

## Social Security Disability Benefits and Work Incentives

Lucy Axton Miller  
VCU-RRTC  
Benefits Assistance Resource Center  
2006 Edition

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### Why do I need to know this stuff?

- If you are helping people become employed, you are potentially putting them at risk of benefit loss
- If you are not able to explain how earned income affects SSA disability benefits you will not convince beneficiaries that paid work is a positive outcome

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## But, understanding SSA benefits is not my job.....

- Yes, it is! This is a core competency for anyone involved in helping people with disabilities access wage employment or self employment
- BPAO Benefits Specialists simply cannot serve everybody – you need to help
- You can't rely on SSA for assistance in this area

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## Ok, but what is my role in all of this?

- Understand and be able to explain the basic impact of earned income on benefits
- Understand the use of specific work incentives and identify good candidates
- Assist with reporting wages to SSA
- Work with BPAO provider on complex cases

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## Two Different Types of SSA Disability Benefits

- |   |  |
|---|--|
| ■ SSI or Supplemental Security Income               | ■ Social Security Disability Benefits (SSDI, CDB, DWB) |
| ■ Funded by federal tax dollars, not SSA trust fund | ■ Funded by SSA trust fund                             |
| ■ Welfare program based upon financial eligibility  | ■ Entitlement program based upon insured status        |

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## Eligibility for SSI

- Be medically disabled as defined by the SSA
- Not be working or earnings under SGA limit (\$860/\$1,450 GROSS for 2006) at time of application ONLY! Parental income counts for children under 18. Spousal income counts for married persons.
- Have unearned income of less than the current FBR. For 2006 the FBR is \$603 for an individual and \$904 for an eligible couple.

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## Eligibility for SSI Continued

- Resources under \$2,000 or \$3,000 for an eligible couple
- Countable resources do NOT include: home you live in, one car (some restrictions), life insurance policy, burial plot, burial funds or pre-paid funeral expenses up to \$1,500, personal effects and household goods, and property essential to person's self-support.

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## Amount of SSI Payment Affected by Many Things

- Earned Income – wages, net earnings from self-employment, in-kind items in lieu of pay
- Unearned income
- In-kind support & maintenance (ISM). Full ISM results in a 1/3 reduction of SSA base rate (\$402)
- Overpayment recovery

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## Eligibility for Social Security disability benefits (Title 2)

- Be medically disabled as defined by the SSA.
- Not be working or earnings are under SGA limit (\$860/\$1,450 GROSS per month for 2006).
- Have earned sufficient "credits" by paying into the system yourself, have a deceased, retired or disabled parent who paid in on your behalf (CDB), or be eligible for Disabled Widow(er)s Benefits (DWB).

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## Eligibility for Title 2 Disability Benefits continued

- Resources and other forms of unearned income are irrelevant and are not considered in SSD eligibility determination.
- OTHER DETAILS: There is a 5-month waiting period of initial eligibility before the SSD check begins. There is a 24-month Medicare Qualifying Period. In the meantime, SSI and Medicaid may be received by persons meeting applicable eligibility standards.

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## Eligibility for SSDI

- Must have insured status on own work record
- At least 20 credits in the 10 years prior to onset of disability
- Those disabled prior to age 31 need fewer credits to qualify
- Possible to earn up to four credits per year -one credit = \$970.00 in 2006
- Benefits may be paid retro-actively back to date of disability onset or 12 months prior to application - whichever is less
- 5-month waiting period before benefits may begin

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## Childhood Disability Benefits (CDB)

- To be eligible for Social Security as an adult child with a disability, individuals must be:
  1. 18 years of age or older
  2. Disabled by SSA's definition before age 22; and,
  3. Child of an insured worker who is either disabled, retired or deceased.
- If child marries, benefits end unless marriage is to another Title II beneficiary (excluding those on child's benefits)
- No 5-month waiting period required

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## Concurrent Beneficiaries

- Eligibility for SSD is established, but the amount of monthly benefit check is below the current FBR (\$603/\$904 in 2006).
- Eligibility for SSI is established (i.e.: the individual does not exceed the unearned income & resource limits).
- The SSI check is reduced due to the fact that unearned income is involved (the SSD check)

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## Employment and SSI

1. Start with the GROSS monthly earnings and subtract a \$20.00 general exclusion.
2. Next, subtract a \$65.00 earned income exclusion.
3. Take the remaining amount and divide it by two. You are left with what is called countable earned income.
4. Subtract the countable earned income from the base SSI rate for the person. The remaining amount is the adjusted SSI check.

