits that are owed to you.

If your decision is partially favorable and you don't agree, or unfavorable, you can appeal to the next level, which is the Appeals Council.

Step 3

Appeals Council Review

Any decision made by any Administrative Law Judge is subject to review by the Appeals Council—either on its own initiative, or yours when you file an appeal. There is a one page form to fill out, and you will need to state why you are requesting review by the Appeals Council (AC).

When the AC reviews a case, no attorney is needed because the Council reads/listens to the transcript and verifies that the judge acted appropriately and consistent with SSA standards, and law and regulations. If the Council finds that an ALJ didn't meet all procedural requirements it can “remand” (send back) the case to the same or a different ALJ to be heard again. The Council can also affirm the ALJ's decision. Many people who appeal negative decisions wait a year or more to get a hearing, and then another year, or even two, for a decision from the Appeals Council. Currently SSA is working to make the Appeals Council more timely and responsive.

If you disagree with the AC decision, you can go to Federal District Court.

Step 4

Federal District Court

Federal District Court is the first level at which you are out of the Social Security system. It is also an appeal level that requires you to have an attorney. When choosing an attorney to represent you in federal court, make sure it's someone who has familiarity with Social Security/SSI rules, regulations, and law.



Chapter 7

How Working Affects Your Benefits



General Information SGA-Substantial Gainful Activity

In order to become eligible for SSDI and SSI, a person must have "...a medically determinable physical or mental impairment which is expected to last for at least 12 months or result in death." This "impairment" must also prevent the individual from performing "Substantial Gainful Activity" (SGA). In very basic terms, Social Security will usually consider that your gross earnings do indicate SGA if those earnings are \$860 a month or more in year 2006. Before January 1, 1990 the SGA amount was \$300 gross earnings per month. From January 1, 1990 to June 30, 1999, the SGA amount was \$500 gross earnings per month. From July 1, 1999 to January 1, 2000, the SGA was \$700/month. In 2001, due to a change in law, for persons with disabilities other than the blindness, SGA was raised to \$740/month, went up to \$780/month in 2002, \$800/month in 2003, \$810/month in 2004, \$830/month in 2005, and may now increase every year based on yearly increases in the national average wage index. SGA is taken into account only at application for SSI. Once you are found eligible for SSI, SGA is no longer a consideration. However, SGA is an ongoing concern for SSDI recipients.

If you receive SSDI, once you begin to work, earnings over the SGA level (\$860 per month) for enough months may well result in termination of your SSDI benefits.

If Social Security determines that you are performing, or are capable of performing, SGA, they will conclude that you are no longer disabled by their standards and, therefore, not eligible to receive benefits.

Many persons who receive SSDI (and their families) are reluctant to begin work because they mistakenly think any work will result in loss of benefits. This is not true. Persons receiving SSDI won't generally lose benefits if their gross earnings are below \$860 per month. Even if your

gross earnings are above \$860 per month, benefits won't be lost if there is sufficient Subsidy or if there are sufficient Impairment Related Work Expenses. Please see the information under the subheadings *Subsidy* and *IRWE (Impairment Related Work Expenses)* for information on how to make Social Security aware that Subsidy and/or Impairment Related Work Expenses exist.

In the Code of Federal Regulations, Part 20, Items 404.1571 - 404.1574, the following appears in regard to Substantial Gainful Activity:

The work that you have done during any period in which you believe you are disabled may show that you are able to do work at the substantial gainful activity level. If you are able to engage in substantial gainful activity, we will find that you are not disabled.

According to SSA, if you are unable, because of your impairments, to do ordinary or simple tasks satisfactorily without more supervision or assistance than is usually given other people doing similar work, this may show that you are not working at the substantial gainful activity level.

We consider only the amounts you earn. We do not consider any income not directly related to your productivity when we decide whether you have done substantial gainful activity. If your earnings are being subsidized, the amount of the Subsidy is not counted when we determine whether or not your work is substantial gainful activity. Thus, where work is done under special conditions, we only consider the part of your pay which you actually "earn." For example, where a handicapped person does simple tasks under close and continuous supervision, we would not determine that the person worked at the substantial gainful activity level only on the basis of the amount of pay. An employer may set a specific amount as a Subsidy after figuring the reasonable value of the employee's services. If your work is subsidized and your employer does not set the amount of Subsidy or does not adequately explain how the Subsidy was figured, we will investigate to see how much your work is worth.



SGA & Blindness

A person whose disability is blindness is not bound by the same level of SGA that affects persons with any other disability. In 2006, the SGA level for persons who are totally or legally blind is \$1,450 gross per month. That amount increases each year based on increases in the National Average Wage Index. This difference in SGA amounts is due to vigorous legislative advocacy by groups representing persons who are blind. The possibility of equity, where all persons with any disability would be bound by one SGA level with yearly increases tied to inflation, will become a reality only if the rest of the disability community advocates as vigorously and effectively as the blind community historically has.

SSA WORK INCENTIVES

WORK RELATED PROVISION	CAPSULE DEFINITION	EFFECT ON SSI (SUPPLEMENTAL SECURITY INCOME)	EFFECT ON SSDI (SOCIAL SECURITY DISABILITY INSURANCE)
TWP Trial Work Period	A Trial Work Period month is used in any month an SSDI recipient grosses \$620 or more (2006), up to a total of 9 months during any rolling 5 year period.	NO	YES
SGA Substantial Gainful Activity	Monthly gross earnings of \$860 or more (2006) in competitive employment or a sheltered workshop or activity center. note: SGA is subject to yearly increases. Gross earnings of \$860/month or more after all exclusions that can be applied. 2006 SGA for the blind = \$1450/mo.	YES Earnings at the SGA level usually result in a determination of “Cessation of Disability” for the working SSDI recipient. SGA is considered at time of application for <u>both</u> SSI and SSDI. Working SSI recipients have protection under 1619a.	YES
EPE Extended Period of Disability	The period that begins at the end of an SSDI recipient’s 9 th trial work period (TWP) month and runs for 36 straight months.	NO	YES If benefits terminated for SGA, and earnings fall below SGA during EPE, benefits resume.
IRWE Impairment Related Work Expenses	Expenses related to disability which are necessary for a disability benefit recipient to work, and are paid for by the recipient. These expenses are then deducted from gross earnings when making SGA determinations, and when calculating SSI amounts due.	YES Affects SGA determination at application only, and SSI benefit payable monthly. Deduct from gross earnings before figuring SSI due.	YES Affects only SGA determination for applicants and recipients. Has no effect on amount of SSDI check.
Subsidy or Subsidized Employment	Services and supports (monetary and non-monetary), which are received by a working disability recipient and which keep him/her employed. If dollar values were attached to these supports, they would show what a disability recipient is actually earning as opposed to what he/she is being paid. Includes employer accommodations and job modifications. Subsidy can be provided by an employer and/or others (Vocational Rehabilitation, job coaches, friends and family, etc).	YES (informally) At medical disability reviews. Affects SGA determination at application only Can help protect disability status. Should be documented on an ongoing basis.	YES Affects only SGA determinations and, therefore, can help to prevent cessation of benefits. Use of subsidy also allows SSDI recipient to have higher earnings without loss of SSDI. This information is also helpful at continuing disability reviews.

WORK RELATED PROVISION	CAPSULE DEFINITION	EFFECT ON SSI (SUPPLEMENTAL SECURITY INCOME)	EFFECT ON SSDI (SOCIAL SECURITY DISABILITY INSURANCE)
Extended Medicare	For SSDI recipients only who perform SGA after their TWP and therefore lose their eligibility for benefits. Medicare can be continued for 39 months after the end of the TWP, although the person must pay the monthly premium. Medicare can continue even longer (4 ½ additional years) with Medicare buy-in program and the new Ticket to Work and Work Incentives Improvement Act.	NO	No effect on benefit or loss of benefits. Presumes Medicare coverage for 39 more months, plus TWWIA Medicare extension of additional 54 months, for a total of 93 months past TWP. (See page 109)
1619a Special Benefits	For SSI recipients only. Takes effect when working SSI recipient grosses over the SGA amount (\$860/mo in 2006) and allows SSI benefits to be paid up to the amount of the “breakeven point.” (“Breakeven point” is the amount of earnings that reduce an SSI check to \$0)	YES Allows SSI recipient to earn up to “breakeven point” before not being due any SSI payments.	NO
1619b Extended Medicaid	For SSI recipients only. Takes effect when working SSI recipient is not due any SSI payments because of earnings. Provides continued Medicaid until gross earnings surpass a “threshold” amount calculated for each state, and there are no extraordinary medical expenses. When there are extraordinary medical expenses, an “individual threshold” applies.	YES Permits SSI recipients who aren't due SSI checks because of earnings to retain SSI eligibility and medical coverage under Medicaid.	NO
PASS Plan for Achieving Self Support	A way to exclude excess resources and countable income from being counted if they are used to achieve a work goal that is certified as feasible by VR or private CRC. PASS must be approved by SSA before implementing. Can be written by anyone.	YES Allows SSI recipient to create an extra pot of money for a limited time to achieve a work goal	NO But by using a PASS, an SSDI recipient can become financially eligible for SSI and Medicaid.
BWE Blind Work Expenses	The cost of actual work expenses are deducted before figuring countable income (e.g. FICA, lunches, guide dog, personal assistance, transportation, etc).	YES Affects SSI payment amount due.	YES Affects amount of earnings counted for SGA determinations.
SEIE Student Earned Income Exclusion	The amount of gross earnings not counted by SSI for students under 22. \$1460/mo. in 2006, up to a total of \$5910/year.	YES	NO

See Appendix 7 for a listing of the TWP and SGA dollar amounts for wage employment, and self-employment from 1978 to present, and for the blind SGA amounts.



The Case for Benefits Analysis and Planning

- Maybe you are a person with a disability who receives SSI and/or SSDI who wants to work. If that's the case, then you need to know about Benefits Analysis/Planning.
- Maybe you work for a new Ticket to Work Employment Network (EN).
- Maybe you're a Voc Rehab (VR) Counselor.
- Maybe you're a job developer or job coach for a CIL, a local Arc, or other Community Rehabilitation Provider (CRP).
- Or maybe you're a transition specialist or work-study coordinator for the local high school.

Whatever your job title, if you assist persons with disabilities to find jobs or start businesses, you need to know about Benefits Analysis.

Benefits Analysis is commonly understood to be the process of examining the impact of earnings on the variety of benefits that may be received by persons with disabilities. But it's really much broader than that. In practice, it is the process of examining the interaction and impact of any income, resource or benefit a person has on any other income, resource or benefit the person has or might apply for or receive.

Each source is evaluated on its own merits, and the particular combination of income, resources and benefits unique to each individual must also be evaluated. Often, there is a precarious balance that must be maintained so that the people we assist don't risk the loss of more than they stand to gain.

Those of us in the business of "helping" people with disabilities to find work or start a business have a professional ethical responsibility to assure that each person we assist has access to competent and thorough benefits analysis so they have complete and accurate information as they make important decisions about their lives.

If you are a person with a disability who is getting professional assistance to go to work, or return to work, or start a business, you have a right to expect that the people "helping" you know what they are talking about and don't put you in a situation of unmanageable risk. In fact, you should demand that level of service, because, all too often, your very survival depends on it.

At the end of this section is a list of various sources of income and resources that may pertain to a person with a disability. Some of these have an impact on how much you can receive in

benefits, or on whether you are eligible at all. Other items on the list are income or resources that can be put at risk when you are working and have earnings.

When most of us take a new job, or finally see a profit from our business, our situation can only be expected to improve. We have more discretionary income, we may acquire needed health care benefits, we begin to plan for the future, and enjoy a better quality of life.

Unfortunately, because current state and federal policies can actually penalize workers with disabilities, they don't always see the same benefits from work that most people see. On the contrary, when people with disabilities work, they may be risking the loss of essential Medicaid, their cash benefits, food stamps, and more. If their benefits include Social Security Disability Insurance (SSDI) or another benefit that provides additional cash benefits for dependents, the dependents stand to lose their benefits, as well.

If disabled workers lose Medicaid, they may also lose personal assistance services, mental health services, developmental disability services, and coverage of needed prescriptions, durable medical equipment and day-to-day health care. If they receive a HUD subsidy for their housing, they will likely see a rent increase. If they receive food stamps, they will likely see a decrease, or termination altogether.

In fact, without careful planning, people with disabilities can end up in a position where they **lose** more than they **gain** by working. For example, Frank is a disabled worker who receives SSDI in the amount of \$800/month. He has a wife and child who together receive an additional \$800/month from his SSDI account, for a total family income of \$1600/month. The family has a mortgage payment of \$600/month, and a car payment of \$250/month. The family's grocery bill averages between \$350 to \$400/month.

EXAMPLE:

If Frank earns \$900/month for more than 9 months, he will be found to be performing SGA (Substantial Gainful Activity-set at \$860/month in 2006), and both he and his family will stop receiving their cash benefits. In essence, the family will go from receiving \$1600/month before Frank went to work, to an income of \$900/month when he is working. \$900/month is not enough to cover the mortgage, car payment, and grocery bill. If Frank continues to work at this job for these earnings, the family will lose either their house or their car. Clearly, given these circumstances, Frank and his family are not better off by Frank working when his earnings aren't high enough to replace the income they receive from Frank's SSDI.

Q & A

Does this mean that people with disabilities shouldn't work?

Of course not. But it does mean that a particular job/business needs to be chosen with care. It does mean that all benefits, individually and collectively, must be thoroughly understood and evaluated. And it means that all helpful Social Security or other benefit work incentives must be identified and implemented. And, sometimes, it means that timing of work and earnings must occur with military precision.

In Frank's case, if he is spending over \$100/month on items he needs in order to work, and which are also related to his disability, he stands a good chance of keeping both his and his family's SSDI benefits while he continues to work and gross \$900/month. These items are known as Impairment Related Work Expenses (IRWEs). When Social Security is looking at wages to see if the amount represents SGA, the amount being spent on IRWEs is subtracted (See page 119 for more on IRWEs.)

So, if Frank has a psychiatric disability, and he is paying \$125/month for medications that allow him to work, Social Security will subtract that \$125 from Frank's gross wages before considering whether or not Frank is performing SGA. Once the \$125/month is subtracted from Frank's \$900/month gross earnings, there is \$775 remaining. Since \$775 is less than the 2006 SGA figure of \$860/month in gross earnings, Social security will find that Frank is NOT performing SGA, and he and his family will continue to get \$1600/month from SSA and Frank will continue to gross \$900/month in wages, for a total monthly income of \$2500.

This is a fairly simple example of using benefits analysis to assure that someone doesn't risk the loss of more than will be gained by working. For some people, utilizing benefits analysis to improve their situation can be much trickier, as in Janine's situation.

EXAMPLE:

Janine is a woman with a chronic medical condition. She has received SSDI for many years, and her SSDI is low enough that she is also eligible for Medicaid in her state. Medicaid is essential to pay for Janine's expensive prescriptions, and the minimal amount of personal assistance she receives to assist her to live independently. She wants to work again, but fears loss of her Medicaid. In addition, she has no transportation, and would need a vehicle to get her to and from a new job.

Over the years Janine has worked on and off, using her entire Trial Work Period and Extended Period of Eligibility. This means that the next time Janine earns over SGA, she will most likely lose her SSDI entirely.

Looking at Janine's benefits, and particular circumstances, the conservative approach, without a comprehensive benefits analysis, would be to tell her that it looked like any work would result in a threat to her Medicaid, and possible loss of her SSDI. That information would likely dissuade her from ever considering work again.

But that's not what we did. After thoroughly examining Janine's benefits, the rules that applied to those benefits, and Janine's great desire to work and be productive, here's what we offered her as a possible option in her particular circumstances;

- Because Janine needed transportation in order to start work, a PASS plan was a possible option to help her purchase a new car.
- Because Janine received SSDI, she was a good candidate for a PASS plan as long as her vocational goal would result in a job that grossed over the SGA amount.
- Because Janine had used her entire Trial Work Period and Extended Period of Eligibility, her first month's work at the SGA level would result in her SSDI being ceased.
- Because Janine would be receiving SSI and Medicaid during a PASS plan, if she lost her SSDI, she would continue to receive SSI...perhaps indefinitely. Then she could have ongoing Medicaid, she could work and earn up to \$22,000/year in her state without fearing loss of that Medicaid, she could make her car payments using her SSI countable earnings, and she would continue to receive SSI and Medicaid after her PASS was completed.

Janine decided that this option sounded pretty good. She had a lot to gain, and would be able to replace the loss of her SSDI with SSI. And she would gain a lot more income per month without

threatening or losing her Medicaid, which would continue to pay for her prescriptions and personal assistance.

So, we wrote Janine's PASS to pay for her car, and included one milestone that marked the beginning of her earning SGA, and the cessation of her SSDI. The PASS had to run for 16 months in order to get the car paid off. Janine took the new job, and during her 12th month of employment, she got a raise and began to gross more than the SGA amount (\$860/month in 2006) each month. Not wanting to leave anything to chance, we made a personal visit to SSA to report her new wage level and assure that SSA would stop her SSDI.

It's now three years later. Janine continues to drive her car to work everyday, she grosses about \$1000/month at a job she loves, and most importantly, she still has Medicaid coverage because she is considered SSI eligible even though she receives little or no SSI every month.

Planning for loss of SSDI benefits during a PASS, and thus converting to SSI-only benefits, which typically come with Medicaid, is a complicated process demanding strict attention to specific timeframes. While a few of us had thought this planned SSDI loss was theoretically possible, about ten years ago David Hammis, of Griffin-Hammis Associates, began to actually put it into practice successfully. At about the same time, award-winning SSI/SSDI advocate Laura Hershey, of Push the System, was pressing the Social Security Administration to honor the process in her own situation. While their persistence with Social Security has resulted in more of us successfully using this approach, it is not one that most Benefits Analysts have enough experience to even consider, let alone use.

Using this planned loss of SSDI benefits in appropriate situations is actually a win-win situation for all involved:

- The *person wins* by being able to work, contribute to their family and community, and greatly improve their economic status while maintaining irreplaceable health coverage;
- *SSA wins* by providing healthcare benefits in exchange for not having to pay out any SSDI, and by paying a greatly reduced amount of SSI, or none at all;
- The *community wins* because Janine has more income, which she spends in local businesses, and donates to local charities;
- The community also wins by benefiting from the effort and talents of workers like Janine, and by her contributions to the tax base and the Social Security Trust Fund.

Janine's outcome was always possible, but would not have happened without an accurate and comprehensive benefits analysis.

The accurate and comprehensive benefits analysis was always possible, but would not have happened without an organizational commitment to assure that staff received the training, materials, ongoing technical assistance, support, and time necessary to produce a knowledgeable benefits analyst.

With passage of the Ticket to Work Act, Congress and the Social Security Administration have formally recognized the importance of and need for good benefits analysis. Between 2000-2002, a total of over 80 trainings were provided to approximately 800+ new and seasoned Benefits Planning Assistance and Outreach (BPAO) staff across the country under grants from Social Security (BPAO contacts are listed in Appendix 12). Additional funding has been provided to the Protection and Advocacy Organizations in the states so they will also have staff who become well versed in benefit issues, and can provide advocacy in benefit-employment situations.

Learning about benefits doesn't happen in a crash course, no matter how bright the learner, how expert the trainers, or comprehensive the materials. Accurate and competent benefits analysis is learned one person at a time, with plenty of monitoring and technical assistance from experts, and with continual researching and utilization of actual written policy and regulations.

So, even though many of the newer BPAOs are still learning the basics, and still need a fair amount of technical assistance, their very existence bodes well for the employment and benefit future for SSI/SSDI recipients who want to work. The more their expertise grows, and the greater their ranks, the less possibility that our assistance to persons with disabilities will ever result in harm. The important thing now is to assure that this new emphasis on benefits planning/benefits analysis continues to grow and strengthen. SSI/SSDI recipients seeking help from a benefits planner shouldn't hesitate to ask for copies of the relevant policies that govern the income, resources, and benefits that pertain to their unique situation. Not only does this help assure the benefits planner is giving out accurate information, but it assists you to become more knowledgeable about your own situation.

In these days of trying to avoid the various state and federal budget axes, we can all use the "win-wins" that benefits planning provides!

