

SSI and SSDI Benefits: The Work Incentive Rules

Linda Landry
Disability Law Center
May 30, 2017

Please Note

- These slides are an overview and do not include all the details that may apply to individual cases.
- In addition, some of the numbers, e.g., the trial work “services” threshold, the Substantial Gainful Activity (SGA) threshold, and the SSI Student Earned Income Exclusion change every January with COLA.

Social Security Administration (SSA)

- SSA is a federal agency that administers two different types of cash benefits.
 - 1. **Social Security Insurance**
 - 2. **Supplemental Security Income (SSI)**
- **Each has a different set of work rules.**

What is Social Security Insurance?

- A compulsory work-related program based on insurance principles, designed to partially replace earnings lost due to disability or retirement.
- Started as New Deal Program in 1930s
- Title II of the Social Security Act
- **Not needs based.**

Social Security Insurance Benefits

- Adults (age 18 and older)
 - Retirement
 - Disability or Blindness
- Dependent benefits for certain family members of retired or disabled workers
- Survivor benefits for certain family members of deceased insured workers.
- 20 CFR 404.310-404.374

Social Security Insurance Benefits

- Earn **Social Security insurance benefits** by working and paying Social Security taxes (FICA) on wages.
 - \$1300 per quarter in 2017
- Monthly Benefits dependent on the worker's work/wage history and are unique to each worker. Max benefit in 2017 \$2687p/mo.
- Dependent's benefits totaling about 50% of worker's benefit potentially payable to eligible dependents.
 - 20 CFR 404.304(d), 404.330 - .403.

Who Can Get Social Security Disability Insurance (SSDI)?

- **SSDI** is a Social Security insurance program that pays a monthly cash benefit to people who are:
- **Disabled** - same definition of disability as used for SSI , **AND**
- **Insured** = worked & earned Social Security credits by paying FICA taxes close to disability onset. For most adults, this means working for about 5 of the last 10 years.

Medicare

- Medicare eligibility comes with Title II disability benefits after 24 months of eligibility for most.
 - The only exceptions are for people ALS and End Stage Renal Disease (ERSD)
- Medicare eligibility comes with Title II retirements benefits at full retirement age (between age 65 and age 67 depending on birth year).

What is SSI?

- Supplemental Security Income
- Created in 1972 when Congress passed Title XVI of the Social Security Act.
- Low income program.
- **Needs-based benefits.**

SSI Eligibility

- Must have less than \$2000 in countable assets (less than \$3000 if married)
- Must have less countable income less than the SSI benefit amount.
- No work history needed for eligibility.
- SSI categorical eligibility:
 - Disabled or blind individuals ages 0-65;
 - People 65 and older
- SSI has strict immigration status requirements.
- **Most states provide Medicaid to SSI recipients.**

SSI Benefit Amount

- The **maximum monthly SSI payment** is set each year by SSA. The maximum 2017 Federal benefit is \$735 p/mo.
- Monthly SSI benefit amount depends on:
 - the recipient's living arrangement;
 - whether recipient is single or married; and
 - whether the recipient has any other income
- Some states supplement the SSI federal benefit rate with state money.
- **All changes must be reported to SSA.**

SSI Income and Asset Counting Rules - Overview

- Most income counts to reduce the SSI benefit.
 - Earnings from work are favored with large deductions.
 - Unearned income - \$20 p/mo. deduction from total monthly unearned income.
 - In-kind income – shelter-related costs and food received free or reduced cost.
 - Income (and resources) can be deemed from a spouse, a parent (to minor child), or sponsor (of an alien).
- **Income counted in the month of receipt for SSI purposes.**

SSI Resources

- Resources = cash, other liquid assets, or any real or personal property the individual owns and has legal access to convert to cash.
- Income that remains unspent after the month of receipt becomes a resource.
- Not all assets are countable resources. E.g.,
 - The home that the individual lives in.
 - Household goods and personal effects.
 - One automobile of any value per family.
 - Certain burial funds.

Title XVI (SSI) Work Incentives

- Student Earned Income Exclusion
- \$65 plus half of the remainder earned income exclusion
- Impairment Related Work Expenses
- Blind Work Expenses
- PASS
- Expedited Reinstatement

Earned Income Exclusion

- For SSI recipients the issue is the amount of gross monthly earnings and how much is countable.
- **A good estimate:** about half of gross monthly earnings count against the SSI benefit.
- The actual formula is \$65 plus half of the rest.
- The \$20 general income deduction can also be used if not used on unearned income.

SSI and Work – Effect of Wages

Example 1

- Carmen lives by herself in a rent subsidized apartment and receives \$735 in SSI disability benefits in 2017. She has no other income.
- She takes a job paying \$885 in gross wages per month.
- What is the effect on her SSI?

SSI and Work – Effect of Wages

Example 1

- **\$400** of Carmen's gross monthly wages is **countable** [$\$885 - 85 (\$65 + \$20)$ divided by 2 = $\$400$].
- Carmen's SSI benefit will be **\$335** ($\$735 - \$400 = \335).
- Carmen remains eligible for some SSI. Her total gross monthly income will be **\$1220**. ($\$885 + 335$).

SSI and Work – Effect of Wages

Example 2

- Joe lives by himself in a rent subsidized apartment and receives \$520 in SSDI (or disabled adult child benefits) and \$235 in SSI disability benefits per month in 2017.
- He also takes a job paying \$885 per month in gross wages.
- These wages make him SSI ineligible.