BENEFITS ANALYSIS SOURCES OF INCOME AND RESOURCES TO CONSIDER

UNEARNED INCOME	EARNED INCOME	RESOURCES
SSDI-Social Security Disability	Wages	U.S. Savings Bonds
VA (Veterans) Benefits Retirement, Agent Orange, Disability, Disabled Children	Net Income from Self Employment	IIM Accounts
Railroad Retirement Benefits	Food/Shelter in lieu of wages	Safe Deposit Box Contents
IIM (Individual Indian Money) and gaming Per Capita payment to tribal members living on tribal lands	Indian Per Capita Payments from gaming revenues paid to tribal members living off reservations	Bank Accounts
Section 8/HUD Subsidy	Work Study	Insurance Policies
TANF Benefits	Honoraria	Retirement/Pension Plan
Food Stamps, WIC coupons, free lunch program, breakfast programs	Royalties	IDA-Individual Development Account
Unemployment Benefits	Bonuses	Non-home Real Property
Workers' Comp Benefits		Coin/Stamp Collections
Child Support		PASS plan accounts
Black Lung Benefits		Trusts
Interest and/or Dividends		Bonds
Lease/Rental Income		Stocks
Alimony		Home
Adoption Subsidies		Valuable Antiques
Food/Shelter in lieu of wages (e.g. Religious Orders, Military)		Vehicles-cars, trucks, boats, snowmobiles
Personal Assistance Payments		Art Collection

UNEARNED INCOME	EARNED INCOME	RESOURCES
Scholarships, Fellowships, Grants		Livestock
Long Term Disability Payments		IRA, 401K
Cash/In kind Support from others		Property Essential for Self Support
Civil Service Retirement		Funeral/Burial Agreement
Military Retirement		Cremation Agreement
Military Disability Retirement		Cemetery Plot
Military Allotment		Head/Foot Stones, Markers
Free Housing on Military Base		
Pension/Retirement Payments		
Legal Settlement		
Periodic Trust Income		
Medicaid Waiver		
Americorp		
State General Assistance Energy Assistance Home Energy Assistance		
Tax Refunds		
Foster Grandparent Payments RSVP Payments Melas for Older Americans Senior Companion		
School Loans		
Inheritance Lottery/Gambling Winnings		
BIA Payments to students, assistance, Foster Care Funds		

RISK ASSESSMENT/MANAGEMENT STRATEGIES WORKSHEET

Worker's Name: _____

Date: _____

	Current Status	Any Risk Due to Employment	Strategies to Minimize or Alleviate Risk
Income	(Source) (Amount)		
Medical/ Health Insurance			
Living Situation			
Social/ Recreational			
Friendships			

INFORMATION TO CONDUCT A FINANCIAL RISK ASSESSMENT/BENEFITS ANALYSIS

Worker's Name: _____ Social Security #: _____
 Is worker/student under 22? Yes or No Social Security Claim #: _____

Benefit	Amount	How Often Received	
SSI (Supplemental Security Income)			
SSDI (Social Security Disability)			
Veterans Administration			
Railroad Retirement or Black Lung			
HUD Subsidy			
Other benefits or related income (See list of possible sources on previous pages)			
Source: _____			
Source: _____			
Gross Wages, if any, for the past 3 months (need to verify SSI check amount due vs. SSI check amount actually received)	Month	Amount	Employer
Type of Medical Insurance		ID Number or Policy Number	
Medicaid (generally comes with SSI)		Recipient ID #:	
Medicare (comes with SSDI or kidney dialysis)		Contract #:	
Private Insurance		Policy #: Contract #:	Policy holder:
Living Situation		Monthly Rent/Share/Obligation	
Independent/Sharing			
Household of Another			
Foster Care/Group Home/CLF/Other Licensed Home			
Institutional			
If living with family or independently, is money being received from the state for the provision of personal assistance or care? ___NO ___YES Amount: _____			

Work Incentives and Employment Supports that Affect SSDI only



TWP—Trial Work Period

Once you begin to receive SSDI benefits, you are entitled to a nine-month Trial Work Period. A Trial Work Period (TWP) month is used any time you gross \$620 per month or more in the year 2006. You get nine of these months in any five year period, and the months do not have to be consecutive. They may come one right after another for nine straight months, or they may take up to five years to accumulate. During the Trial Work Period, the Social Security Administration will generally not examine your work for evidence of Substantial Gainful Activity (SGA), but after the Trial Work Period when earnings are being reviewed for evidence of SGA, the amount of earnings in the TWP will be taken into consideration.

NOTE:

Prior to January 1990, the amount of gross earnings per month that signaled use of a TWP month was \$75 and from 1990 to 2001 the amount was \$200/month. Beginning in 2001, the amount of gross earnings/month that signal use of a Trial Work Period month increased to \$530/month, increased again in 2002 to \$560/month, to \$570/month in 2003, \$580 in 2004, \$590 in 2005, and will continue to be adjusted for inflation.

Shortly after the ninth TWP month is used, SSA should automatically review current work and earnings from all nine Trial Work Period months to determine whether or not there has been “Substantial Gainful Activity” (SGA). If Social Security concludes that there is evidence of SGA, they will send you a letter which, in effect, says that you are no longer disabled because of your ability to perform Substantial Gainful Activity. In this case, you are due benefits for the three months following the TWP and, then, checks will stop. If your earnings drop below SGA, you can be reentitled to SSDI checks as long as you are still in your “Extended Period of Eligibility” (*EPE*—see following sections for more information).

If Social Security does not feel that the work you performed in your TWP is indicative of SGA, your eligibility for benefits continues as the “Extended Period of Eligibility” begins, and whether

or not your SSDI checks are due depends on your gross earnings each month. You will find further information about this under the next subheading, *EPE - Extended Period of Eligibility*.

NOTE:

Since January 2001, as part of the Ticket to Work and Work Incentives Improvement Act, there is an important change related to your work. IF you are working at the SGA level or over, and your SSDI checks stop because of your earnings, your benefits can be restarted immediately if you become unable to work, provided that:

- the reason you became unable to work is because of your disability/medical condition;
- this is the same disability/condition that existed when you first became eligible for your SSDI benefits; and
- you file to get your SSDI benefits started again within 60 months (5 years) of the last month you were entitled before your checks stopped due to your earnings.



EPE—Extended Period of Eligibility

If you receive SSDI benefits, your EPE begins the month following your ninth (and final) month of Trial Work Period. It then runs for 36 straight months whether you work or not. During these 36 months, you are not due your SSDI check in any month(s) where your gross earnings are over the SGA level (\$860/month). However, in any month(s) gross earnings are under SGA, your check is due. Basically, this means that during this 36 month period, your “disability eligibility” is protected. Social Security will presume you still have a disability during all 36 months even if your earnings are over SGA (\$860 gross per month in 2006) in some months. Because of this “presumption of disability,” even though you are not due checks for some months when your earnings are over SGA, you will not have to reapply to start your checks coming again for those months when your earnings fall below SGA, although you will have to notify SSA and provide your pay stubs.

Since the *Ticket to Work and Work Incentives Improvement Act* (*TWWIIA*) became effective in January 2001, there is an additional time period that may help you after your EPE is over. If you are working and lose your SSDI because of that work, and then later you have to stop working due to your disability, Social Security should start your benefits again right away, if you contact

them within 60 months. Once they start your benefits, SSA will investigate to see if you are still disabled under SSA rules. If they find you are still disabled, your SSDI check will continue. If they decide you are no longer disabled by their rules, they will stop your SSDI checks, but will not ask for any money back. SSA will “presume” you are still disabled when they restart your benefits if you stop working during your EPE. Under the TWWIA provisions, if you stop working after your EPE and notify SSA within five years, SSA will restart your benefits but will not “presume” you are still disabled under their rules, and will therefore do a disability determination just like when you first applied for benefits.

Following are three examples of TWP and EPE, and a copy of SSA’s Trial Work Period Tally Worksheet that you can use to chart your own Trial Work Period.

EXAMPLES:

**TRIAL WORK PERIOD &
EXTENDED PERIOD OF ELIGIBILITY**

Trial Work Period (TWP) (9 months-do not have to be consecutive)									and	Extended Period of Eligibility (EPE) (36 straight months-must be consecutive)	
Months worked that count as TWP months									EPE		
1 Jan 1990	2 Feb 1990	3 Mar 1990	4 Apr 1990	5 May 1990	6 Jun 1990	7 July 1990	8 Aug 1990	9 Sept 1990	Oct 1990	→	Sept. 30, 1993
<p>Marilyn, 23 began working in January 1990, after three years of not working while receiving SSDI as a Disabled Adult Child (DAC) due to her chronic mental illness. From January through September 1990, her earnings were over \$200 gross per month (the TWP amount in 1990). Therefore, she used one Trial Work Period month in each month beginning January 1990. In October 1990, her EPE kicked in and ran a straight 36 months through September 1993, regardless of her earnings. Beginning in October 1990, through September 1993, Marilyn was due her SSDI check in any month her gross earnings were less than \$500 (the SGA amount during that time). In any month during that period, if her gross earnings exceeded \$500, she was not due her SSDI check. After September 1993, the first month in which Marilyn grosses over SGA (\$500 until June 1999, \$700 from 7/1999 -12/2000, \$740 in 2001, \$780 in 2002, and \$800 in 2003, \$810 in 2004, and \$830 in 2005, and \$860 in 2006) would be considered the end of her EPE and her SSDI benefits would be terminated.</p>											

1 Dec 1992	2	3	4	5	6	7	8	9 Nov 1997	Dec 1997	→	Nov. 30, 2000
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Mohammed has received SSDI since 1980. During that time, he tried working at many jobs. Most of his jobs were very short-lived; but, during the years from 1992-97, he managed to accumulate nine TWP months. His ninth TWP month occurred in November 1997, so his EPE began in December 1997 and ran through November 2000. From December 1997 to June 1999, Mohammed was due his SSDI check in any month his gross earnings were under \$500. From July 1999 until the end of his EPE in November 2000, Mohammed was due his SSDI check in any month his gross earnings are under \$700.

1 Sept 1999	2 ?	3 ?	4 ?	5 ?	6 ?	7 ?	8 ?	9 ?	?		
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Chantelle worked in a work activity center since 1975. During all the time she worked there, she never earned more than \$35 per month. In July 1998, Chantelle began a job through her community's supported employment program. In September 1999, her gross earnings were \$210. This was the first Trial Work Period (TWP) month she ever used. As she continues to work, she will use one TWP month in any month she grosses \$200 or more before January 2001. Since January 2001, the amount of gross earnings that signal use of a TWP month rose to \$530/month, increased again in 2002 to \$560/month, in 2003 to \$570/month, \$580 in 2004 \$590 in 2005 and \$620 in 2006. If she uses her ninth TWP month before September 2004 (five years after September 1999), her EPE will kick in the very next month and run for 36 consecutive months.

TRIAL WORK PERIOD TALLY WORKSHEET

Page ____ of ____

NAME OF DISABLED INDIVIDUAL		SOCIAL SECURITY NUMBER
NAME OF WAGE EARNER (if person filing is a disabled adult child)		SOCIAL SECURITY NUMBER
DATE OF FILING	DATE OF ENTITLEMENT	DATE ADJUDICATED

SECTION I

Enter earnings or number of hours in the appropriate box to show each month in which the disabled individual worked while entitled to benefits and had earnings in excess of the amount which represents "services" (see DI 13010.050) or spent more than 80 hours in self-employment. Consider prior worksheets in determining TWP service months and whether the TWP has been completed. If TWP completed, enter an "X" over the 9 TWP service months.

YEAR	JAN	FEB	MAR	APRIL	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC

SECTION II-TWP Not completed:

MO/YR OF LAST ENTRY	NAME	COMPONENT	DATE
MO/YR OF LAST ENTRY	NAME	COMPONENT	DATE
MO/YR OF LAST ENTRY	NAME	COMPONENT	DATE
MO/YR OF LAST ENTRY	NAME	COMPONENT	DATE

SECTION - TWP Completed:

60 MONTH BEGIN DATE: (month/year)	END DATE: (month/year)				
TWP service months within these dates:	1. (month/year)	2. (month/year)	3. (month/year)	4. (month/year)	5. (month/year)
	6. (month/year)	7. (month/year)	8. (month/year)	9. (month/year)	



Extended Medicare & Medicare Buy-In

Since January 1, 2000, when the Ticket to Work and Work Incentives Improvement Act became effective, working SSDI recipients who gross more than SGA continue to have Medicare for at least 93 months after their Trial Work Period ends. The part of Medicare that covers hospitalization, Part A, continues at no charge to you. However, you will have to pay the monthly premium on the other part, Part B, just like you do now. That amount in 2006 is \$88.50/month.

Extended Medicare During EPE

For any month of your EPE in which you gross under the SGA amount, (\$830/month in 2005), you will be due your SSDI check. When you receive your SSDI check, Social Security has already deducted the amount you owe for your Medicare Part B that month (\$78.20 in 2005)

However, in any month of your EPE that you gross over the SGA amount, you won't be due your SSDI check. If you don't get an SSDI check, there is nothing from which to deduct the Medicare Part B premium you owe. Therefore, Social Security will deduct any Medicare premiums you owe from the next check you are due—whenever that comes—unless you send them the payment for your Medicare separately.

Extended Medicare After EPE is Over

If you earn more than SGA in any month after your EPE, you will no longer be entitled to any SSDI checks, even if you later earn less than SGA. However, as mentioned before, you continue to be eligible for the Medicare Part A Hospitalization Insurance at no cost to you and, as long as you make payment on Part B, the other part of Medicare (\$88.50/month in 2006), you will keep that part, too. You can keep both parts of Medicare for a total of seven years and nine months (93 months) after your Trial Work Period ends (which can also be stated as 57 months, or four years and nine months, after your EPE ends).

Following is an example of what could occur both during and after your EPE. You will see that during your EPE, it matters whether your earnings are over or under SGA. However, after your EPE ends, as soon as you have earned SGA in just one month, it no longer matters what your earnings are in the months that follow. You will not be due an SSDI check and you will be responsible for paying your monthly Medicare Part B premium (\$88.50 in 2006) yourself.

EXAMPLE:

This example below uses the 2003 level of SGA \$800/month for all the EPE months. This is done just to simplify the example. In reality the SGA amount would increase each year.

Month of EPE	Gross earnings	SSDI check due
1	\$550 (not SGA)	Yes
2	\$855 SGA	No (you must pay Medicare)
3	\$580 (not SGA)	Yes
4	\$690 (not SGA)	Yes
5	\$650 (not SGA)	Yes
6	\$850 SGA	No (you must pay Medicare)
7	\$850 SGA	No (you must pay Medicare)
8	\$850 SGA	No (you must pay Medicare)
9-20	\$865 SGA	No (you must pay Medicare)
21	\$0 (not SGA)	Yes
22	\$150 (not SGA)	Yes
23-36	\$495 (not SGA)	Yes
37	\$859 SGA	No (you must pay Medicare)
38-93	can be over or under SGA	No (you must pay Medicare)
94	can be over or under SGA	Medicare ends

Because SSDI checks come on the third of the month (or the 2nd, 3rd, 4th Wednesday of the month) for the *previous* month, changes are typically not reflected in the month they happen. In the example above, there would be no SSDI check due for month # 2, but since the gross earnings weren't known until the end of the month, the check was already in the mail with the Medicare premium already deducted. This would also mean that Social Security would find there had been an overpayment of SSDI for month # 2. There would also be no SSDI check due in months # 6 through # 20.

If you don't get a check, SSA can't deduct your Medicare premium, and so you incur a debt to SSA for your Medicare premium for each of these months. SSA may bill you quarterly for these premiums (in the example above for 2006, \$88.50 per month x 3= \$265.50 paid every three months) but if they don't, or you don't pay the bills, when your eligibility for checks resumes in month # 21, SSA will deduct all the premiums you owe for months # 6-20 before sending your SSDI check again. If your SSDI check is normally \$1,000 per month, your first resumed payment would occur in month # 22, would cover months 21 and 22, and would be \$584.00.

\$2,000.00 (normal check amount)
-1416.00 (16 months x \$88.50/month, the 2006 amount used for convenience)
\$ 584.00 (check amount in month 22 for month 21 and 22)

Even though earnings ended up being below SGA in month #3, Social Security didn't send out an SSDI check (which would have been received on the third day of month # 4) based on the

expectation that gross earnings in month # 3 would equal those in month # 2. By the time things get caught up in month # 5, Social Security simply deducts the Medicare premium for months #3, # 4, and # 5. If this sounds confusing, that's because it is!

While the example represents how things might work, as with everything else in the manual, it represents no guarantee that things will flow exactly the same way in each case in real life. Communication with SSA is always indicated.

Once the 93 month extended Medicare runs out, and your SSDI benefits have been terminated due to SGA, you have the ability to “buy in” to the Medicare hospital coverage (Part A). In 2006 this Part A hospital coverage is \$216 per month if you have accumulated 30 or more Quarters of Coverage, and \$393 per month if you are not eligible for premium-free coverage by having paid Medicare taxes or having had a spouse or parent pay them.

While this represents a great deal of money, consider that:

- In the worst case scenario, where an employer might not provide health insurance, or a carrier might refuse to cover you, “buying in” to Medicare can assure that you at least have catastrophic coverage; and
- In the best case scenario, your employer might willingly pay the \$213/\$393 per month in order to gain a productive, dependable employee. Paying this premium doesn't affect the terms of any other insurance coverage your employer has to cover other employees, and it assures that every employee can then have some coverage. In addition, if the \$216/\$393 per month is less than what your employer pays for other employees, some advocacy could also result in an additional monetary allowance to cover your day to day medical costs. It never hurts to ask, particularly where your request represents equity for you as a worker with a disability.



Subsidy

Subsidy is one of the lesser known/less frequently used work related provisions, but one that has great potential to prevent the loss of your SSDI benefits when you start earning more money at work.

Q & A

What is Subsidy?

Subsidy is the cost of the supports and/or services and/or accommodations from your employer or others that help you find and/or keep your job.

Examples of Subsidy include your employer making modifications to your work station (lowering a counter, raising a table/desk, widening an aisle way, installing Braille signs); the fact

that you have a job coach; or your employer allowing you to work more slowly, perform fewer duties, take more frequent breaks, have flexible scheduling, etc. If you are self-employed, subsidy may also be family and friends who work in your business without pay (called “un-incurred business expenses” by SSA); or the fact that it takes you much longer to produce a product than someone else in the same business who doesn’t have your disability.



What can Subsidy do for you?

When Social Security is reviewing your wages to see if you are performing SGA, the existence of Subsidy can allow Social Security to view your earnings as less than they really are. For instance, if you are grossing \$900 per month on a consistent basis, eventually Social Security would find you’ve been performing SGA and your SSDI checks would stop. If you continued to gross \$900 per month until the end of your extended period of eligibility, you would also lose your “disability eligibility,” and be terminated altogether from SSDI. (Remember that if you stop working within five (5) years because of your disability, you can ask SSA to start your benefits again without having to file a new application.)

However, if you have \$250 per month of Subsidy, Social Security will view your \$900 gross earnings as if they were only \$650. Since \$650 is below the \$860 SGA amount in 2006, Social Security will conclude you are not performing SGA and that you are still eligible for your SSDI benefits.

Subsidy can be reported in two ways. The most effective way is for your employer to write a letter to Social Security. In the letter, your employer should describe the business, describe your job duties and explain how your performance differs from that of other employees and what supports you receive or what accommodations are being made for you. Your employer can then conclude by telling Social Security the percent of Subsidy being provided to you. Following this discussion of subsidy, you will find an example of a Subsidy letter that was written for a person who worked at the University of Montana, and a separate form the Social Security office sends out to employers to ask about Subsidy.

When an employer writes a Subsidy letter or submits the form that states how much Subsidy you are receiving, you can use that percentage to figure out how much over SGA you can gross and not lose your SSDI. For instance, if your employer says you are accomplishing about one third of what other employees accomplish, and are therefore being subsidized by 66 2/3 %, you could gross over \$2,100 per month and still receive your SSDI benefits.

\$2,300	your gross earnings per month
<u>x .333</u>	the amount you actually earn when your employer is subsidizing your wages by 66 2/3%
= \$765.90	the amount Social Security will say you actually earn per month “through your own effort”

\$765.90 per month is less than \$860 SGA level, and so Social Security will conclude you are not earning SGA, and you are not at risk of losing your SSDI benefits—even though your gross earnings are \$2,300/month.

EXAMPLE: SUBSIDY LETTER

To: Social Security Administration Re: Ms French SSN: XXX-XX-XXXX

Part of the values underlying the subsidy are summed up in this University's mission statement which reads "Providing Human Resource Development that Promotes Employment and Community Membership for People with Disabilities." In essence, the University lives its values through employing people with disabilities who can perform the essential job functions required regardless of efficiency comparisons to employees without disabilities.

"The value of Ms. French's work and the estimate of subsidy is based on the following:

University Position Description for Clerical Assistant A:

1. Duplicate/collate materials and transparencies used in training sessions and meetings.

She required several accommodations (custom heating, chair, table, stapler, etc). She walks between the copier, paper storage, and work table and is roughly four times slower in material handling and sometimes falls, stumbles, etc. Her physical and fine motor skills are very slow. Material handling is considered to be 90% of any job and she is at least twice as slow (conservatively) as her counterparts at the University = 45% efficient.

2. Other job duties are:

- a. Prepare bulk mailings of training brochures
- b. Prepare mailings of packets to training site in advance of training sessions
- c. Type labels for participant training certifications, correspondence, etc.
- d. Serves as back-up for receptionist; answers telephone, greets incoming visitors
- e. Check-out and track status of library materials on loan; package library requests for shipping

In all of the above areas, she is estimated to be 3 to 5 times slower than someone without a disability. She has physical difficulty in handling small mailing labels, loading them into the typewriter and typing, often with spelling errors, and can take 15 to 30 minutes to accomplish a 3 to 5 minute task. If she needs to back up the receptionist, the walk of 10 to 12 feet often slows her up to the degree that others pick up the line before she gets to the phone. Taking a message by hand is very difficult, very slow and often filled with errors. There are many other examples of her handling office tasks at reduced efficiency.

Overall, her performance is probably in the 25% range (75% subsidy), but with University staff support and technology she is conservatively working at 40% of standard (60% subsidy). She also misses work more often than others due to illness, weather conditions, and transportation problems (older car with significant mechanical problems and repairs)."



Supported Employment

In some cases, it isn't possible or desirable for an employer to write a Subsidy letter. Subsidy in those cases can be documented and shown using the worksheet/reporting form that follows and was adapted from SSA's "Statement of Claimant or Other Person." The form is two-sided/single sheet and covers an entire year. For each month of the year you can enter your place of employment, and gross earnings, along with any IRWEs, job coaching or other assistance, and things that differentiate your work from that of a typical employee. You can fill out this form yourself once a month, but most people have job coaches, supports coordinators, or others keep track of the information and fill out the form. While wages have to be reported monthly for SSI purposes, the information on this worksheet/reporting form only needs to be submitted yearly, usually right after the end of the year. If Social Security conducts an SGA review or a CDR (Continuing Disability Review), the form should be updated and submitted at that time as well.

The biggest difference between the employer-written Subsidy letter, and the worksheet/reporting form is that the employer letter assigns a numerical/percentage value to your work and to the amount of Subsidy being provided. The worksheet captures "qualitative" elements about your work, and some of the subsidized costs, but it doesn't calculate the total amount of money represented by job coach time, vocational rehabilitation time, or the time of others who support or assist you to keep your job.

NOTE:

When evaluating job coach hours, Social Security multiplies the *worker's/your* wage by the hours a job coach is present in order to calculate Subsidy. The worksheet will ask you to use the *Job Coach's* wage because that is the figure someone is actually being paid to keep you working. Social Security's practice of using the worker's wage does not appear in law, or in the regulations. While added to the POMs in 2002, it originated years ago as an informal directive in one region, and is now commonly used in all regions. It is certainly my position that the job coach's wage represents the actual Subsidy, and I remain prepared to argue that at an ALJ hearing if the occasion arises. Remember, Administrative Law Judges are guided by the law and the regulations, and the local office practice and new POMs policy of using "worker wage" appears in neither.

Q & A

How can I keep track of my work related information?

You and those who assist you can use the Subsidy Form to track necessary information to properly manage your benefits/risks/changes due to work. Also, be sure to save all your pay stubs and all your yearly W-2 forms.



Reporting Supported Employment Subsidy

On the next two pages is a form you may copy and use to report Supported Employment or general Subsidy to the Social Security Administration. This form was designed to be used by job coaches, supports coordinators/case managers, or employment providers, rather than employers. It allows you to collect information for a whole year on one page.

- When filling out the top of the front of the form, be sure to include both your/the worker's own Social Security number and your claim number if you draw Social Security benefits from a parent's account, or a spouse's account.
- Column 1-this is the total of the gross income on all paychecks received during that month.
- Column 2-include name and location of each employer. In months where you, the worker, was unemployed, write "none".
- For Columns 3 through 7, use the Key on the back of the Subsidy report. Fill in the blanks in the Key as necessary.
- Column 7-IRWE stands for Impairment Related Work Expense. An IRWE must be related to your disability and necessary for you to work, and paid for by you. If an expense fulfills all three of these criteria, it should be reported as an IRWE.
- Column 8-This is only for people who are legally blind. For all other people, you can just write "N/A." For those who are legally blind, write "see attached," then attach a completed Blind Work Expense form, on pages 133-134 following the IRWE/BWE section of this book..
- Be sure to sign and date the bottom of the back of the form..

STATEMENT OF CLAIMANT OR OTHER PERSON (SUBSIDY & OTHER WORK INCENTIVES REPORT)

Department of Health and Human Services/Social Security Administration

STATEMENT OF CLAIMANT OR OTHER PERSON

Name of Wage Earner, Self-employed Person, or SSI Claimant	Social Security Number and Claim Number (if applicable)							
Name of Person Making Statement (if other than person named above)	Relationship (to wage earner, self-employed person or SSI claimant)							
Understanding that this statement is for the use of the Social Security Administration, I hereby certify that the following information is a year-end summary of supports and subsidies received by the claimant/beneficiary for calendar year _____.								
	1	2	3	4	5	6	7	8
	Gross Inco me	Employer	Exemption/ Subsidy to Employer & Dollar Amt.	Dollar Amount of Staff Support	Special Equipment purchased, Dollar Amount, and who paid	Additional Supports/ Subsidies	IRWE's and Cost	BWE's
Jan.								
Feb.								
Mar.								
April								
May								
June								
July								
Aug.								
Sept.								
Oct.								
Nov.								
Dec.								
Total								
See back for key to letters used in Columns 3 through 7								

Column 3	a) TJTC (targeted Jobs Tax Credit) b) OJT, OJE, WIA, or VR funds c) Deviated Wage \$_____/hr (typical wage for job) x _____% (this worker's rate of work as compared to a typical worker) = \$_____/hr (the deviated wage/hour for this worker)	
Column 4	a) Intensive job coaching at \$_____/hr. b) Follow-along job coaching at \$_____/hr. c) Vocational rehabilitation staff at \$_____/hr. d) Residential staff at \$_____/hr. e) Other mental health/developmental disabilities/personal assistance staff at \$_____/hr. f) Other (specify)_____	
Column 5	a) Ramp a) Lift c) Vehicle d) Computer	e) Speech Synthesizer or Communications Aid f) Power Wheelchair g) Other (specify)_____ h) Other (specify)_____
Column 6	a) Use of specialized disability related transportation. (May include supervision.) b) Has required intensive or repeated training to utilize transportation to work. c) Receives regular prompts or assistance from co-workers. d) Utilizes adapted training materials or job equipment because of disability. e) Has utilized more supervision than the typical worker. f) Required more training than the typical worker. g) Works fewer hours because of disability. h) Produces less because of disability. i) Produces lower quality because of disability. j) Works at a slower pace because of disability. k) Requires frequent rest because of disability. l) Works at job created/carved/customized especially for him/her because of disability. m) Employer accepts behavior that wouldn't otherwise be accepted. n) Other (specify)_____	
Column 7	a) Specialized transportation b) Medications c) Personal assistance d) Other _____	
Column 8	See attached form for on-going BWE's	
Comments _____		
I know that anyone who makes or causes to be made a false statement or representation of material fact in an application or for use in determining a right to payment under the Social Security Act commits a crime punishable under federal law and/or state law. I affirm all information given in this document is true.		
Signature (first name, middle initial, last name) (Write in ink)		Date (month, day, year)
Mailing Address (number, street number, post office box, rural route)		Telephone (include area code)
City and State		Zip Code

Work Incentives and Employment Supports that Affect Both SSI and SSDI



IRWEs & BWEs & Section 301

IRWEs (Impairment Related Work Expenses) are expenses that are related to your disability, are necessary to work, and that you pay for out of your own pocket. The Social Security Administration can take IRWEs into account when evaluating your earnings for Substantial Gainful Activity (SGA) both at the time you apply for benefits (SSI and SSDI) and on a continuing basis (SSDI only). For SSDI, the amount of your IRWEs can be deducted from your gross earnings and therefore reduce the amount of your earnings that count when SSA evaluates for evidence of SGA. For SSI, IRWEs will decrease the amount of your gross earnings that SSA will count when figuring your SSI check amount.

IRWEs & SSDI:

Expenses that qualify as Impairment Related Work Expenses can change the way Social Security will view a working SSDI recipient's earnings when looking for evidence of SGA. For instance, if you are grossing \$900 per month and you have \$200 per month of Impairment Related Work Expenses, you will not be considered to be performing Substantial Gainful Activity. This is because Social Security will subtract the \$200 of IRWEs from your \$900 gross earnings when they review your earnings to see if they represent SGA.

\$900	gross earnings for month
<u>-200</u>	IRWE for month
\$700	countable earnings (in eyes of SSA)

Even though your actual paychecks add up to \$900 per month, SSA will view your earnings as if they were only \$700 per month due to the \$200 of Impairment Related Work Expenses. Since \$700 is below the \$860 per month in 2006 that Social Security considers SGA, there will be no finding of SGA, and so your SSDI eligibility and your monthly SSDI benefit checks are protected.

In order to qualify as an Impairment Related Work Expense, three criteria must be met:

- The item must be necessary in order for you to work;
- The item must be related to your disability;

→ The item must be paid for out of your pocket.

If an item does not meet all three criteria, it does not qualify as an Impairment Related Work Expense. In addition, SSA will expect the cost of the IRWEs to be “reasonable.”

For large expenses, such as the cost to equip a van with a lift, or the amount of an architectural alteration, the total amount can be prorated over as many as twelve months, as long as you are working during that time.

EXAMPLE 1:

Ned can no longer use foot pedals to drive his car due to progression of his Multiple Sclerosis. The cost of having his car converted to hand controls is \$900. Ned currently earns \$845 per month. He chooses to prorate the cost of converting to hand controls over a twelve month period. Therefore, every month for twelve months, as long continues to work in each of those months, Social Security will view Ned's earnings as follows:

\$845	gross earnings
<u>- 75</u>	(\$900 ÷ 12 months) IRWE
\$770	gross earnings counted when SSA reviews for SGA

Because Ned's gross earnings will be seen as \$770 per month (under the 2005 SGA amount of \$860/month) after SSA takes into account his \$75 per month (for 12 months) IRWE, SSA will consider him to NOT be performing SGA. Ned will keep his SSDI eligibility and his SSDI checks

EXAMPLE 2:

May-Ling has Autism, receives SSDI as a Disabled Adult Child and recently began working in town. She lives about 10 miles away, out in the country, and there is no public transportation. While May-Ling needs transportation in order to work, and she is paying for it out of her own pocket, getting a ride to work is not in itself related to her disability. Everyone needs transportation to work, and not everyone drives, or owns a car, or has access to public transportation. Therefore, May-Ling's transportation, all by itself, may not be considered by SSA as an authentic Impairment Related Work Expense.

NOTE:

Despite the fact that everyone needs some form of transportation to get to work, many advocates around the country have encountered SSA staff who will allow as IRWEs transportation costs for persons with disabilities who live in rural areas. So while I may believe that not every transportation cost fits the criteria for an IRWE, if SSA is willing to grant it, don't argue!

However, May-Ling has an additional need regarding her transportation. She has a great deal of difficulty riding in cars and being aware of land and buildings whizzing by at what, to her, is an overwhelmingly dizzying speed. The anxiety and discomfort this produces is relieved only when there is someone sitting next to her, squeezing her hand and talking in low, soothing tones. This particular need is directly related to May-Ling's Autism, and since May-Ling pays for someone to travel to and from work with her, that expense can be deducted as an Impairment Related Work Expense. Even though May-Ling's earnings are not close to SGA level, it is important to keep ongoing records of her IRWE because it will be helpful for Social Security to know when they periodically review her disability.

Following this chapter, you will find a chart that contains a list prepared by the Social Security Administration of many common Impairment Related Work Expenses. This list is not all inclusive, but it will be helpful in giving an idea of the possibilities. Also, please note that there are two columns, one labeled BWE and the other labeled IRWE. IRWE lists the typical kinds of things that workers with disabilities can deduct. BWE includes additional items (such as **all** transportation, taxes, cost of lunches) that are allowable deductions for workers whose disability is blindness, or who qualify as "legally" blind. If you are blind you can deduct all your impairment related work expenses as Blind Work Expenses.

IRWE not BWE

The difference between IRWEs and BWEs is that IRWEs are "impairment" related, while Blind Work Expenses (BWEs) include the "reasonable" cost of *any* expenses (e.g. taxes, lunches, guide dog, transportation, etc.) necessary to obtain income from work. A worksheet SSA uses to calculate the deductible Blind Work Expenses can be found on pages 131-132.

Section 301:

A Little Used and Often Misunderstood Employment Support for People Who “Medically Improve”

As mentioned before, SSA performs periodic medical reviews on everyone who receives SSI and/or SSDI. After one of these routine reviews, there is always a chance that SSA will decide that you have “medically improved” and are therefore no longer eligible for disability benefits according to their criteria.

If you disagree with SSA’s decision, you have the right to appeal.

In addition, there is another option that might apply to delay the loss of your benefits. This avenue is called Section 301, and is sometimes referred to “Continued Payment Under a Vocational Rehabilitation Program” by SSA.

The bottom line is this...

If you have medically improved to the point where you are no longer eligible for SSI/SSDI by SSA’s criteria, you can continue to receive your benefits if;

1. You are enrolled with your state VR, Tribal VR, and a Onestop, a private rehab organization, a Ticket to Work Employment Networks, a special education program; and
2. You and your rehabilitation provider (above) have written a rehabilitation plan for you; and
3. You are following your plan; and
4. If Social Security continues to pay your benefits while you finish your plan, there is an increased potential for you to become self supporting and permanently off the SSDI rolls.

An example of Section 301 in practice might be the situation of Jose, a former house builder who was in an auto accident five years ago, and has been receiving SSDI for four and a half years. Since the time of his accident, Jose has had a number of surgeries that have partially restored the functional abilities he lost because of the injuries he sustained in the accident. He can’t build houses any longer, but he has many other strengths to work with. Two years ago Jose enrolled with his state VR and he and his counselor agreed on a plan for him to go to college and get a degree in Social Work, a vocation in which he can successfully engage without the physical function he lost. He is halfway through his program when SSA determines that he has “medically improved” to the point that he no longer meets the SSA disability criteria, and SSA decides to stop his SSDI benefits.

Jose notifies SSA that he is halfway through the successful completion of the plan he and his VR Counselor have written. His VR Counselor notifies SSA that she believes that, if Jose finishes his bachelor’s degree, he will easily find a job as a social worker with an employer that offers health insurance, and who will pay Jose enough to fully support himself. Jose’s VR counselor also tells SSA that social work is an area where Jose can find a job that will accommodate the permanent disabilities he has.

Once Social Security reviews the information from Jose and his VR counselor, they decide to continue paying Jose's SSDI benefits for the next two years while he finishes his bachelor's degree.

Section 301 and Children on SSI Who Turn 18

Children who receive SSI will be medically re-evaluated when they turn 18. A large number of children receiving SSI have been cut off from SSI when they turned 18 because SSA determined they no longer qualified medically. Those children might have been able to continue to receive SSI benefits if they had been enrolled with a rehabilitation provider and were following their rehabilitation plan, or were following an IEP written by them and their special education services team.

The prospect of SSI benefits terminating when a student turns 18 is a good reason to assure that State/Tribal VR is involved in the student's Transition Plan, and that the student and their VR counselor draw up their own plan. If the student is working on the plan at the time he/she turns 18 and is terminated from SSI, it is possible that SSI benefits can continue under Section 301 until the student completes his/her rehabilitation plan. Of course, this is only possible if completing the plan increases the potential that the student will be self supporting and permanently off the disability rolls.



IRWEs/BWEs and SSI Payment Amounts

If you receive SSI, IRWEs and BWEs will affect how Social Security counts your wages and calculates the amount of SSI you are due. Therefore, it is very important to keep track of them and report them to Social Security.

In calculating the amount of SSI you are due, IRWEs are deducted from gross earnings before dividing by two to arrive at "countable earnings," whereas BWEs are deducted from the countable earnings amount (after dividing by 2) (see worksheets that follow). If you are blind your IRWEs are deducted as BWEs (after dividing by 2).

For some people, an IRWE (and most BWEs) will occur every month. For instance, if you are paying for disability related transportation to get you to and from work, you can claim it as an Impairment Related Work Expense. The amount you claim can be all of what you spend out of pocket, but the amount you actually get credit for may vary depending on the SSA worker who is making the decision. Some workers will allow the whole amount, whereas others will allow only the difference between what you pay for disability related transportation and what you would pay for "typical" transportation.

HOW TO CALCULATE MONTHLY SSI BENEFIT DUE A WORKING SSI ONLY RECIPIENT IN 2005

1	Month in which wages were RECEIVED	1	_____	(month)
2	GROSS wages for month on line #1	2	\$_____	
3	Amount of earned and general income exclusions (\$20 + \$65)	3	-\$ 85.00	(general + earned income exclusions)
3a	<u>Subtract</u> general and earned income exclusions	3a	=\$_____	(3\$___ - \$85 = 3a\$___)
4	Amount of IRWEs; if none, enter \$0	4	-\$_____	(IRWE)
4a	<u>Subtract</u> amount of any IRWEs	4a	=\$_____	(3a\$___ - 4\$___ = 4a\$___)
5	<u>Divide</u> the dollar amount on line #4a by 2.	5	=\$_____	(one half of amt on line 4a)
6	<u>Subtract</u> any Blind Work Expenses (BWEs) or any income to be set aside for a PASS (wages, etc.) If none, enter \$0	6	-\$_____	(PASS/BWE)
7	Amount remaining is Countable Earned Income	7	=\$_____	(5\$___ - 6\$___ = 7\$___) (countable earned income)
8	Amount of SSI due in 2003 if there is <u>no</u> countable earned income (choose the amount in the category below that applies to the working SSI recipient.) Enter that amount in the space at right. __1. \$402 (household of another) __2. \$603 (independent/sharing/child) __3. \$30 (institutional) __4. \$___ (other; FBR + state supplement) __5. \$___ (other; FBR + state supplement)	8	\$_____	(applicable amount from the list at left)
9	Enter amount from line 7.	9	-\$_____	(countable earned income)
10	Subtract Countable Earned Income (amount on line 9) from SSI possible (amount on line 8). The result is the amount of SSI which <u>should</u> be received <u>two months</u> after the month on line #1	10	=\$_____	(8\$___ - 9\$___ = 10\$___) (This is the amount of SSI due the working SSI recipient two months after month shown on line 1)

HOW TO CALCULATE MONTHLY 2003 SSI BENEFIT DUE A WORKING CONCURRENT (SSI & SSDI) RECIPIENT

1	Month in which wages were RECEIVED	1	_____	(month)
2	GROSS wages for month on line #1	2	\$_____	
3	Amount of earned income excluded (\$65)	3	-\$ 65.00	(earned income exclusion)
3a	<u>Subtract</u> earned income exclusions	3a	=\$_____	(2 \$__ - \$65 =3a \$__)
4	Amount of IRWEs; if none, enter \$0	4	-\$_____	(IRWE)
4a	<u>Subtract</u> amount of any IRWEs	4a	=\$_____	(3a\$__ - 4\$__ =4a\$__)
5	<u>Divide</u> the dollar amount on line #4a by 2	5	=\$_____	(one half of amt on line 4a)
6	<u>Subtract</u> any Blind Work Expenses (BWEs) or any income to be set aside for a PASS (wages, etc.).	6	-\$_____	(PASS/BWE)
7	Amount remaining is Countable Earned Income	7	=\$_____	(countable earned income)
8	Amount of SSDI and/or other unearned income not already excluded in a PASS.	8	\$_____	
9	<u>Subtract</u> SSDI amount on line 8 from one of the amounts below: __1. \$422 (household of another + \$20) __2. \$623 (independent/sharing/child + \$20) __3. \$50 (institutional + \$20) __4. \$____ (other; FBR + state supplement + \$20) __5. \$____ (other; FBR + state supplement + \$20)	9	=\$_____	(9 \$____ - 8 \$____ = 10 \$____)
10	Result is amount of SSI due when there is <u>no</u> earned income	10	=\$_____	SSI possible based only on countable unearned income
11	Enter Countable Earned Income amount from line 7.	11	-\$_____	(countable earned income)
12	<u>Subtract</u> Countable Earned Income (amount on line 11) from SSI possible (amount on line 10). The result is the amount of SSI which <u>should</u> be received <u>two months</u> after the month on line #1.	12	=\$_____	(This is the amount of SSI due two months after month shown on line 1.)