SSI and Work – Effect of Wages

Example 2

- $\$520 \text{ SSDI} - \$20 = \$500$ countable SSDI
- $\$885 \text{ gross wages} - \$65 = \$820$.
 $\$820 \text{ divided by } 2 = \$410 \text{ countable wages.}$
- $\$500 + \$410 = \$910$, more than the maximum SSI payment amount for his living arrangement (\$735).
- Joe loses SSI but Joe's total gross monthly income with the wages is \$1405 ($\$520 + \885).

Student Earned Income Deduction

- The Student Earned Income Deduction is for SSI recipients who:
 - Are under age 22;
 - Regularly attending school.
- In 2017, the student earned income deduction is \$1790 per month up to \$7200 per calendar year.
- This deduction is in addition to other permitted earned income deductions.

SSI Benefits and Work - IRWE Deductions

- **Impairment Related Work Expenses - (IRWEs)** can be deducted from gross monthly wages.
- IRWE deductions are **in addition** other permitted earned income deductions

SSI Benefits and Work IRWE Deductions

- IRWEs are:
 - impairment related items and services;
 - needed in order to work;
 - out of pocket; and
 - paid in a month when working.
- Examples: service animal expenses; uncovered medical expenses like co-pays or acupuncture; work transportation needs made necessary due to disability.

Blind Work Expense Deduction

- Examples of BWEs
 - service animal expenses;
 - transportation to and from work;
 - taxes;
 - attendant care services;
 - visual aids;
 - translation of materials into Braille;
 - lunches;
 - professional association dues.

Plan to Achieve Self-Support (PASS)

- A PASS allows SSI recipients to save \$\$ for a vocationally achievable and feasible goal.
- Set aside income and resources to use to achieve an occupational goal.
- If approved by SSA and exactly followed, income and resources put in the PASS account don't count for SSI.
- PASS must be in writing and include budget (& business plan if self-employment).

Title II Work Incentives – Benefits based on Disability

- 9 month Trial Work Period
 - Use a trial work month with work at ‘services’ level.
- Extended Period of Eligibility
 - 36 month Re-entitlement Period
 - Substantial Gainful Activity (SGA)
- Expedited Reinstatement

What SSDI Recipients Need to Know SSDI When Going to Work

- Have I completed my 9-month **Trial Work Period**? When?
- If yes, when does/did the **36 month Re-entitlement** portion of the **Extended Period of Eligibility** end?
- Are my countable earnings above the **Substantial Gainful Activity** level?

SSDI and the Trial Work Period

- A set of 9 “service” months
 - Use a trial work month with gross earnings at “services” level (\$840 in 2017), or 80 SE hours.
 - No deductions apply.
- Benefits payable no matter how much is earned if remain medically eligible.
- Only 1 Trial Work Period per period of disability
- 20 CFR 404.1592

SSDI and the Extended Period of Eligibility (EPE)

- The EPE begins with the month after the 9th trial work month.
- The first 36 months of the EPE are the Re-entitlement period. During the Re-entitlement Period-
 - SSDI is payable in months where no SGA.
 - SSDI not payable in months with SGA level earnings.

After the 36th month of EPE – The SGA Cliff

- After the 36th month of the Re-entitlement Period, the EPE can continue as long as the beneficiary remains medically eligible and is not working at the SGA level.
- However, if the beneficiary works at the SGA level after the 36th month of the Re-entitlement period, the EPE ends and SSDI entitlement terminates.
- 20 CFR 404.1592a

What is SGA?

- Work involving significant physical and/or mental activities generally performed for pay or profit.
- In 2017, SGA presumed with gross monthly wages over \$1170 for those eligible based on disability, \$1950 for blindness.
 - Include only pay for work done in the month.
 - Don't include sick & vacation pay.

Different rules apply for self-employment.

What is SGA?

- The presumption of SGA may be rebutted in some circumstances:
 - Impairment Related Work Expenses
 - Unsuccessful work Attempt
 - Work attempt lasting less than 6 months due to disability related problems
 - Subsidy or special conditions
 - Unincurred business expenses (for self-employment).

Remember Joe who receives both SSI and SSDI and works?

- Joe's example is on slide 18. Slide 19 shows the effect of his wages on his SSI.
- \$885 p/mo. in gross wages is enough to use trial work months in 2017, if he has any left to use. It is also less than SGA so he does not have to worry about loss of benefits due with .
- **But he must report his wages to SSA to avoid future problems!**

Expedited Reinstatement – for both Title II and Title XVI

- A faster way to reapply for benefits if entitlement terminates due to work and the disability reason is the same.
- Apply within 60 months of losing SSI or SSDI due to work.
- Can receive prospective benefits for up to 6 months while SSA completes the formal eligibility determination.

Duty to Report: SSI/SSDI Recipient & Representative Payee

- **Must report to SSA anything that might affect benefit eligibility and amount as soon as the change happens.**
- Report by the 10th day of the month after the month of the change.
- Representative payees share reporting duties with benefit recipients.
- SSA provides receipt for work reports.
- Keep other records for other reporting.

Free Counseling on Work and Benefits

- Work Incentives Planning and Assistance
 - Free service available to SSI and SSDI recipients who are working or planning to work.
 - <https://www.ssa.gov/work/WIPA.html>
- To find local WIPA programs - <https://www.choosework.net/findhelp/>

Useful Websites and Information

- www.ssa.gov
- SSA's Redbook on Work Incentives
<https://www.ssa.gov/redbook/>
- Information about the Ticket to Work
<https://www.choosework.net/index.html>
- SSA booklets on work incentives
<https://www.ssa.gov/pubs/EN-05-10060.pdf>
<https://www.ssa.gov/pubs/EN-05-10095.pdf>
<https://www.ssa.gov/pubs/EN-05-10069.pdf>
<https://www.ssa.gov/pubs/EN-05-10062.pdf>