EXAMPLE:

Jamal had a job shredding sensitive documents at a local law firm. Before he began working, Jamal was eligible for \$603 per month from SSI (Independent Rate for the year 2006). His gross earnings were \$270 per month. Without taking his IRWEs into account, he received a \$486.50 SSI check after Social Security counted his wages.

\$270	gross earnings
<u>- 65</u>	earned income exclusion
\$205	
<u>- 20</u>	general income exclusion
\$185	
	\$185 ÷ 2 =
\$92.50	countable earned income
\$603	full amount of SSI FBR at 2006 Independent Rate
<u>- 92.50</u>	countable earned income
\$510.50	SSI due based on earnings (before IRWEs are considered)

Because of his cognitive disabilities, Jamal wasn't able to use the community bus system even though he only lived three blocks away from the bus stop. His difficulty in judging when to cross/not cross streets, and his need for support in keeping himself safe from strangers made door-to-door transportation the best option. The cab he took to and from work each day cost \$2.50 each way, or \$5 a day for every day worked.

When Jamal worked 20 days in a month, he spent a total of \$100 on his transportation. The \$100 is deducted after the earned and general income exclusions and before the remainder is divided by 2.

\$270	gross earnings
<u>- 65</u>	earned income exclusion
\$205	
<u>- 20</u>	general income exclusion
\$185	
<u>-100</u>	
<u>\$ 85</u>	÷ 2 =
\$42.50	countable earned income
\$603 - \$42.50 = \$560.50	SSI due based on earnings & IRWEs

Jamal's transportation expenses qualify as an IRWE because the cab

- Was necessary for Jamal to work;
- Was related to his disability; and
- Was paid for by Jamal.

When Jamal reported his \$100 transportation expense to SSA, it was calculated differently by two different Claims Representatives, shown below in Scenario 1 and Scenario 2, which follow.

SCENARIO 1:

SSA Worker # 1 was aware that the regular bus cost riders 30¢ per trip. If Jamal had been able to take the regular bus, his rides to and from work would cost 60¢ a day. So she decided that she would allow the difference between \$5 per day and the 60¢ per day it would have cost him if he could ride the regular bus.

\$5.00	daily cab fare
<u>-.60</u>	daily cost for regular bus
\$4.40	IRWE per day allowed by Worker # 1

\$4.40	per day transportation expense
<u>x 20</u>	work days per month
\$88.00	total per month IRWE allowed

Based on the IRWE allowance of Worker # 1, Jamal would be due an SSI benefit of \$530.50 per month.

\$270	gross earnings
<u>- 65</u>	earned income exclusion
\$205	
<u>- 20</u>	general income exclusion
\$185	
<u>- 88</u>	monthly IRWE allowed by Work # 1
\$97	

\$97 ÷ 2 =
\$48.50 countable earned income

\$603	full amount of SSI at 2003 Independent rate
<u>- 48.50</u>	countable earned income
\$554.50	SSI due based on earnings and IRWE

Based on the IRWE allowance of Worker # 1, Jamal's monthly net income would be \$724.50.

\$554.50	SSI due based on wages and IRWEs
<u>+270</u>	gross monthly wages
\$824.50	total monthly income
<u>-100</u>	monthly transportation cost
\$724.50	net monthly income after transportation costs are paid

SCENARIO 2:

SSA Worker # 2 allowed the full \$5 per day that Jamal paid out of his pocket for his transportation.

\$5.00	per day bus fare
<u>x 20</u>	work days per month
\$100	total monthly IRWE

Based on the IRWE allowance of Worker # 2, Jamal would be due an SSI benefit of \$503.50 per month.

\$270	gross earnings
<u>- 65</u>	earned income exclusion
\$205	
<u>- 20</u>	general income exclusion
\$185	
<u>- 100</u>	monthly IRWE allowed by Worker # 2
\$85	
	\$85 ÷ 2 =
\$42.50	countable earned income

\$603	full amount of SSI at 2003 Independent rage
<u>- 42.50</u>	countable earned income
\$560.50	SSI due based on earnings and IRWE

Based on the IRWE allowance of Worker # 2, Jamal's net monthly income would be \$730.50.

\$560.50	SSI due based on wages and IRWEs
<u>+270</u>	gross monthly wages
\$830.50	total monthly income
<u>-100</u>	monthly transportation cost
\$730.50	net monthly income after transportation costs are paid

EXAMPLE OF BLIND WORK EXPENSE & SSI CHECK DUE

EXAMPLE:

If Jamal was blind and grossed \$707.50 per month, and if he had the same \$5 per day transportation cost, his deductions and total monthly income would be as follows:

\$707.50	gross monthly earnings
<u>- 65.00</u>	earned income exclusion
\$642.50	
<u>- 20</u>	general income exclusion
\$622.50	
$\$622.50 \div 2 = \311.25 (divide by 2)	
\$311.25	
<u>- 52.71</u>	BWE - FICA and Medicare (estimate)
\$258.54	
<u>-103.35</u>	BWE - state/federal withholding tax (estimate)
\$155.19	
<u>-100</u>	BWE - \$5 cab fare x 20 days
\$55.19	
<u>-100</u>	BWE - \$5 lunch x 20 days
(-\$44.81)	
<u>-82.00</u>	BWE - monthly cost of food and care for guide dog
(-126.81)	

Because the balance is a negative number, Jamal would have no countable earned income after BWEs. Therefore, he would be due the full SSI benefit of \$603.

\$603	SSI benefit (2006 FBR Independent/Sharing rate)
<u>+707.50</u>	gross earnings
1310.50	total monthly income
<u>- 182</u>	monthly costs of transportation and guide dog
\$1128.50	monthly net income after costs of transportation & guide dog.

Generally, receipts or other proof of IRWEs/BWEs will be required by Social Security. At times (like with lunches from a fast food restaurant), receipts may not be available and in those cases Social Security should accept your statement about your cost for a particular item. In order to

minimize hassle, it's a good idea to keep all your receipts in an envelope so they can be submitted monthly with your pay stubs. Before you send them to Social Security, however, remember to make a copy for yourself. . . . just in case!

Following, you will find a chart provided by SSA that lists many of the common items that qualify as Impairment Related Work Expenses (IRWEs) and Blind Work Expenses (BWEs). This information is also contained in an SSA publication known as the Red Book. The Red Book on Work Incentives is revised yearly. Other revisions will be forthcoming as rules continue to change. The Red Book is free and you can request one from SSA by calling (410) 965-0945, faxing your request to (410) 965-0696, writing to the SSA Public Information Distribution Center, P. O. Box 17743, Baltimore, MD 21235-6401, or downloading it from the Social Security website (www.ssa.gov) by going to www.ssa.gov/work/ResourcesToolkit/redbook_page.html. If you request a copy from SSA all you need to ask for is "The Red Book," but just in case, it's also known as SSA Pub. No. 64.030, INC 436900.

Following the IRWE/BWE chart, on pages 131 and 132, you will also find the worksheet that SSA uses to keep track of BWEs.

LIST OF TYPE AND AMOUNT OF DEDUCTIBLE WORK EXPENSES

The following chart, taken from an earlier version of the SSA Red Book, provides guidance on types and amounts of expenses that are deductible as BWE, IRWE, or both, and the amount that is deductible. The chart is not intended to be all-inclusive. Refer to the policy discussed on the SSA website (www.ssa.gov) in POMS, SI 00820.535, SI 00820.540, and DI 10520.001 ff. to determine whether an expense which is not listed below can be deducted as a work expense.

Type of Expense	Deductible as		Amount Deductible
	BWE	IRWE	
Attendant care services which are rendered in the: • home (with certain limitations as described in DI 10520.010A.1.b) • process of assisting an individual in making the trip to and from work; or • work setting.	X	X	The amount deductible under DI 10520.010A. NOTE: DI 10520.030B.3 for documentation required when a family member performs the attendant care services. See DI 10520.015E regarding proration of attendant care expenses.
Drugs and medical services which are essential to enable the individual to work (e.g., medication to control epileptic seizures).	X	X	The amount paid. See DI 10520.010E.
Expendable medical supplies. Examples: • bandages • catheters • face masks • incontinence pads	X	X	The amount paid. See DI 10520.010F.1 and SI 00820.550C.1 and SI 00820.550C.2.
Federal, State and local income taxes and Social Security taxes.	X		The amount withheld. Assume the amount withheld reflects the individual's tax liability.
Dog guide.	X	X	The cost of purchasing the dog and all associated expenses (e.g., its food, breast straps, licenses, veterinary services, etc.)
Fees. Examples: • licenses • professional association dues • union dues	X		The amount paid

Type of Expense	Deductible as		Amount Deductible
	BWE	IRWE	
Mandatory contributions Examples: • pensions • disability insurance	X		The actual amount of the mandatory contribution. For example, mandatory pension contributions are considered reasonably attributable to earning income and, therefore, deductible. Voluntary pension contributions are considered savings plans and, as such, are life maintenance expenses and not deductible.
Meals consumed during work hours.	X		The actual value of the meal whether bought during work hours or brought from home.
Medical devices. Examples: • braces • inhalers • pacemaker • respirator • wheelchair	X	X	The cost of the items plus maintenance and repair of such items whether the individual works at home or at the employer's place of business. See DI 10520.010B.
Nonmedical equipment / services. Examples: • air cleaners • air conditioners • child care costs • humidifiers • portable room heaters • posture chairs • safety shoes • tools used on the job • uniforms	X	*	The cost of the items plus maintenance and repair of such items whether the individual works at home or at the employer's place of business. * To be deductible as an IRWE, the item or service must be impairment-related. If you have air conditioning because it's more comfortable on a hot day, that's not an IRWE. However, if you need air conditioning because of your MS or asthma, etc., it's an IRWE.
Other work-related equipment / services. Examples: • job coaching fees • one-handed typewriters • special tools designed to accommodate an individual's impairment • telecommunications devices for the deaf • translation of materials into braille • typing aids (e.g., page turning devices) • vision and sensory aids for the blind	X	X	The cost of the items plus maintenance and repair of such items whether the individual works at home or at the employer's place of business. See DI 10520.010D.
Physical therapy	X	X	The amount paid. See DI 10520.010F.1.
Prosthesis	X	X	The cost of the item plus maintenance and repair of such item. See DI 10520.010C.
Structural modifications to the individual's home to create a work space or to allow the individual to get to and from work.	X	X	The cost of the modifications. See DI 10520.010D.2.

<p>Training to use an impairment-related item or an item which is reasonably attributable to work. Examples:</p> <ul style="list-style-type: none"> • braille • cane travel • computer program course for a computer operator • grammar • stenotype instruction for a typist • use of one-handed typewriter • use of special equipment • use of vision and sensory aids for the blind <p>NOTE: Training does not include general education courses. Such courses may be covered under a PASS.</p>	X	X	<p>The cost of the training plus travel expenses to and from the training facility. Compute travel expenses to and from the training facility in the same manner as transportation to and from work (see page 3 of this chart).</p>
<p>Transportation to and from work</p>	X	X	<p>BWE</p> <ul style="list-style-type: none"> • In own vehicle: the applicable allowance in DI 10520.015F.1.b or, if more advantageous, the allowance permitted by IRS for non-governmental business use. • For other than in own vehicle: the actual cost of the bus, car pool or cab fare. <p>IRWE See DI 10520.015F.</p>
<p>Vehicle modification</p>	X	X	<p>See DI 10520.015F.1.a.</p>

SSA BLIND WORK EXPENSE WORKSHEET

NAME				SSN		
PART I Amount (\$) of Taxes				PART III TOTALS		
Month/Year	Federal, State, Local	FICA (Social Security)	Other <u>Mandatory</u> Deductions (e.g., mandatory pension contributions)	A (Add Amts from Part I)	B (from Part II)	C (Combine Totals from A and B)

(Continue to Part II on back)

Work Incentives and Employment Supports that Affect SSI Only



1619a

At one time, SSI recipients who worked were bound by the same concept of SGA that affects working SSDI recipients. This meant that earnings over the SGA amount (currently \$860 per month in 2006) usually resulted in loss of benefits. This is no longer the case. As long as working SSI recipients continue to meet all general SSI eligibility requirements (disability, resources, other countable income, etc.), SSI eligibility will generally continue unless there is medical improvement.

1619a is the part of the Social Security Act that authorizes continued SSI eligibility even when a working SSI recipient grosses over \$860 per month in 2006. This provision allows you to try working in supported or competitive employment, or self-employment without fear that your benefits will stop as a result of earnings. Within twelve months of the time an SSI recipient grosses over \$860 per month and continues to receive SSI benefits due to 1619a, there may be a medical review to confirm that no medical improvement has taken place.

1619a benefits can continue until you turn 65, or medically improve or fail to meet any SSI eligibility criteria, or until your earnings decrease to less than \$860 per month. When your earnings are less than \$860 per month, you receive regular SSI benefits.

Of course, as your wages continue to increase, your SSI checks will gradually reduce to \$0 due per month. Even at this point, however, SSI eligibility is not lost (see 1619b); it's just that you have no checks due because of the amount of your earnings.



1619b

When working SSI recipients are not due an SSI check because of the amount of their gross earnings, they do not lose their SSI eligibility and they do not lose their Medicaid. The reason for this is a provision of the Social Security Act known as 1619b.

1619b particularly benefits two groups of working SSI recipients:

- Persons whose only benefit is SSI and whose earnings in any one or more months exceed “breakeven” amounts and therefore are too great to permit the issuing of any SSI check. (See the subheading *SSI Breakeven Calculation Formulas* later in this Chapter).
- Persons who receive both SSI and SSDI (concurrent recipients), and whose SSDI check is the greater of the two, while their SSI check is relatively small. (See the subheading, *SSI Breakeven Calculation Formulas*, later in this chapter.)

In all cases, in order to be eligible for extended Medicaid under 1619b, you must meet all of the following criteria:

- Be under 65;
- Be blind or have another “severe impairment;”
- Have been eligible to receive either a “regular” or 1619a SSI cash benefit in the prior month, and you would have continued to receive an SSI check if your earnings had been lower (SSI check is not due only because you have too much earned income);
- Need Medicaid to work;
- Be unable to afford medical care without assistance (see “threshold” below.)

In order to verify the fourth item, “needing Medicaid in order to work,” the Social Security Administration will accept either of the following as proof:

- You actually used Medicaid in the last 12 months.
- You tell SSA that you will need Medicaid in the coming year.

From an advocacy perspective, anyone otherwise eligible for 1619b extended Medicaid who hasn't used Medicaid in the past year needs to allege it WILL BE needed in the coming year.

Threshold

Verification of the inability to afford health insurance to replace Medicaid (listed above) is largely based on a formula developed by Social Security. The formula uses both federal and state figures to create a specific amount for each state representing that state's “threshold.”

For example, in Montana, for the year 2005, the “threshold” amount is \$24,689. As long as a 1619b-eligible person in Montana grosses less than \$24,689, he/she will be considered by SSA as unable to afford medical care without assistance. (See Appendix 10 for all state thresholds.)

In addition, if you earn more than the “threshold” amount, and you also have “higher than average” medical expenditures, you may continue to be eligible for Medicaid. SSA will calculate an “individual threshold” for you based on your state's threshold and the cost of your Medicaid

expenses. As long as you gross less than your “individual threshold,” you will retain your Medicaid eligibility. The worksheet SSA uses to calculate individual thresholds is in Appendix 11, which follows the list of state thresholds in Appendix 10.

EXAMPLE 1: PERSON RECEIVING SSI ONLY

Charles receives SSI, lives in his own apartment and works at the local university as a custodian. He was recently admitted to the union, and now makes \$11.50 per hour, and works 30 hours per week.

\$11.50	hourly wage
x 30	hours per week
<u>x 4</u>	weeks per month
\$1,380	gross per month (most months), which is well over \$860 per month
<u>- 85</u>	general & earned income exclusions
\$1,295	
	\$1,295 ÷ 2 =
\$647.50	countable earned income
\$603	SSI benefit if he has no wages
<u>-647.50</u>	countable earned income
(-55.50)	

Since -\$55.50 is less than \$0, there is no SSI due, but Medicaid continues under 1619b.

EXAMPLE 2: PERSON RECEIVING CONCURRENT BENEFITS

Maria lives with her parents and pays her share of the household expenses. She receives both SSDI as a Disabled Adult Child (DAC), and SSI. She works at a sheltered workshop while waiting to get into her county's Supported Employment Program. Her earnings average \$201 per month, well below the amount where 1619a benefits kick in (\$860 per month in 2006)

\$555.00 SSDI (as a DAC)
+ 68.00 SSI
\$623.00 Total benefits before taking into account the effect of her wages

Maria only has to gross \$201 per month before she is no longer due an SSI check. ($\$68 \times 2 = \$136 + \$65 = \201) (SSI X 2 + \$65 = Breakeven Amount)

\$201 Maria's gross earnings
- 65 earned income exclusion
\$136 $\div 2 = \$68$ countable earned income

\$68 possible SSI
- \$68 countable earned income
\$0 SSI benefit due

However, even when she isn't due the SSI check (because of her earnings), Maria will still retain her SSI eligibility and Medicaid under 1619b.

Because so many people and their families fear loss of Medicaid if there is no SSI check, it is important for professionals to reassure you when you clearly have 1619b protection. You may not be due an SSI check because of your earnings, but you don't lose your SSI eligibility, and, therefore, you don't lose your Medicaid. Under 1619b, your continued Medicaid should happen automatically. There are no additional forms to fill out or people to contact. However, if for some reason there is a problem with your 1619b Medicaid, this is the one instance where you can ask your local Social Security office to help. SSA will call the appropriate Medicaid person in your state's central office and assure that your state has you coded as Medicaid eligible.

SSI Breakeven Calculation Formulas

(The amount of gross earnings that results in no SSI check, but SSI eligibility and Medicaid continues.)

- If you receive SSI only:

$$\begin{array}{r} \$ \underline{\hspace{2cm}} \\ \quad \times 2 \\ \$ \underline{\hspace{2cm}} \\ \quad + \$85 \\ = \$ \underline{\hspace{2cm}} \end{array} \quad \begin{array}{l} \text{SSI maximum benefit possible for your living situation (including any} \\ \text{state supplement)} \\ \\ \text{Total} \\ \text{general and earned income exclusions} \\ \text{BREAKEVEN point} \end{array}$$

If the maximum benefit possible for your living situation is the Federal Benefit Rate amount of \$579 in 2005, \$1,243 is the amount of gross earnings that would result in your SSI check being reduced to \$0 ($\$603 \times 2 = \$1206 + \$85 = \1291). If you gross UNDER \$1,291 per month, you will be due some amount of SSI. If you gross \$1,291 or more per month, you will not be due an SSI check, but you will still be considered SSI eligible and you will still retain your Medicaid (under 1619b).

- If you receive SSI and SSDI (or other unearned income):

$$\begin{array}{r} \$ \underline{\hspace{2cm}} \\ \quad \times 2 \\ \$ \underline{\hspace{2cm}} \\ \quad + \$65 \\ = \$ \underline{\hspace{2cm}} \end{array} \quad \begin{array}{l} \text{Maximum SSI benefit possible given your SSDI amount and/or any other} \\ \text{unearned income} \\ \\ \text{Total} \\ \text{Earned income exclusion} \\ \text{BREAKEVEN amount} \end{array}$$

If your SSDI check is \$500/month, and you live independently, the maximum amount of SSI you could receive would be \$123/month in 2006 ($\$500 - 20 = \480 countable SSDI; $\$603 - \$480 = \$123$.) When your earnings are this high (the breakeven point) or higher, you won't be due an SSI check, but you will keep your Medicaid.

EXAMPLE:

If you are living independently or paying your fair share and you receive an SSDI benefit of \$279 per month

\$623	total of SSI and SSDI in 2006 for Independent/Sharing Rate
<u>-279</u>	SSDI benefit per month
\$344	maximum SSI possible
<u>x 2</u>	
688	
<u>+ 65</u>	earned income exclusion
\$753	your BREAKEVEN amount

In this example, \$753 is the amount of gross wages that would result in your SSI check being reduced to \$0. If you gross UNDER \$753 per month, you will be due an SSI check of some amount. If you gross \$753 or more per month, you will not be due an SSI check, but you will still be considered SSI eligible and you still retain your Medicaid (under 1619b).



Student Earned Income Exclusion

Students receiving SSI in 2006 may exclude up to \$1,460 per month of earned income up to a total of \$5,910 in a calendar year. To qualify for a Student Earned Income Exclusion (SEIE), you must be enrolled in a course of study or training that will prepare you for a job. You must be attending a university or college and taking at least eight credit hours, or be in grades 7 through 12 for at least 12 hours per week, or be in a course of job training for at least 15 hours per week or 12 hours if it does not involve shop. You may be allowed to have less than the amount of time given above because of illness or disability. You may study at home or have a tutor in this case. When school is not in session you will be considered a student if you are regularly attending. The Social Security Administration will verify that you are a student and will also verify your income. The SEIE provision allows qualifying students to earn as much as \$5,910/year before Social Security will count any of their earnings and begin to reduce their SSI checks.



PASS

PASS, or Plan for Achieving Self Support, is one of the more promising and yet scariest tools available for persons who receive SSI and/or SSDI. At one time, when Social Security looked at

PASSes as a guaranteed way to reduce the number of persons on the disability roles, I didn't encourage people to try one. In recent years, however, Social Security has relaxed and adopted the position that SSA will approve your PASS if, at its conclusion, your PASS has a strong possibility of "reducing your reliance" on government benefits, if not making them unnecessary altogether. Although getting a PASS approved is not always easy, it can be done, and is well worth the effort in most cases. In the past six years, I have assisted people to write SSA-approved PASS plans that, taken together, total well over \$300,000.

While the PASS is an employment support, or "work incentive," for the SSI program only, it can help SSDI recipients to become financially eligible for SSI and, therefore, also be eligible for Medicaid in most states.

Basically, a PASS allows you to exclude income and/or resources that would normally reduce your SSI check, or make you ineligible for SSI altogether, while you achieve a particular work goal. It allows you to create a time-limited "extra pot" of money to help you get:

- a vocational evaluation,
- education,
- equipment,
- employment services (such as job development and job coaching), or
- transportation;

or to assist you to:

- become self-employed, or
- start a small business.

Some of the things all PASSes have in common are:

- a specific work goal (job title, self-employment, vocational profile/evaluation, or only in the case of supported employment, maintaining a job);
- milestones (steps to achieve your goal);
- rationale for purchases (especially for larger ones, such as a car or computer);
- collaborative funding (help from Vocational Rehabilitation for instance);
- a specific plan for spending/saving;
- SSA approval; and,
- can be written by anyone.

A Specific Work Goal

Usually this will be starting your own business, or the title of a job you want or can get or will be prepared for once the PASS is over. However, a work goal for a PASS can also be a vocational evaluation. This can be especially useful for students receiving transition services, or for adults in areas where services and/or financial resources are scarce, or where you aren't being served at all by the traditional developmental disability, mental health, independent living, vocational, or educational systems.

If a student (or adult) has countable income or resources that can be used in a PASS, they can select whomever they want to assist with a vocational evaluation. Not only does this put you in control of your resources and provider selection, but it can provide relief if you don't get along well with or trust the traditional providers of vocational evaluations. It can also allow for a person-centered "vocational profile" rather than the usual deficit-based vocational assessments.

If, and only if, you are working with supported employment, your goal can also be to "maintain" that employment, hopefully with the possibility that you will also be able to increase your wages, need less job coaching, or increase the hours you work by the end of the PASS.

If you are writing a PASS to get a piece of equipment you need for a job, the "goal" is still the job—not the equipment. For instance, if you need a portable lift to help you transfer to the toilet in the department store where you could greet customers, the PASS work goal is "Customer Greeter," not the portable lift. The lift is simply the equipment you need so you can take the job. Some people might ask "Well, isn't the lift an 'accommodation' that should be provided by my employer under ADA?" The answer is "no" because the lift isn't required for you to perform your actual job duties; it's necessary for you personally during non-job time. However, if you don't have this assistance, you won't be able to take the job at all, even though it's one you love and do well.

Here is a short list of examples of possible specific work goals:

- accountant;
- mechanic;
- shelf stocker;
- self-employment as an artist;
- bird house assembler;
- receptionist; or
- disability rights advocate.

Another thing Social Security will be looking for regarding your "work goal" is its "feasibility." It is expected that you will submit your PASS with a statement from your vocational rehabilitation counselor that says he or she believes this to be a reasonable and fitting goal for you, and it is likely you will be able to achieve the goal.

Even though Social Security is most comfortable with an endorsement from a state or tribal vocational rehabilitation worker, SSI policy states that an endorsement from any certified rehabilitation professional or agency is acceptable. Private or alternative certified rehabilitation professionals or agencies are becoming much more common now that the Ticket to Work has been implemented, they are particularly helpful when you don't want to become a client of the public vocational rehabilitation system, or when your relationship with that system is so strained that working together is just not feasible. Also, because vocational rehabilitation workers are human, on occasion you may be assigned one who just can't believe you are able to do what you want to do.

Every so often, I've encountered vocational rehabilitation counselors who think everyone who uses a wheelchair can only be an accountant, and that none of their "clients" could hold the same jobs as their husband, brother, and neighbor who don't have disabilities. If you run into an attitude like this while trying to work with the public or tribal vocational rehabilitation system, you can always seek assistance from your state "Client Assistance Program" to appeal and hopefully resolve a negative action. On the other hand, you can also choose to seek out a private certified rehabilitation professional (or agency) who might be more open and willing to believe in your capability and commitment. As the Ticket to Work program continues to become fully functioning throughout the country, your options for help to achieve employment are increasing. Once you receive your "Ticket" in the mail, you can choose who you want to help you find a job or start a business.

Milestones (or Steps To Achieve Your Goal)

In this part of the PASS, you will list for Social Security all of the steps you have taken or will be taking to achieve your goal. For instance, if your goal is to be a lawyer, but you have no transportation to and from law school 30 miles away, you might write a PASS to purchase a vehicle. Some of the steps in your PASS might be:

- apply for law school;
- apply for financial aid;
- meet with my VR counselor;
- visit used car lots and watch the classified ads for car possibilities;
- select a car and have mechanic check it out;
- register for classes;
- buy the car;
- arrange car insurance;
- take care of registration & license plates;
- complete first semester (list all classes);
- complete second semester (list all classes);
- work during summer at local law firm;
- complete third semester (list all classes);
- interview with firms who come to campus;
- complete fourth semester (list all classes);
- continue to interview with prospective firms;
- complete fifth semester (list all classes);
- accept job to start after graduation;
- complete sixth semester (list all classes);
- start new job;
- pass the bar exam.

Each of these steps will have a "start date" for you to list, and a firm or proposed "completion date." For instance, "visit car lots" might begin in July, 2005 and end in July, 2005 but "buy the car" may begin in August, 2003, and not be completed until July of 2008 when the last payment is made. Don't be surprised if Social Security uses some of these milestones as time-lines for

reviewing your progress on your PASS. For instance, if you are going to school, Social Security may check in with you every semester to assure you are maintaining your grades and credit hours.

Rationale for Purchases (especially for larger ones, such as a car or computer)

For each item you list that you will spend money on in your PASS, Social Security will want you to tell them:

- how much it will cost;
- why you need it;
- how you will pay for it (every month, one time only, as needed, or on some other schedule);
- how you determined the cost; and
- whether there is any less expensive alternative (e.g., used car instead of new).

For an expense like the yearly license plates and registration for a car, the cost is determined by the state, required by the state, must be paid all at once, and there is no other alternative. That's an easy one to submit.

Let's look at an item that isn't so predetermined—for instance, a photocopier so you can have your own small photocopying business. Before you list a specific copier and cost on your PASS, you'll need to do some homework. First, you might want to estimate how many copies you think you'll be making a month; whether they'll be black and white, color, or both; whether you're going to need sorting, collating and stapling, and two-sided capability; and what sizes of paper you need to accommodate, as well as any other special features you will need to have. Then you need to speak with several different companies and get quotes from each for comparable machines that can do all the things you need. The important thing is to have good, thoughtful reasons for the items you list.

Collaborative Funding

In almost all cases, there are sources in addition to the PASS that you can use to fund pieces of achieving your work goal. These might include: funding from state or tribal vocational rehabilitation and/or special education; scholarships or financial aid; grants; gifts from family; WIA (Workforce Investment Act), the VA, trusts; or other special funds from public or private programs. While additional funding isn't a requirement, it does show Social Security that someone else believes in your goal and your ability to achieve it. If you haven't approached VR for some funding, it's possible that the PASS Cadre staff will call your VR office to ask how they are going to participate in your PASS.



PASSes for Self-Employment & Small Business

A simple PASS can be written to pay for many different things that help you reach your goal, e.g. education or training, vocational evaluation, equipment, transportation, and job development and/or coaching. If you choose self-employment or starting a small business, there are some additional pieces you will need to add to your PASS.

If you want to be self-employed as a lawn mower/snow blower, or an accountant, or an apartment cleaner, or an artist, your chances for PASS approval are helped by including information on the need in your area for more people to perform that job. You can do your own survey or take an informal poll in your community or neighborhood to show how many people would patronize your business, buy your product, or who need your service. In the alternative, this information is easily available from both federal and state departments of labor or your local small business development center. If you have a computer with internet access, or a friend who has one, or if you can get to a public library which has free access, you can start by going to “www.dol.gov.” That website, the United States Department of Labor, will give you federal information and will allow you to link to your own state so you can get specific information for your state and community. Typically these websites list many different occupations, how many jobs there are, how many jobs are predicted in the future, and what the average salary or wages are.

If you don't have internet access at home, you should be able to get the same information through your local vocational rehabilitation office or Workforce Investment Act “Onestops..” They both maintain internet access, and often have a computer available just for consumer use. Your state Department of Labor or Commerce may even break the information down by county or community, and is only a call away.

If you are writing a PASS to get funding for your own small business, the biggest addition to your PASS will be a Business Plan. A business plan is a separate document that has some basic, typical parts which map out a summary of your business, what makes you think there's a need for it, how you'll get customers, the resources you need to start, and the income you expect, projected over the first few years. After this Chapter you will find a number of websites where you can download and/or print outlines for business plans. Many software companies also offer business plan programs, and, finally, you can seek assistance from your local community or state Small Business Association or Small Business Development Center, or your Tribal Business Information Center.

Self-employment and small business can be excellent career choices for people who do not live in large metropolitan or suburban areas with public transportation, many available jobs and good resources. In the state of Montana, (population under 1 million) where population in towns is often so low that they are considered “frontier” rather than “rural,” where there is little or no public transportation, and where there are just no jobs to be had, the Adult Community Services

and Supports Department at the Rural Institute of the University of Montana has assisted over 200 persons with disabilities to become business owners using PASS plans and other creative/collaborative funding since 1999.

If you are considering a small business, you have several options as to how you set it up. You may choose to own the business all by yourself (sole proprietorship), or own it with one or more other people (Equal Partnership or Limited Partnership). You can set up your own place of business, or you can have “a business within a business” by co-locating with another business. For instance, you may want to have your own business making decorated hair barrettes and clips, but you don't have the funds to open your own store front. An alternative would be to approach the owners of hair salons to explore locating your business inside of their business. You (i.e. your product) bring something they need but don't have, and they can provide the “overhead” and place that you can't afford. Each of you can share your customer base with the other, increasing traffic and income for you both. And all of this can be brought into existence using a PASS.

After you write your PASS, submit it to your local Social Security office and keep a copy for yourself. The local SSA office is supposed to quickly send your PASS to the PASS Cadre. Some PASS Cadres routinely send a form to you acknowledging they received your PASS, and listing anything they still need before they can approve it. See Appendix 14 for examples of forms used by the very helpful PASS Cadre in Region VIII, out of Denver, CO. Often someone at the PASS Cadre will also call you to help you fine tune your PASS. Send or fax PASS changes back and forth, and once you submit your final version, don't hesitate to stay in frequent contact with the PASS Cadre so you can be sure everything is in place to get your PASS approved. You can find your PASS Cadre phone number in Appendix 9.



Financial Aspects of a PASS

In order to generate the funds you need to achieve your goal, you need to have some SSI-countable income or resources to exclude for use in the PASS. Unless you have resources that you want to exclude, the possibilities for excludable income might include, among others:

- SSDI payments
- Black lung, Veterans Administration, or Railroad Retirement benefits
- Wages
- Adoption subsidy
- Trust fund income
- Royalties, dividends
- Grants
- Gifts
- Certain Indian monies not exempt by Federal Law.

All of these would normally be counted as either earned or unearned income for SSI purposes, and would reduce the amount of SSI you might be eligible for, or make you ineligible altogether.

By excluding some or all of this other income, to use in a PASS, you can be eligible for an increased, or full SSI check. Then, the money you are excluding in an approved PASS becomes available for you to use to achieve your work goal.

Let's look at a couple of examples.

EXAMPLE 1:

You receive SSDI of \$727 per month. With a \$727 per month SSDI check, you aren't financially eligible for SSI. However, if you exclude at least \$105 per month in a PASS, up to the whole \$727, you can become eligible for at least \$1 per month in SSI, up to the full \$603 Federal Benefit Rate for 2006. If you are in a one year program to become an auto mechanic, you might want to save money through a PASS to buy your own tools. If you excluded \$707/month of your SSDI benefits, you would also be eligible for \$603 per month in SSI during the 12 months of your PASS.

Before your PASS you have:

\$727 SSDI benefit (no SSI and probably no Medicaid)

During the 12 month PASS you would have:

\$727 SSDI benefit
-707 excluded in a PASS
\$20
-20 excluded by SSI as "general income exclusion"
\$0 countable income for SSI

This makes you eligible for \$603 per month in SSI in 2006, plus you get your whole \$727 SSDI check each month. Over the twelve months, you would save \$8,484 for your tools (\$707 per month x 12 months = \$8,484)

\$603 SSI benefit each month of PASS
+727 SSDI
\$1,330 Total monthly income
- 707 to be saved in a PASS to buy tools
\$623 monthly income available for food/shelter, etc.
plus Medicaid and Medicare

EXAMPLE 2: YOU RECEIVE SSI AND SSDI.

Before your PASS you have:

\$303	SSI
<u>+320</u>	SSDI
\$623	monthly total, plus Medicaid and Medicare

If you exclude \$300 per month of your SSDI to use in a PASS, you will have \$3,600 per year available to achieve your work goal. If your goal is to be a desktop publishing and graphics artist out of your home, you might easily need \$10,000 worth of professional equipment (computer, enlarged monitor, color printer, scanner, digital camera, modem, special paper, graphics and publishing software, etc.). You could buy the equipment on time, with the PASS, or take out a loan up front and repay it with the \$300 per month excluded PASS funds.

During your PASS, you would have:

\$320	SSDI
<u>-300</u>	excluded in PASS
\$20	
<u>- 20</u>	general income exclusion
\$ 0	countable income for SSI

This means you're eligible for \$579 per month in SSI benefits.

\$603	SSI
<u>+320</u>	SSDI
\$923	total monthly income
<u>-300</u>	PASS funds for equipment
\$603	monthly income available for food/shelter, etc.

When you submit your PASS Social Security will also want to know that you can meet all your monthly expenses on the \$603 per month you will receive from SSI plus any other income you may have that is not being excluded (i.e., \$20 SSDI, the first \$65 and then half of your remaining wages). For someone already on SSI this shouldn't be a problem, but if you receive a large SSDI check, and are accustomed to living on more money, it may take some thought and creativity.

For instance, if you are used to living on a large monthly SSDI check (e.g. \$972), trying to pay all your bills on \$603 (or \$623) per month, may not be possible. On the other hand, you may be able to work it out. If you are living in HUD subsidized housing (or Section 8), your portion of the rent is calculated as a percentage of your monthly income. Currently your portion is being figured on the basis of your \$972 per month, but once your PASS is approved, your portion of

the rent will be reduced because it will be calculated on the basis of your new SSI payment (\$603 per month in 2006). Also, at \$972 per month, you aren't eligible for Medicaid so you may be paying for some or all of your medical costs out of the \$972. Once your PASS is approved and you are eligible for SSI, in most states you will also be eligible for Medicaid which will take over payment of most, if not all, of your medical costs. Or you may be "spending down" what your state calls your "excess income" in order to have Medicaid now. If that is the case, you are already living on approximately the SSI amount. You can see how a PASS may still be possible.

Once you determine that your monthly expenses for food/shelter, etc., can be met with \$603-\$623/month, you're ready to write a PASS that can help you achieve a work goal, and could give you Medicaid eligibility while the PASS is in effect.

If you want to go to college to get a degree in Social Work, but you need a wheelchair accessible lift van to get back and forth to school, using a PASS can make it possible. By excluding at least \$350 per month of your SSDI, up to the entire \$972, you will be able to cover the van payments, the insurance, and the gas to and from school.

EXAMPLE 3: YOU RECEIVE SSI & HAVE EARNED INCOME

If you work in a supported employment job, you are allowed to have a work goal of “maintaining my supported employment job,” especially if the use of a PASS is likely to result in an increase of your hourly wage or in your hours (and therefore your countable monthly income), or a reduction in the hours of job coaching you need. If you now work 2 hours a day as an early morning floor mopper and table cleaner at a local restaurant earning \$285 per month, but could work 4 hours a day earning \$6.50 per hour as a french fry cook at the same restaurant if you had a little extra job coaching to help you learn the new job, a PASS may get you there.

Out of the \$285 you gross each month, Social Security is only counting \$100, which you can have them exclude by using a PASS to pay for the extra job coaching you need to achieve your work goal.

\$285	monthly gross earnings
<u>- 65</u>	earned income exclusion
\$220	
<u>-\$20</u>	general income exclusion
\$200	
<u>\$200</u>	divided by 2
\$100	countable earned income, which can be used in a PASS
\$285	monthly gross earnings
<u>+603</u>	SSI
\$888	total income/month
<u>-100</u>	for job coaching
\$788	income available for food/shelter, etc.

If you use that \$100 per month to buy yourself a total of 50 hours of job coaching at \$8 per hour, you would write a PASS that ran for four months because it would take you four months to save enough money to pay your coach \$400 for the 50 hours, even though the job coaching may all happen in the first month. A PASS doesn't end until all the planned expenditures are paid for—even if you have already achieved your goal. Or, you can write the PASS to start three months retroactively, and then receive all \$400 in the month you get your coaching.

Writing a PASS to start retroactively at least three months is a good practice anyway because of the way Social Security counts money where SSI is concerned. Remember, for SSI, income you have in one month (e.g., May) is reflected in your SSI check two months later (e.g., July). So, if it is now April, and you write your PASS to begin in February, Social Security will think you excluded the countable \$100 of your wages beginning in February. They'll approve a \$100 increase in your benefit amount effective in April. If your PASS approval comes in early June after you have received your June SSI check, you'll get an additional check for \$300 to cover the additional \$100 you should have received in April, May, and June because of your PASS. That check and \$100 from your June wages will give you the whole \$400 to pay for the 50 hours of job coaching at \$8/hour.

Q & A

What if I can't complete the plan?

Interrupting the plan, or stopping the plan completely, can occur for a number of reasons. People get sick, jobs fall through, managers change, life happens. The important thing is to notify Social Security right away. If the interruption is temporary (e.g., you're in the hospital) or if you have to change your goal a bit (e.g., the business where you work burns down and you need to find a similar position in a new business), you can work with the PASS Cadre on an "amendment" to, or temporary suspension of, your PASS.

If something more major occurs, your options will depend on how you've been excluding and spending or saving money. If you've been saving the excluded money to buy something at the end of your PASS, you will simply need to return the saved funds if you have to abandon the PASS altogether.

What if you have been going to college and making van payments, and then four months short of your degree and van payoff, you acquire a medical problem that will force you to stop school for an unknown amount of time? Because you have been following your plan up to now and you have been doing everything you said you would, and were expected to do, you have an excellent case to be allowed to pay off the van with your excluded funds and receive four more months of increased SSI. In any event, as long as you are in compliance with your PASS, there will be no overpayment alleged by Social Security. The potential for an overpayment would only occur once you stop following your PASS. Expected repayment of that overpayment could possibly be waived if your circumstances warrant a waiver (the reason for the overpayment/stopping the PASS was not your fault and you can't afford to pay it back).



Communication is the Key

Because many work incentives/employment supports and some work related laws/policies are new or not well understood concepts for some Social Security personnel, it is in everyone's best interest to develop an open channel of communication. Since all employment impacts SSI and SSDI benefits, it is even more important to develop this communication. Much of the

information that follows is directly aimed at providers of employment services. However, there are suggestions which can be used by nearly everyone with an interest/concern about SSI/SSDI and work. Contact with the various SSA personnel is summarized below:

The District Manager is the top level administrator in your local SSA office. He or she needs to be aware of the various needs and special characteristics of the community they serve. If lower level personnel ask for policy clarification from the District Manager on an employment issue, everyone is ahead when the District Manager already understands the general concepts and policies. In many locations District Managers not only serve on their community's Workforce Investment Board and Supported Employment Advisory Board, but they may employ a Supported Employment worker in the District Office they manage. Finally, District Managers are usually willing to do public presentations about Social Security for community groups. Invite them to participate, and get to know them.

The Individual Claims Representatives are the persons "in the trenches" who work on cases for all the day-to-day reasons, including applications, SGA reviews, redeterminations, and changes of payee. They send out requests for wage verification and are the Social Security staff who have the most personal and frequent contact with SSI and SSDI recipients. All Claims Representatives have received training in the past two years on the various SSI/SSDI employment support programs.

Work Incentive Liaisons (WILs) are currently available in all 1335 SSA offices, and are the persons charged with being the in-house experts on all work related provisions of the Social Security Act, as well as legislation such as the Ticket to Work and Work Incentives Improvement Act. Questions on work and benefits should be directed to the WIL who will either provide immediate answers or will do any necessary research. This is the person who can help individuals, job coaches, and advocates to decide what might qualify as an Impairment Related Work Expense (IRWE), or how to transition to a career, etc. The WIL is one of the SSA staff who is usually available to give presentations to groups. While all SSA offices should have a WIL, some offices may have lost their Work Incentive Liaisons to transfers, promotions, and retirements. If this is the case in your community, contact your local office, and let the District Manager know you need the assistance of a WIL.

The Area Work Incentive Coordinators (AWICs)

In 2003, SSA created the new full time staff position of Area Work Incentives Coordinator. There are 58 of these AWICs across the country who provide training, support and liaison services between SSI/SSDI recipients and BPAO Specialist, PASS Cadre staff, Public Affairs Specialists and over 1300 local office Work Incentive Liaisons (aka Employment Support Representatives, or ESRs.). The AWICs are responsible for outreach to the public on work incentives, can intervene in complicated or touchy work- incentive situations, and they will be keeping track of the workloads in their individual areas that pertain to disability and work. These are not the first people to contact with a work incentive related problem, but if your communication with an individual Claims Representative, and then District Manager result in no solution, don't hesitate to ask for the AWIC in your area.

Regional PASS Cadre Specialists While you should submit a proposed PASS plan to your local Social Security Administration office and they will forward it to the PASS Cadre after performing an initial financial review, you are encouraged to also communicate directly with the Cadre personnel. You can do this before and after submitting your final PASS copy. If you communicate while you are in the process of writing your PASS, you may be allowed to fax a draft and hopefully get feedback in a phone call. This can save time later because it allows you to do most, if not all, of your fine tuning up front, resulting in a more likely approval of your final product in a timely fashion. Don't be afraid to negotiate, or to make a verbal case for why you have made certain choices. If you have done your homework, and if you can give a good rationale for your work goal and expenditures, you improve your chances for approval. See Appendix 9 for a listing of PASS Cadre offices and phone numbers.

Disability Program Navigators Known as Disability Navigators, or even just Navigators, they are located in the One-Stop Career Centers, but they have been trained by SSA. It is hoped that the Navigators will be the “tour guides” for people with disabilities as they seek work/self employment. Navigators can help negotiate the systems, network with employers, help with SSI/SSDI work incentives/employment supports, and act as a resource for the workforce investment/One-Stop staff and their community partners. If you're unsure where to start as you look for employment, training, or help starting a business, your local Disability Navigator should be able to help. It is the Navigator's job to know all the resources available; how to assist students to transition to employment; to know all about Social Security Work Incentives and the Ticket to Work; and how to assist persons with disabilities to have “universal access” to the One-Stop system.



Appendices

1. State Medicaid Program for Persons with Disabilities and Criteria Used to Determine Eligibility
2. Table of SSI Payment Amounts form 1975 to 2006
3. Number of SSI Recipients Using PASS, IRWE, BWE, by date
4. PASS Plan Blank Form
5. Essential Tools for Advocates and Activists
6. Web Links
7. Trial Work Period & Substantial Gainful Activity Over Time
8. Regional SSA Offices
9. Regional PASS Cadre Offices
10. State 1619b Threshold for 2005
11. Individual Threshold Calculation Worksheet
12. Benefits Planning, Assistance, and Outreach (BPAO) State Contacts
13. Helpful PASS Forms Used By Region VIII PASS Cadre

APPENDIX 1

STATE MEDICAID PROGRAMS FOR PERSONS WITH DISABILITIES AND CRITERIA USED TO DETERMINE ELIGIBILITY

State	SSI Makes Medicaid Determination	State Makes Medicaid Determination Using Criteria Stricter than SSI	State Makes Medicaid Determination Using SSI Criteria
Alabama	X		
Alaska			X
Arizona	X		
Arkansas	X		
California	X		
Colorado	X		
Connecticut		X	
Delaware	X		
District of Columbia	X		
Florida	X		
Georgia	X		
Hawaii		X	
Idaho			X
Illinois		X	
Indiana		X	
Iowa	X		
Kansas			X
Kentucky	X		
Louisiana	X		
Maine	X		
Maryland	X		

State	SSI Makes Medicaid Determination	State Makes Medicaid Determination Using Criteria Stricter than SSI	State Makes Medicaid Determination Using SSI Criteria
Massachusetts	X		
Michigan	X		
Minnesota		X	
Mississippi	X		
Missouri		X	
Montana	X		
Nebraska			X
Nevada			X
New Hampshire		X	
New Jersey	X		
New Mexico	X		
New York	X		
North Carolina	X		
North Dakota		X	
Ohio		X	
Oklahoma		X	
Oregon			X
Pennsylvania	X		
Rhode Island	X		
South Carolina	X		
South Dakota	X		
Tennessee	X		
Texas	X		
Utah			X
Vermont	X		
Virginia		X	
Washington	X		
West Virginia	X		
Wisconsin	X		

— Don't Look For Logic —

State	SSI Makes Medicaid Determination	State Makes Medicaid Determination Using Criteria Stricter than SSI	State Makes Medicaid Determination Using SSI Criteria
Wyoming	X		
N. Mariana Islands			X

APPENDIX 2

TABLE OF SSI PAYMENT AMOUNTS, 1975 - 2006

The following table shows the monthly maximum Federal SSI payment amounts for an eligible individual and for an eligible individual with an eligible spouse beginning with the amounts for July 1975. For 1976 to 1983, the amounts shown became effective for July of the stated year. For 1984 and later, the amounts were effective in January.

SSI MONTHLY PAYMENT AMOUNTS

Year	Automatic Increase	Eligible Individual	Eligible Couple
1975	8.0%	\$157.70	\$236.60
1976	6.4%	\$167.80	\$251.80
1977	5.9%	\$177.80	\$266.70
1978	6.5%	\$189.40	\$284.10
1979	9.9%	\$208.20	\$312.30
1980	14.3%	\$238.00	\$357.00
1981	11.2%	\$264.70	\$397.00
1982	7.4%	\$284.30	\$426.40
1983	7.0%	\$304.30	\$456.40
1984	3.5%	\$314.00	\$472.00
1985	3.5%	\$325.00	\$488.00
1986	3.1%	\$336.00	\$504.00
1987	1.3%	\$340.00	\$510.00

Year	Automatic Increase	Eligible Individual	Eligible Couple
1988	4.2%	\$354.00	\$532.00
1989	4.0%	\$368.00	\$553.00
1990	4.7%	\$386.00	\$579.00
1991	5.4%	\$407.00	\$610.00
1992	3.7%	\$422.00	\$633.00
1993	3.0%	\$434.00	\$652.00
1994	2.6%	\$446.00	\$669.00
1995	2.8%	\$458.00	\$687.00
1996	2.6%	\$470.00	\$705.00
1997	2.9%	\$484.00	\$726.00
1998	2.1%	\$494.00	\$741.00
1999	1.3%	\$500.00	\$751.00
2000	2.5%	\$513.00	\$769.00
2001	2.4%	\$531.00	\$796.00
2002	2.3%	\$545.00	\$817.00
2003	1.4%	\$552.00	\$829.00
2004	2.2%	\$564.00	\$864.00
2005	2.7%	\$579.00	\$869.00
2006	4.19%	\$603.00	\$904.00

Note: The 7.0 percent increase effective for July 1983 was a legislated increase.

APPENDIX 3

NUMBER OF SSI RECIPIENTS USING PASS, IRWE AND BWE, BY STATE (DECEMBER, 2003)

State	Plans for Achieving Self-Support (PASS)	Impairment Related Work Expenses (IRWE)	Blind Work Expenses (BWE)
Total	1598*	6874	2827
Alabama	31	164	38
Alaska	6	4	
Arizona	12	87	24
Arkansas	25	75	24
California	463	590	409
Colorado	12	21	35
Connecticut	5	128	23
Delaware	0	36	12
Florida	45	350	107
Georgia	30	213	55
Hawaii	9	9	12
Idaho	18	10	3
Illinois	33	229	69
Indiana	15	119	42
Iowa	20	58	69
Kansas	12	286	35

State	Plans for Achieving Self-Support (PASS)	Impairment Related Work Expenses (IRWE)	Blind Work Expenses (BWE)
Kentucky	57	99	45
Louisiana	8	140	47
Maine	27	33	13
Maryland	9	202	42
Massachusetts	87	184	244
Michigan	51	132	103
Minnesota	33	140	51
Mississippi	10	37	43
Missouri	18	148	41
Montana	24	11	11
Nebraska	13	28	14
Nevada	4	25	13
New Hampshire	9	28	11
New Jersey	13	196	48
New Mexico	0	69	14
New York	117	521	203
North Carolina	74	337	125
North Dakota	5	8	4
Ohio	41	116	101
Oklahoma	6	81	24
Oregon	20	42	33
Pennsylvania	17	329	121
Rhode Island	9	10	13

State	Plans for Achieving Self-Support (PASS)	Impairment Related Work Expenses (IRWE)	Blind Work Expenses (BWE)
South Carolina	19	75	33
South Dakota	11	18	4
Tennessee	15	142	47
Texas	25	330	182
Utah	3	58	15
Vermont	21	5	3
Virginia	16	522	73
Washington	31	93	46
West Virginia	10	34	19
Wisconsin	57	296	76
Wyoming	0	4	3
N. Mariana Islands			

APPENDIX 4

PASS PLAN BLANK FORM (SSA 545 BK)

PLAN FOR ACHIEVING SELF-SUPPORT

In order to minimize recontacts or processing delays, please complete all questions and provide thorough explanations where requested. If you need additional space to answer any questions, use the Remarks section or a separate sheet of paper

Date Received

Name _____ SSN _____

PART 1 - YOUR WORK GOAL

- A. What is your work goal? (Show the specific job you expect to have at the end of the plan. If you do not yet have a specific work goal and will be working with a vocational professional to find a suitable job match, show "VR Evaluation." If you show "VR Evaluation," be sure to complete Part II, question F.)

If your goal involves supported employment, show the number of hours of job coaching you will receive when you begin working _____ **per week/month** (circle one).

Show the number of hours of job coaching you expect to receive after the plan is completed. _____ **per week/month** (circle one).

- B. Describe the duties you expect to perform in this job. Be as specific as possible (standing, walking, sitting, lifting stooping, bending, contact with the public, writing reports/documents, etc.)

In light of the limitations you described, how will you carry out the duties of your work goal? _____

C. List the jobs you have had most often in the past few years. Also list any jobs, including volunteer work, which are similar to your work goal or which provided you with skills that may help you perform the work goal. List the dates you worked in these jobs. Identify periods of self-employment. If you were in the Army, list your Military Occupational Specialty (MOS) code; for the Air Force, list your Air Force Specialty (AFSC) code; and for the Navy, Marine Corps, and Coast Guard, list your RATE.

Job Title	Type of Business	Dates Worked	
		From	To

D. Circle the highest grade of school completed.

0 1 2 3 4 5 6 7 8 9 10 11 12 GED, High School Equivalency

College: 1 2 3 4 or more

1. Were you awarded a college or postgraduate degree? YES NO If NO, skip to 2.
When did you graduate? _____
What type of degree did you receive? (B.A., B.S., M.B.A., etc.) _____
In what field of study? _____

2. Did you attend special education classes? YES NO If "NO," skip to E.
If "YES," complete the following:

Name of school _____
Address: _____
Dates attended: From _____ To _____
Type of program _____

E. Have you completed any type of special job training, trade or vocational school?

YES NO If "NO," skip to F.

If "YES," complete the following:

Type of training _____

Date completed _____

Did you receive a certificate or license? YES NO If "NO," skip to F.

If "YES," what kind of certificate or license did you receive?

F. Have you ever had or expect to have a vocational evaluation or an Individualized Written Rehabilitation Plan (IWRP) or an Individualized Employment Plan (IEP)? YES NO

If "NO," skip to Part III.

If "YES," attach a copy of the evaluation and skip to Part III. If you cannot attach a copy, complete the following:

When were you evaluated or when do you expect to be evaluated or when was the IWRP or IEP done or when do you expect it to be done? _____

Show the name, address, and phone number of the person or organization who evaluated you or will evaluate you or who prepared the IWRP or IEP or will prepare the IWRP or IEP.

PART III -YOUR PLAN

A. If you propose to purchase, lease, or rent a vehicle, please provide the following additional information:

1. Explain why less expensive forms of transportation (e.g., public transportation, cabs) will not allow you to reach your work goal.

2. Do you currently have a valid driver's license? YES NO

If "YES," skip to 3.

If "NO," complete the following:

Does Part III include the steps you will follow to get a driver's license? YES NO

If "YES," skip to 3.

If "NO," complete the following:

Who will drive the vehicle? _____

How will it be used to help you with your work goal? _____

3. If you are proposing to purchase a vehicle, explain why renting or leasing are not sufficient.

4. Explain why you chose the particular vehicle. (Note: the purchase of the vehicle should be listed as one of the steps in Part III.)

B. If you propose to purchase computer equipment or other expensive equipment, please explain why a less expensive alternative (e.g., rental of a computer or purchase of a less expensive model) will not allow you to reach your goal. Explain why you need the capabilities of the particular computer/equipment you identified. Also, if you attend (or will attend) a school with a computer lab for student use, explain why use of that facility is not sufficient to meet your needs.

C. Other than the items identified in A or B above, list the items or services you are buying or renting or will need to buy or rent in order to reach your work goal. Be as specific as possible. If schooling is an item, list tuition, fees, books, etc. as separate items. List the cost for the entire length of time you will be in school. Where applicable, include brand and model number of the item. (Do not include expenses you were paying prior to the beginning of your plan; only additional expenses incurred because of your plan can be approved.)

NOTE: Be sure that Part III shows when you will purchase these items or services or training.

1. Item/service training: _____ Cost: \$ _____
Vendor provider: _____
How will this help you reach your work goal? _____

How did you determine the cost? _____

Why wouldn't something less expensive meet your needs? _____

2. Item/service training: _____ Cost: \$ _____
Vendor provider: _____
How will this help you reach your work goal? _____

How did you determine the cost? _____

Why wouldn't something less expensive meet your needs? _____

3. Item/service training: _____ Cost: \$ _____

Vendor provider: _____

How will this help you reach your work goal? _____

How did you determine the cost? _____

Why wouldn't something less expensive meet your needs? _____

4. Item/service training: _____ Cost: \$ _____

Vendor provider: _____

How will this help you reach your work goal? _____

How did you determine the cost? _____

Why wouldn't something less expensive meet your needs? _____

5. Item/service training: _____ Cost: \$ _____

Vendor provider: _____

How will this help you reach your work goal? _____

How did you determine the cost? _____

Why wouldn't something less expensive meet your needs? _____

D. If you indicated in Part II that you have a college degree or specialized training, and your plan includes additional education or training, explain why the education/training you already received is not sufficient to allow you to be self-supporting.

Item _____

Value _____

How will this help you reach your work goal? _____

- B. Have you saved any money to pay for the expenses listed in Part IV? (Include cash on hand or money in a bank account.) YES NO If "NO," skip to C.
If "YES," how much have you saved?
-

- C. Do you receive or expect to receive income other than SSI payments? YES NO
If "NO," skip to F.
If "YES," provide details as follows:

Type of Income	Amount	Frequency (Weekly, Monthly, Yearly)

- D. How much of this income will you use each month to pay for the expenses listed in Part IV?

- E. Do you plan to save any or all of this money for a future purchase which is necessary to complete your goal? YES NO If "NO," skip to F.
If "YES," how will you keep the money separate from other money you have? (If you will keep the savings in a separate bank account, give the name and address of the bank and the account number.)

F. Will any other person or organization (e.g., Vocational Rehabilitation, school grants, pay for or reimburse you for any part of the expenses listed in Part IV or provide any other items or services you will need?

YES NO If "NO," skip to Part VI.

If "YES," provide details as follows:

Who Will Pay	Item/Service	Amount	When will the item/service be purchased?

PART VI- REMARKS

PART VII - AGREEMENT

If my plan is approved, I agree to:

- Comply with all of the terms and conditions of the plan as approved by the Social Security Administration (SSA);
- Report any changes in my plan to SSA immediately;
- Keep records and receipts of all expenditures I make under the plan until asked to provide them to SSA;
- Use the income or resources set aside under the plan only to buy the items or services shown in the plan as approved by SSA.

I realize that if I do not comply with the terms of the plan or if I use the income or resources set aside under my plan for any other purpose, SSA will count the income or resources that were excluded and I may have to repay the additional SSI I received.

I also realize that SSA may not approve any expenditures for which I do not submit receipts or other proof of payment.

I know that anyone who makes or causes to be made a false statement or representation of material fact in an application for use in determining a right to payment under the Social Security Act commits a crime punishable under Federal Law and/or State Law. I affirm that all the information I have given on this form is true.

Signature _____ Date _____

Address _____

Telephone:
Home _____ Work _____

PRIVACY ACT STATEMENT

The Social Security Administration is allowed to collect the information on this form under section 1631(e) of the Social Security Act. We need this information to determine if we can approve your Plan for Achieving Self-Support. Giving us this information is voluntary. However, without it, we may not be able to approve your plan. Social Security will not use the information for any other purpose.

We would give out the facts on this form without your consent only in certain situations. For example, we give out this information if a Federal law requires us to or if your congressional Representative or Senator needs the information to answer questions you ask them.

PAPERWORK REDUCTION ACT NOTICE AND TIME IT TAKES STATEMENT:

The Paperwork Reduction Act of 1995 requires us to notify you that this information collection is in accordance with the clearance requirements of section 3507 of the Paperwork Reduction Act of 1995. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a valid OMB control

number. We estimate that it will take you about 120 minutes to complete this form. This includes the time it will take to read the instructions, gather the necessary facts and fill out the form.

OUR RESPONSIBILITIES TO YOU

We received your plan for achieving self-support (PASS) on _____.
Your plan will be processed by Social Security employees who are trained to work with PASS.

The PASS expert handling your case will work directly with you. He or she will look over the plan as soon as possible to see if there is a good chance that you can meet your work goal. The PASS expert will also make sure that the things you want to pay for are needed to achieve your work goal and are reasonably priced. If changes are needed, the PASS expert will discuss them with you.

You may contact the PASS expert toll-free at 1-_____.

YOUR REPORTING AND RECORDKEEPING RESPONSIBILITIES

If we approve your plan, you must tell Social Security about any changes to your plan. You must tell us if:

- Your medical condition improves.
- You are unable to follow your plan.
- You decide not to pursue your goal or decide to pursue a different goal.
- You decide that you do not need to pay for any of the expenses you listed in your plan.
- Someone else pays for any of your plan expenses.
- You use the income or resources we exclude for a purpose other than the expenses specified in your plan.
- There are any other changes to your plan.

You must tell us about any of these things within 10 days following the month in which it happens. If you do not report any of these things, we may stop your plan.

You should also tell us if you decide that you need to pay for other expenses not listed in your plan in order to reach your goal. We may be able to change your plan or the amount of income we exclude so you can pay for the additional expenses.

YOU MUST KEEP RECEIPTS OR CANCELLED CHECKS TO SHOW WHAT EXPENSES YOU PAID FOR AS PART OF THE PLAN. You need to keep these receipts or cancelled checks until we contact you to find out if you are still following your plan. When we contact you, we will ask to see the receipts or cancelled checks. If you are not following the plan, you man have to pay back some or all of the SSI you received.
Form SSA-545-BK (2/99)

APPENDIX 5

ESSENTIAL TOOLS FOR ADVOCATES AND ACTIVISTS

1. **Code of Federal Regulations (CFR)**
Title 20, Employees' Benefits, Parts 400-499 20CFR 400-499 Revised as of April 1, 2002.(Publication # 869-048-00057-7) \$60. Can be purchased from any Government Bookstore (usually located in Federal Buildings), or online at <http://bookstore.gpo.gov/sb/sb-165.html> , or from
Superintendent of Documents
P. O. Box 371954
Pittsburgh, PA 15250-7954
Washington, D.C. 20402-9328.
Also available to browse online at www.ssa.gov/OP_Home/cfr20/cfrdoc.htm
2. **Disability Evaluation Under Social Security** (SSA Pub. #64-039, also known as the Blue Book)
Can be obtained from your state Disability Determination Service or from the
SSA Public Information Distribution Center
P.O. Box 177743
Baltimore, MD 21235-6401.
Or you may fax your request to (410) 965-0696. Or you can download or browse at www.ssa.gov/disability/professionals/bluebook

Helpful to Have

3. Subscription to the POMS: \$228/year on CD-ROM. Order online at:
<http://bookstore.gpo.gov/cdrom/cdrom219.html>
Or mail order to
Superintendent of Documents
P. O. Box 3719954
Pittsburgh, PA 15250-7954
or view at <http://policy.ssa.gov/poms.nsf/partlist!OpenView>
4. The Redbook, Work Incentives for People with Disabilities, SSA Pub. No 64-030,view or download online at http://www.ssa.gov/work/ResourcesToolkit/redbook_page.html
5. Order publications and forms in alternative formats (Braille, large print, audio cassette, or disc) from SSA Braille Services Team
640 Security Blvd., Room L1141 West Low Rise Bldg.
Baltimore, MD 21235
or call (410) 964-6414; fax (410) 964-6400 or order online at www.ssa.gov/work/ResourcesToolkit/pubsnformsorderform_cgicapable.html

APPENDIX 6

WEB LINKS

Social Security	www.ssa.gov
Social Security Law, Policy, and Regs	www.ssa.gov/regulations
SSA Red Book	www.ssa.gov/work/ResourcesToolkit/redbook_page.html
Work information, including TWWIA	www.ssa.gov/work
Social Security Enews	www.ssa.gov/eneews/
PASS Plan Form and many other forms	www.ssa.gov/online/forms.html
Disability Evaluation Under Social Security (aka The Blue Book)	www.ssa.gov/disability/professionals/bluebook
Government Printing Office Office - Purchase Code of Federal Regulations and Social Security Policy (POMs) online	www.gpo.gov http://bookstore.gpo.gov/sb/sb-165.html http://bookstore.gpo.gov/cdrom/cdrom219.html
Occupational Network Database (replaces the dictionary of occupational titles.	www.doleta.gov/programs/onet
Code of Federal Regulations for Social Security (Retirement, Disability, SSI, and Ticket to Work)	www.ssa.gov/op_home/cfr20/cfrdoc.htm
SSI Coalition and SSI Coalition Childhood Disability Training Materials	www.hdadvocates.org/ProgramsChildren/childrensSSI/index.html
NOSSCR (National Organization of Social Security Claimants Representatives) (website has many links)	www.nosscr.org
CMS (Centers for Medicaid and Medicare Services) formerly known as Health Care Financing Administration	http://www.cms.hhs.gov www.cms/hhs.gov/medicare www.medicare.gov www.cms.hhs.gov/medicaid
Ticket to Work and Work Incentives Improvement Act	http://cms.hhs.gov/twwia www.yourtickettowork.com
U.S. Department of Labor Employment and Training Administration	www.doleta.gov

Comprehensive Person-Centered State Work Incentive Initiatives	www.uiowa.edu/~lhpdc/work/map.html
Food Stamps Information	www.fns.usda.gov/fsp
HUD	www.hud.gov
Virginia Commonwealth University, Work Supports web page	www.worksupport.com
University of Montana - Rural Institute PASS Plan examples	www.ruralinstitute.umt.edu www.passplan.org
Cornell University (work and disability information)	www.ilr.cornell.edu/edi
Institute for Community Inclusion (has a work incentive site)	www.communityinclusion.org
Center for Psychiatric Rehabilitation	www.bu.edu/cpr
Smart Business Supersite Business Plan Site	www.smartbiz.com
Money Hunt Business Plan Site	www.moneyhunter.com
Bplans.com: The Business Planning Resource Center	www.bplan.com
World Institute on Disability California Benefits Site	www.disabilitybenefits101.org
Montana Community Development Corporation	www.mtcdc.org
United States Small Business Admin. Lots of information here	www.sbaonline.sba.gov/starting_business/
Barrier Breakers PASS site (advocacy site owned by a person with a disability)	www.barrierbreakers.com
Health Care Eligibility Tool Benefit Eligibility Screening Tool	www.benefitscheckup.org http://best.ssa.gov www.benefits101.org

APPENDIX 7 TRIAL WORK PERIOD & SUBSTANTIAL GAINFUL ACTIVITY OVER TIME

YEAR	TWP Amount	TWP Self-Employment ("Services")	SGA Amount (and "Substantial Income" for Self-Employment)	SGA Blind Amount (and "Substantial Income" for Self-Employment)
2006	\$620	80 hrs/mo (net > \$620/mo)	\$860	\$1450/month
2005	\$590	80 hrs/mo (net > \$590/mo)	\$830	\$1380/month
2004	\$580	80 hrs/mo (net > \$580/mo)	\$810	\$1350/month
2003	\$570/month	80 hrs/mo (net > \$570/mo)	\$800/month	\$1330/month
2002	\$560/month	80 hours/month (net > \$560/mo.)	\$780/month	\$1300/month
2001	\$530/month	40 hours/month (net > \$530/mo.)	\$740/month	\$1240/month
7/1/1999 through 12/31/2000	\$200/month	40 hours/month (net > \$200/mo)	\$700/month	2000-\$1170/mo. 1999-\$1110/mo.
1/1/1990 through 6/30/1999	\$200/month	40 hours/month or net earnings of more than \$200/month	\$500/month	1990-\$780/mo. 1991-\$810/mo. 1992-\$850/mo. 1993-\$880/mo. 1994-\$930/mo. 1995-\$940/mo. 1996-\$960/mo. 1997-\$1000/mo. 1998-\$1050/mo. 1999-\$1110/mo.

1/1/1980 through 12/31/1989	\$75/month	15 hours/month or net earnings of more than \$75/month for all months between 1979 and 1989 for years before 1979, services = net > \$50/mo.	\$300/month	1980-\$417/mo. 1981-\$459/mo. 1982-\$500/mo. 1983-\$550/mo. 1984-\$580/mo. 1985-\$610/mo. 1986-\$650/mo. 1987-\$680/mo. 1988-\$700/mo. 1989-\$740/mo.
1979	\$75/month	15 hours/month	\$280/month	\$375/month
1978	\$50/month	15 hours/month	\$260/month	\$334/month

APPENDIX 8

SOCIAL SECURITY REGIONS AND LOCATION OF REGIONAL OFFICES

Region I Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont	Boston Region I Regional Commissioner, SSA Attn: Center for Disability Programs, Rm 1900 John F. Kennedy Federal Office Building Cambridge St. Boston, MA 02203
Region II New Jersey, New York	New York Region II Regional Commissioner, SSA Attn: Center for Disability Programs Jacob Javits Federal Office Building 26 Federal Plaza, Rm 40-102 New York, NY 10278
Region III Delaware, Maryland, Pennsylvania, Virginia, West Virginia, Washington DC	Philadelphia Region III Regional Commissioner, SSA Attn: Disability Programs P.O. Box 8788 300 Spring Garden Street Philadelphia, PA 19101
Region IV Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee	Atlanta Region IV Regional Commissioner, SSA Attn: Disability Programs 61 Forsyth Street, S.W., Suite 22T64 Atlanta, GA 30303-8907
Region V Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin	Chicago Region V Regional Commissioner, SSA Attn: Disability Programs 10 th Floor, 600 West Madison Chicago, IL 60661
Region VI Arkansas, Louisiana, New Mexico, Oklahoma, Texas	Dallas Region VI Regional Commissioner, SSA Attn: Disability Programs 1301 Young Street, Suite 670 Dallas, TX 75202-5493

Region VII Iowa, Kansas, Missouri, Nebraska	Kansas City Region VII Regional Commissioner, SSA Attn: Disability Programs Room 461, Federal Office Building 601 East 12 th St. Kansas City, MO 64106
Region VIII Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming	Denver Region VIII Regional Commissioner, SSA Attn: Disability Programs Federal Office Building 1961 Stout St. Denver, CO 80294-3538
Region IX Arizona, California, Hawaii, Nevada	San Francisco Region IX Regional Commissioner, SSA Attn: Disability Programs Sixth Floor Frank Hagel Federal Building 1221 Nevin Avenue Richmond, CA 94801
Region X Alaska, Oregon, Idaho, Washington	Seattle Region X Regional Commissioner, SSA Attn: Disability Programs Mail Stop 303A 701 Fifth Avenue, Suite 2900 Seattle, WA 98104-7075

APPENDIX 9

PASS CADRE REGIONAL PHONE NUMBERS

Region I Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont	in Boston, MA	(800) 297-4291 x 3064, 3066 (617) 565-8906
Region II New Jersey, New York	in New York City New Jersey, downstate New York	(800) 551-9583 (212) 264-0969
	in Cheektowaga, NY NY state outside metro New York City	(800) 510-5680 (716) 685-8039
Region III Delaware, Maryland, Pennsylvania, Virginia, West Virginia, Washington DC	in Towson, MD	(800) 551-9305 (410) 825-4002 x 239, 240
Region IV Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee	in Birmingham, AL	(800) 254-9489 (877) 870-8693
Region V Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin	in Chicago, IL IL, IN	(866) 575-4889 (312) 575-5970 (312) 575-6505
	in Cincinnati, OH MI	(888) 674-6249 (513) 821-9424 x 3008, 3009
	in Lakewood, OH OH	(800) 551-2056 (216) 288-2926 x 225, 226
	in St. Paul, MN MN	(800) 551-9796 (651) 290-0304 x 3040, 3009

<p>Region VI Arkansas, Louisiana, Texas New Mexico, Oklahoma,</p>	<p>in Fort Worth, TX</p>	<p>(888) 287-7845 (817) 287-7845 x 3471</p>
<p>Region VII Kansas, Missouri, Nebraska, Iowa,</p>	<p>in Kansas City, KS</p>	<p>(800) 551-9289 (913) 621-3014 x239, 240</p>
<p>Region VIII Colorado, Montana, Utah, North Dakota, South Dakota, Wyoming</p>	<p>in Denver, CO</p>	<p>(800) 551-1034 (303) 231-0015 x 35009, 35011, 35010</p>
<p>Region IX Arizona, California, Hawaii, Nevada</p>	<p>in Anaheim, CA Los Angeles, Orange, Kern and Ventura Counties</p>	<p>(800) 551-1507 (714) 502-9233 x232, 206</p>
	<p>in Carmichael, CA NV and mid California</p>	<p>(888) 383-1862 (916) 338-2435 x 3246, 3248</p>
	<p>in Chico, CA Northern California</p>	<p>(800) 551-1762 (530) 345-9788</p>
	<p>in San Diego, CA San Bernadino, Imperial, San Diego, Riverside and HI, AZ and Pacific Islands</p>	<p>(888) 674-6250 (619) 557-6605</p>
	<p>in Hayward, CA San Francisco</p>	<p>(510) 783-1932 X 115</p>
<p>Region X Alaska, Idaho, Oregon, Washington</p>	<p>in Seattle, WA</p>	<p>(888) 674-6251 (206) 615-2627</p>

APPENDIX 10

SSI 1619b STATE THRESHOLD AMOUNTS

(Current as of June 2005)

Note: The threshold amounts in the following charts are computed in the following manner:

- _____ 2 x the annual State supplementation rate, if any
- + _____ 2 x the FBR + 85 x 12 = the base amount (the annual amount of earned income it takes to reduce the annual SSI Federal Benefit to zero)
- + _____ Average per capita Medicaid expenses, by state
- = _____ Threshold Amount for that state

State	Twice Supplement	Base Amount	Medicaid	Threshold
Alabama	\$0.00	\$15,492.00	\$6,560.00	\$22,052.00
Alaska	\$8,688.00	\$24,180.00	\$25,337.00	\$49,517.00
Arizona	\$0.00	\$15,492.00	\$10,313.00	\$25,805.00
Arkansas	\$0.00	\$15,492.00	\$8,834.00	\$24,326.00
California	\$5,424.00	\$20,916.00	\$11,583.00	\$32,499.00
Colorado	\$600.00	\$16,092.00	\$14,305.00	\$30,397.00
Connecticut	\$4,032.00	\$19,524.00	\$27,696.00	\$47,220.00
Delaware	\$0.00	\$15,492.00	\$16,007.00	\$31,499.00
Dist of Columbia	\$0.00	\$15,492.00	\$18,741.00	\$34,233.00
Florida	\$0.00	\$15,492.00	\$10,623.00	\$26,115.00
Georgia	\$0.00	\$15,492.00	\$8,704.00	\$24,196.00
Hawaii	\$0.00	\$15,492.00	\$10,994.00	\$26,486.00
Idaho	\$1,248.00	\$16,740.00	\$17,027.00	\$33,767.00
Illinois	\$0.00	\$15,492.00	\$14,243.00	\$29,735.00
Indiana	\$0.00	\$15,492.00	\$15,241.00	\$30,733.00
Iowa	\$0.00	\$15,492.00	\$10,284.00	\$25,776.00
Kansas	\$0.00	\$15,492.00	\$13,375.00	\$28,867.00
Kentucky	\$0.00	\$15,492.00	\$8,164.00	\$23,656.00
Louisiana	\$0.00	\$15,492.00	\$9,590.00	\$25,082.00
Maine	\$240.00	\$15,732.00	\$22,111.00	\$37,843.00

Maryland	\$0.00	\$15,492.00	\$ 17,772.00	\$33,264.00
Massachusetts	\$2,745.00	\$18,237.00	\$14,562.00	\$32,799.00
Michigan	\$336.00	\$15,828.00	\$9,413.00	\$25,241.00
Minnesota	\$1,464.00	\$16,956.00	\$25,903.00	\$42,859.00
Mississippi	\$0.00	\$15,492.00	\$7,321.00	\$22,813.00
Missouri	\$0.00	\$15,492.00	\$12,349.00	\$27,841.00
Montana	\$0.00	\$15,492.00	\$10,485.00	\$25,977.00
Nebraska	\$216.00	\$15,708.00	\$14,079.00	\$29,787.00
Nevada	\$0.00	\$15,492.00	\$12,509.00	\$28,001.00
New Hampshire	\$648.00	\$16,140.00	\$22,613.00	\$38,753.00
New Jersey	\$750.00	\$16,242.00	\$13,663.00	\$29,905.00
New Mexico	\$0.00	\$15,492.00	\$14,923.00	\$30,415.00
New York	\$2,088.00	\$17,580.00	\$22,882.00	\$40,462.00
North Carolina	\$0.00	\$15,492.00	\$12,416.00	\$27,908.00
North Dakota	\$0.00	\$15,492.00	\$16,473.00	\$31,965.00
Ohio	\$0.00	\$15,492.00	\$14,946.00	\$30,438.00
Oklahoma	\$1,152.00	\$16,644.00	\$5,755.00	\$22,399.00
Oregon	\$41.00	\$15,533.00	\$12,029.00	\$27,562.00
Pennsylvania	\$658.00	\$16,150.00	\$10,301.00	\$26,451.00
Rhode Island	\$1,376.00	\$16,868.00	\$16,353.00	\$33,221.00
South Carolina	\$0.00	\$15,492.00	\$10,119.00	\$25,611.00
South Dakota	\$360.00	\$15,852.00	\$13,355.00	\$29,207.00
Tennessee	\$0.00	\$15,492.00	\$7,133.00	\$22,625.00
Texas	\$0.00	\$15,492.00	\$11,598.00	\$27,090.00
Utah	\$0.00	\$15,492.00	\$10,586.00	\$26,078.00
Vermont	\$1,249.00	\$16,741.00	\$14,913.00	\$31,654.00
Virginia	\$0.00	\$15,492.00	\$10,864.00	\$26,356.00
Washington	\$131.00	\$15,623.00	\$8,336.00	\$23,959.00
West Virginia	\$0.00	\$15,492.00	\$8,907.00	\$24,399.00
Wisconsin	\$2,011.00	\$17,503.00	\$12,456.00	\$29,959.00
Wyoming	\$251.00	\$15,743.00	\$8,899.00	\$24,642.00
N. Mariana Is.	\$0.00	\$15,492.00	\$0.00	\$15,492.00

SSI 1619b State Threshold Amounts for the Blind (if different from amounts in preceding chart)				
State	Twice Supplement	Base Amount	Medicaid	Threshold
California	\$6,960.00	\$22,452.00	\$11,583.00	\$34,035.00
Iowa	\$528.00	\$16,020.00	\$10,284.00	\$26,304.00
Massachusetts	\$3,594.00	\$19,086.00	\$14,562.00	\$33,648.00
Nevada	\$2,623.00	\$18,115.00	\$12,509.00	\$30,624.00
Oregon	\$641.00	\$16,133.00	\$12,029.00	\$28,162.00

APPENDIX 11

INDIVIDUALIZED THRESHOLD CALCULATION WORKSHEET

*This Form is Taken From SSA's Program Operations Manual System (POMS)
SI 02302.300 Individualized Threshold Calculation Worksheet-Exhibit*

Name: _____

SSN: _____

Individualized Calculation for Period Beginning _____

_____ / _____
(mo) (yr)

1. a. Enter appropriate BASE AMOUNT from the threshold chart (SI 02302.200, 3rd column). \$ _____
- b. Recalculate the base amount using the State supplement rate for the individual's actual living arrangement (i.e., FBR + OS x 2 + 85 x 12 months). \$ _____
- c. Enter the higher of (1.a) or (1.b). \$ _____
2. a. Enter the appropriate TITLE XIX amount from the threshold chart (SI 02302.200, 4th column). \$ _____
- b. Enter the individual's estimated Medicaid expenditures for the determination period per SI 02302.050 D..2. \$ _____
- c. Enter the higher of (2.a) or (2.b) \$ _____
3. Enter the annual amount of IRWE the person has. \$ _____
4. Enter the annual amount of BWE the person has. \$ _____
5. Enter the annual amount of income included under an approved PASS. \$ _____
6. Enter the value of any publicly funded attendant care the person receives per SI 02030.050 D.3. \$ _____
7. Total the amounts for lines 1-6 \$ _____
8. Enter the individual's gross earned income for the computation period. \$ _____

Compare lines 7 and 8. If the amounts are equal or if 7 is higher, the individual is eligible under the threshold test. If 8 is higher, the individual is not eligible under the threshold test.
Keep this Worksheet in the individual's file.

APPENDIX 12

BENEFITS PLANNING ASSISTANCE AND OUTREACH CONTACTS

State	BPAO Contacts
Alabama	Mid AL Chapter of the AL Coalition of Citizens with Disabilities 206 13th Street South Birmingham, AL 35233 866-259-1745 x102 Alabama Department of Rehabilitation Services 2129 East South Boulevard Montgomery, AL 36111 800-441-7607
Alaska	University of Alaska, Anchorage 2210 Arca Drive Anchorage, AK 99508 907-272-8270
Arizona	Arizona Bridge to Independent Living (ABIL) 2345 E. Thomas, Suite 290 Phoenix, AZ 85016 866-304-9675 Voice/TTY
Arkansas	Arkansas Sources for Community Independent Living 1918 Birch Fayetteville, AR 72703 479-442-5600
California	Center for Independence for the Disabled Doing Business As: Northern California Tri-County BPAO Project 875 O'Neill Avenue Belmont, CA 94002 650-595-0783
	Center for Independent Living Doing Business As: BeAcon of Alameda County 2539 Telegraph Avenue Berkeley, CA 94704 510-841-4776
	Community Resources for Independence, Inc. Doing Business As: Back to Work Program 1040 N. State Street, Suite E Ukiah, CA 95482 800-528-7704, in state only; 707-463-8875

<p>Dayle McIntosh Center for the Disabled 13272 Garden Grove Blvd. Garden Grove, CA 92843 714-621-3300</p>
<p>Disability Resources Agency for Independent Living 221 McHenry Avenue Modesto, CA 95354 209-521-7260</p>
<p>Disabled Resources Center 2750 E. Spring Street, Suite 100 Long Beach, CA 90806 562-427-1000 x25</p>
<p>Familia Unida 4716 East Cesar Chavez Avenue Los Angeles, CA 90022 877-298-3267 in state only</p>
<p>Goodwill Industries of Southern California 342 San Fernando Road Los Angeles, CA 90031 323-223-1211 x2327; 323-539-2081 TTY</p>
<p>Independent Living Resource Center 423 West Victoria Street Santa Barbara, CA 93101 805-963-0595</p>
<p>Independent Living Resource of Contra Costa County Doing Business As: Try Work! 3200 Clayton Road Concord, CA 94519 925-363-7293</p>
<p>Legal Services of Northern California Doing Business As: Work Incentives Education Project 604 12th Street Sacramento, CA 95814 916-491-0429 or 800-665-6188</p>
<p>Project Independence 3505 Cadillac Ave., Suite P-101 Costa Mesa, CA 92626 619-561-8761</p>
<p>TODEC Legal Center Perris Doing Business As: Partners for Success 234 South D Street Perris, CA 92570 800-778-3713; 909-943-4616</p>

Colorado	Colorado Cerebral Palsy of Colorado 2200 South Jasmine Street Denver, CO 80222 877 772-2982
Connecticut	Connecticut Department of Social Services 25 Sigourney Street Hartford, CT 06106 860-297-4300; 800-773-4636
Delaware	United Cerebral Palsy of Delaware 32 W. Lockerman Street, Suite 103 Wilmington, DE 19904 866-580-1330
District of Columbia	Goodwill of Greater Washington 2200 South Dakota Avenue, NE Washington, DC 20018 202-636-4225; 888-817-4323
Florida	Abilities, Inc. of Florida 2735 Whitney Road Clearwater, FL 33758 727-538-7370 x346
	Brevard Achievement Center, Inc. 1845 Cogswell Street Rockledge, FL 32955 321-632-8610 TTY; 800-467-4486; 888-310-6525
	Center for Independent Living in Central FL 720 N. Denning Drive Winter Park, FL 32789 407-623-1070; 877-891-6448; 407-623-1185 TTY
	Easter Seal Society of North Florida, Inc. 910 Myers Park Drive Tallahassee, FL 32301 850-877-1021
	Goodwill Industries of Central Florida 7531 South Orange Blossom Trail Orlando, FL 32809 407-235-1500
	Goodwill Industries of North Florida, Inc. 4527 Lenox Avenue Jacksonville, FL 32205 352-335-1311; 877-346-3349
	Gulfstream Goodwill Industries, Inc. 1715 Tiffany Drive East West Palm Beach, FL 33407 561-848-7200

	<p>Independent Living Resource Center of NE Florida 2709 Art Museum Drive Jacksonville, FL 32207 904-399-8484</p>
Georgia	<p>Georgia Division of Rehabilitation Services 1700 Century Circle, Suite 300 Atlanta, GA 30345 404-638-0375</p>
	<p>Shepherd Center, Inc. 2020 Peachtree Street NW Atlanta, GA 30309 404-350-7589</p>
	<p>Walton Options for Independent Living 948 Walton Way P.O. 519 Augusta, GA 30903 706-724-6262</p>
Hawaii (Including American Samoa, Guam, and the Northern Mariana Islands)	<p>Diverse Abilities 414 Kuwili Street, Suite 102 Honolulu, HI 96817 808-522-5400</p>
Idaho	<p>Idaho Division of Vocational Rehabilitation 650 West State St. Room 150 PO Box 83720 Boise, ID 83720 208-334-3390</p>
Illinois	<p>City of Chicago, Mayor's Office 2102 West Ogden Avenue Chicago, IL 60612 312-746-5743</p>
	<p>Department of Human Services, Mental Health 160 N. LaSalle Street, 10th Floor Chicago, IL 60601 312-814-7196</p>
	<p>Division of Rehabilitation Services 400 West Lawrence P.O. Box 19429 Springfield, IL 62794 800-807-6962 (866) 444-8013 TTY</p>
Indiana	<p>The Center for Mental Health 1100 Broadway Anderson, IN 46015 765-641-8382</p>

	Indiana Institute on Disability 2853 E. 10 th Street Bloomington, IN 47408 812-855-6508; 812-855-9396 TTY
Iowa	Black Hawk Center for Independent Living 312 Jefferson Street Waterloo, IA 50701 319-291-7755; 888-291-7754; 319-232-3955 TTY
Kansas	Cerebral Palsy Research Foundation 5111 East 21st Street Wichita, KS 67208 316-688-1888
Kentucky	Center for Accessible Living, Inc. 981 South 3rd Street, Suite 102 Louisville, KY 40203 502-589-6620
	Independence Place, Inc. 153 Patchen Drive, Suite 33 Lexington, KY 40517 859-266-280
Louisiana	Louisiana BPAO LSUHSC-HDC 78119 1100 Florida Avenue New Orleans, LA 70119 504-942-8240; 888-942-8104
	State of Louisiana Office of the Governor P.O. Box 94004 Baton Rouge, LA 70804 225-219-7547; 877-668-2722
Maine	Maine Medical Center 22 Bramhall Street Portland, ME 04102 207-871-2088
Maryland	Independence NOW, Inc. 6811 Kenilworth Avenue, #504 Riverdale, MD 20737 301-277-2839
	MCIL Resources for Independent Living 3011 Montebello Terrace Baltimore, MD 21214 410-444-1400
Massachusetts	MA Rehabilitation Commission 27 Wormwood Street Boston, MA 02210 617-204-3854

	Massachusetts Project With Industry 251 West Central Street, Suite 31 Natick, MA 01760 877-937-9675; 508-647-1722
Michigan	Michigan Goodwill Industries of Greater Detroit 3111 Grand River Avenue Detroit, MI 48208 1-888-232-4140
	The ARC Michigan 1325 S. Washington Avenue Lansing, MI 48910 1-800-292-7851; 517-487-5426
	UCP Association of Metropolitan Detroit 23077 Greenfield Road, Suite 205 Southfield, MI 48075 1-800-827-4843
	United Cerebral Palsy Assoc. of Michigan 3401 E. Saginaw, Suite 216 Lansing, MI 48912 517-203-1200 800-828-2714 (toll free)
Minnesota	Minnesota Department of Employment and Economic Security 2200 University Avenue, W., Suite 240 St. Paul, MN 55114 651-632-5113; 800-976-6728
Mississippi	Mississippi Department of Rehabilitation P.O. Box 1698 Jackson, MS 39215 601-853-5100; 800-443-1000; 601-853-5308 TTY
Missouri	Missouri Division of Vocational Rehabilitation 3024 W. Truman Boulevard Jefferson City, MO 65109 573-756-4314
	Paraquad, Inc. 311 North Lindbergh St. Louis, MO 63141 314-567-1558 x223; 314-567-5352 TTY
Montana	Montana State University - Billings 1500 North 30th Billings, MT 59101 406-657-2312
Nebraska	Easter Seals Society of Nebraska 2727 West 2nd Street, Suite 471 Hastings, NE 68901 402-462-3031 x2

Nevada	Southern NV Center for Independent Living 6039 Eldora Ste. F-6 Las Vegas, NV 89146 702-889-4216
New Hampshire	Granite State Independent Living 21 Chenell Drive P.O. Box 7268 Concord, NH 03301 800-826-3700
New Jersey	Epilepsy Foundation of New Jersey/NJWINS 35 Beaverson Blvd., Suite 8A Brick, New Jersey 08723 732-262-8020; 973-244-0850; 856-858-5900;
	United Cerebral Palsy Assoc. of New Jersey/NJWINS 163 E.Main Street Little Falls, NJ 07424 973-237-0983; 609-628-0040
New Mexico	NM State Department of Education 435 St. Michael's Dr., Building D Santa Fe, NM 87505 505-954-8523
New York	Abilities, Inc. for Disability Services 201 I.U. Willets Road Albertson, NY 11507 516-465-1522
	Barrier Free Living, Inc. 270 East Second Street New York, NY 10009 212-677-6668 x123
	Independent Living, Inc. 5 Washington Terrace Newburgh, NY 12550 845-565-1162 x228
	Queens Independent Living Center 140-40 Queens Blvd. Jamaica, NY 11435 718-658-2526
	Neighborhood Legal Services, Inc. 295 Main Street, Room 495 Buffalo, NY 14203 716-847-0655 x262
	Research Foundation for Mental Hygiene 44 Holland Avenue, 6th Floor Albany, NY 12229 518-485-2584

	Resource Center for Independent Living 401-409 Columbia Street P.O. Box 210 Utica, NY 13503 315-797-4642
North Carolina	Life Plan Trust, Inc. 122 Salem Towne Court Apex, NC 27502 919-587-0017; 828-648-9678; 888-211-6607
	NC Department of Health & Human Services 2801 Mail Service Center Raleigh, NC 27699 919-855-3563
	TRI-County Industries, Inc. 1250 Atlantic Avenue Rocky Mountain, NC 27801 252-977-3800; 866-605-7765; 252-977-2283 TTY
	Easter Seals UCP of North Carolina 2315 Myron Drive MEANS Raleigh, NC 27607 800-662-7119; 336-272-9602; 252-636-6007; 910-794-9488
North Dakota	Rehab Services, Inc 1421 2nd Ave SW Minot, ND 58701 701-839-4240
Ohio	Center of Vocational Alternatives for Mental Health, Inc. 3770 N. High Street Columbus, OH 43214 614-294-7117; 877-521-2682
	Legal Aid Society of Greater Cincinnati 215 East Ninth Street, Suite 200 Cincinnati, OH 45202 513-241-9400; 800-582-2682; 513-241-1930 TTY
	Legal Aid of Western Ohio Spitzer Building 520 Madison Avenue Toledo, OH 43604 419-724-0030
	Linking Employment, Abilities & Potential 1468 W. 25th Street Cleveland, OH 44113 216-696-2716
Oklahoma	University of Oklahoma College 106 Constitution, Building 158 Norman, OK 73072 405-325-8130

Oregon	Oregon Advocacy Center 620 SW Fifth Avenue, 5th Floor Portland, OR 97204 503-243-2081; 800-452-1694
Pennsylvania	AHEDD 3300 Trindle Road Camp Hill, PA 17011 717-763-0968; 800-829-6210 TTY; 866-902-4333
	Goodwill Industries of Central PA, Inc. 1150 Goodwill Drive Harrisburg, PA 17105 866-541-7005
	Pennsylvania Protection & Advocacy, Inc. 1414 N. Cameron Street, Suite C Harrisburg, PA 17103 800-692-7443 ext. 309
Puerto Rico (Including US Virgin Islands)	MAVI P.O. Box 25277 San Juan, PR 00928 787-758-7901/ 0853
Rhode Island	Department of Human Services 600 New London Avenue Cranston, RI 02920 401-222-2300 x421
South Carolina	SC Vocational Rehabilitation Department P.O. Box 15 West Columbia, SC 29171 803-896-6581
South Dakota	Black Hills Special Services Cooperative 221 South Central Ave. Pierre, SD 57501 605-224-5336 800-224-5336
Tennessee	Center for Independent Living of Middle Tennessee 480 Craighead Street, Suite 200 Nashville, TN 37204 615-292-5803; 866-992-4568; 615-292-7790 TTY
	Statewide Independent Living Council of Tennessee 240 Great Circle Road, Suite 333 Nashville, TN 37228 423-245-6587; 888-839-5333 Voice/TTY
Texas	ARCIL, Inc. 825 E Rundberg Lane, Suite A-1 Austin, TX 78753 512-832-6349 853-5308 Voice/TTY

	<p>Crockett Resource Center for Independent Living 1020 Loop 304 East Crockett, TX 75835 936-544-2811</p>
	<p>Houston Center for Independent Living 7000 Regency Square Boulevard, Suite 160 Houston, TX 77036 713-974-4621</p>
	<p>Imagine Enterprises 1402 Spring Cress Lane Seabrook, TX 77586 325-893-1968; 888-635-6688</p>
	<p>UCP of Tarrant County, Inc. 1555 Merrimac Circle, Suite 102 Fort Worth, TX 76107 817-332-7171 x603</p>
	<p>Valley Association for Independent Living 105-C East Expressway 83 Pharr, TX 78577 956-781-7733</p>
	<p>Volar Center for Independent Living 8929 Viscount, Suite 101 El Paso, TX 79925 915-591-0800</p>
Utah	<p>Utah State Office of Rehabilitation 250 East 500 South Salt Lake City, UT 84111 801-887-9530</p>
Vermont	<p>Vermont Center for Independent Living 11 East State Street Montpelier, VT 05602 802-229-0501</p>
Virginia	<p>Access Independence 403B South Loudoun St. Winchester, VA 22601 540-662-4452; 800-835-2716</p>
	<p>Blue Ridge Independent Living Center 1502-D Williamson Rd., NE Roanoke, VA 24012 540-342-1231</p>
	<p>Endeppence Center, Inc. 15 Interstate Corporate Ctr., Suite 100 Norfolk, VA 23502 757-461-8007</p>

	<p>Junction Center for Independent Living, Inc. P.O. Box 1210 Norton, VA 24273 276-679-5988 Voice/TTY; 800-584-4054 Voice/TTY</p>
	<p>Virginia Association of Community Rehabilitation Programs 6295 Edsall Road, Suite 175 Alexandria, VA 22312 804-370-7037; 866-200-5970; 804-328-0833; 540-433-6513</p>
Washington	<p>Employment Security Department 421 West Riverside Avenue, Suite 353 Spokane, WA 99201 866-497-9443</p>
	<p>Positive Solutions 318 First Avenue South, Suite 300 Seattle, WA 98104 206-322-8181; 360-405-0620</p>
West Virginia	<p>West Virginia University Center for Excellence in Disabilities 955 Hartman Run Rd Morgantown, WV 26505 304-293-4692</p>
Wisconsin	<p>Employment Resources, Inc. 4126 Lien Road, Suite 104 Madison, WI 53704 1-877-826-1752</p>
	<p>Independence First 600 W. Virginia Street, 4th Floor Milwaukee, WI 53204 414-291-7520 Voice/TTY; 877-463-3778</p>
	<p>Riverfront Activity Center, Inc. 3000 South Avenue La Crosse, WI 54601 608-784-9450; 800-949-7380; 608-784-0039 TTY</p>
Wyoming	<p>WYCAT at Casper College 125 College Drive Casper, WY 82601 877-950-3050; 307-268-3075</p>

APPENDIX 13

FORMS USED BY REGION VIII PASS CADRE

Example of Cadre Acknowledgement Letter

RE SSN:

SSA, Denver Region PASS Cadre
1961 Stout Street
Denver, CO 80294-3538
Toll-Free: (800)551-1034
Fax: (303)884-3256

Dear:

On _____ you submitted a Plan for Achieving Self-Support (PASS) to our SSA office in _____.

Your plan was received by the Denver PASS Cadre on _____. We are the SSA component responsible for reviewing and making the final decision on your plan.

A decision on your case will be made on your plan once we have received all the documentation necessary to make a determination. See Page two for the additional information we must have in order to make a decision on your PASS application. A final decision will be made in approximately 30 days from receipt of the required information.

Your PASS plan is as important to us as it is to you. You may contact us, at 1-800-551-1034 (toll free long distance) or visit your local Social Security Office and they can help answer basic questions concerning your PASS or refer your information to us at the PASS Cadre.

You must provide us with the necessary information on page two by _____ and explain any delays or we will assume that you do not wish to pursue your PASS and your application will be denied.

Sincerely,

PASS Specialist

Name: _____ SSN: _____

Information to be submitted by: _____

_____ Copy of your State Vocational Rehabilitation Individual Employment Plan (IEP) or a copy of your vocational assessment or evaluation from another accredited vocational agency.

_____ Detailed Business Plan if you are going to be self-employed. You may want to contact the Small Business Administration for help with this plan. See copy of the enclosed Structure of Business Plan you can use as a guide.

_____ Monthly pay stubs for _____ since _____.

_____ Copy of your last two years tax returns and your Schedule C and Schedule SE if you are self-employed.

_____ Copy of the bank account information that your PASS funds will be placed in. (You are required to keep a separate account for all approved PASS funds for accounting purposes.)

_____ Proof of any Loans/Financing Schedules/Payments required in order to pursue your goal and purchase items requested by you in your PASS application. REMEMBER SSA cannot guarantee a loan and the additional PASS income will end when the PASS ends.

_____ Letter of Admissions to School/College and a copy of curriculum for the degree or certification requested in your PASS plan.

_____ School/College Statement of Accounting which shows tuition/fees and who paid or will be paying expenses. (Grants, Scholarships, Student Aid, Vocational Rehabilitation, etc.)

_____ Financial Aid letter from school (You must apply for all financial aid and grants available to you if you have not already done so.)

_____ Official School Transcripts from schools or colleges and last report card if in school.

_____ Complete enclosed worksheet for “Monthly Living Expenses.”

_____ Other _____

_____ We are returning your PASS application for your or your payee’s signature.

_____ We are returning your PASS application because it is not complete. Please complete the items marked and return.

MONTHLY LIVING EXPENSES FOR PASS DETERMINATION

NAME _____ SSN _____

HOUSEHOLD

1. Rent/Mortgage _____
2. Property Insurance (not included in mortgage) _____
3. Property Tax (not included in mortgage) _____
4. Food (Do not-include value of food stamps) _____
5. Gas and Electric _____
6. Heating Fuel _____
7. Water _____
8. Garbage Removal _____
9. Association Fees _____

NON-HOUSEHOLD OPERATING EXPENSES

10. Telephone _____
11. Cable _____
12. Security System _____

PERSONAL EXPENSES

13. Recreation, Movies, Restaurants _____
14. Club Memberships _____
15. Charity Donations _____
16. Clothing _____
17. Haircuts, Manicures _____
18. Dental (After insurance) _____
19. Medical (After insurance) _____
20. Attendant Care (After insurance) _____
21. Laundry _____

INSTALLMENTS

22. Insurance premiums _____
23. Car Loan Payments _____
24. Credit Card accounts _____
25. Non-Allowable PASS Expenses (gas, lunch, etc.) _____
26. Child Support, Alimony _____
27. Legal Fees _____
28. Child Care _____
29. Lay-Away accounts _____
30. Miscellaneous Expenses _____ (Please explain) _____

SIGNATURE _____ DATE _____

SOCIAL SECURITY ADMINISTRATION
Consent for Release of Information

TO: Social Security Administration

NAME	DOB	SSN
------	-----	-----

I authorize the Social Security Administration to release information or records about me to:

Name	Address
_____	_____
_____	_____
_____	_____

I want this information released because:

(There may be a charge for releasing information)

Please release the following information:

- _____ Social Security Number
- _____ Identifying information (includes date/place of birth, parents' names)
- _____ Monthly Social Security benefit amount
- _____ Monthly **SSI (Supplemental Security Income)** amount
- _____ Information about benefits/ payments I received
From _____ to _____
- _____ Information about my Medicare claim/coverage
From _____ to _____
- _____ PASS (Plan for Achieving Self-Support)

I am the individual to whom the information/record applies or that person's parent (if a minor) or legal guardian. I know that if I make any representation that I know is false to obtain information from Social Security records, I could be punished by a fine or imprisonment or both.

Signature _____ Date _____
Form SSA-3288



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