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## A simple way to explain this

The first \$85.00 that you earn each month does not count against you. For anything above \$85.00, the SSA will take away one dollar from your SSI check for every two dollars that you earn. SSI recipients ALWAYS come out ahead by working!

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## Break Even Point (BEP)

- The BEP is the point at which income causes the loss of SSI cash payments
- For recipients getting the FBR (\$603 in 2006) the break-even point is:  
 $\$603 \times 2 + \$85 = \$1,291$
- For recipients with full ISM (\$402 in 2006) the break- even point is:  
 $\$402 \times 2 + \$85 = \$889$
- Recipients with unearned income will have different BEPs.

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## Self Employment and SSI

SSA adjusts future SSI checks based upon estimates or projections of annual NET earnings from self-employment (NESE) provided by recipient or taken from past performance.

SSA retroactively adjusts SSI checks over the entire calendar year based upon actual NESE. Overpayments can result if projections aren't accurate.

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## Section 1619(b)

This incentive continues Medicaid coverage for most working SSI recipients even after earnings become too high to allow a cash benefit (after BEP has been reached).

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## 1619(b) Eligibility

- Have been eligible for SSI cash payment in the previous month
- Still meet the disability requirement
- Pass the Medicaid "needs test"
- Have gross annual earned income less than the current "threshold amount" (\$23,656 in KY in 2006)
- Have countable unearned income of less than the current FBR and resources under the current SSI limit

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## 1619(b) Provisions

- Allows recipients to continue Medicaid coverage after the break-even point
- Allows eligible 1619 (b) recipients to get a SSI cash payment at any time earnings fall below the break-even point.
- Enables people to maintain eligibility for SSI cash payments or continued Medicaid coverage after a period of ineligibility without filing a new application.

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## 1619(b) Provisions Cont.

- Enables people who are ineligible for continued Medicaid coverage because earnings exceed the threshold amount to get SSI cash payments again if earnings fall below the BEP within 12 months.
- Allows people who are ineligible for continued Medicaid coverage because earnings exceed the threshold amount to regain Medicaid eligibility if earnings drop below the threshold amount within 12 months.

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## Student Earned Income Exclusion

- This work incentive allows a person who is under age 22 and regularly attending school to exclude up to \$1,460 of earned income per month up to a maximum ANNUAL exclusion of \$5,910.
- SSA will automatically exclude income of up to \$1,460 per month until the full exclusion of \$5,910 is exhausted or the individual is no longer a student.
- SEIE figures are adjusted annually and only apply for the current calendar year.

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## Impairment Related Work Expenses (IRWE)

- The purpose of the IRWE work incentive is to enable recipients of SSI benefits to recover some of the costs of expenses incurred as a result of their disability to support their work.
- Deducting the cost of impairment-related items and services from monthly gross wages increases SSI cash payments.
- The cost of IRWE expenses can also be deducted from gross earnings during initial SSI application processes enabling individuals to meet the SGA requirement

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## IRWE Criteria

- Expenses must be directly related to enabling the individuals to work;
- Individuals, because of a severe physical or mental impairments, must need the items or services to work;
- Costs must be paid by the individuals and not be reimbursable from other sources;
- Expenses must be paid in a month in which the individuals are or were working;
- Expenses must be reasonable.

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## Blind Work Expenses

Any earned income which a blind person uses to meet expenses needed to earn that income is not counted in determining SSI eligibility nor in determining the subsequent payment amount. Expenses DO NOT need to be related to the person's blindness.

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## Examples of Blind Work Expenses

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| ■ Guide dogs                               | ■ Other work-related equipment/services        |
| ■ Fees                                     | ■ Non-medical equipment/ services              |
| ■ Transportation to and from work          | ■ Drugs and medical services essential to work |
| ■ Vehicle modifications                    | ■ Physical therapy                             |
| ■ Training to use impairment-related items | ■ Expendable medical supplies                  |
| ■ Taxes                                    | ■ Mandatory pension contributions              |
| ■ Prosthesis                               | ■ Attendant care                               |
| ■ Meals consumed during work               |  |

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## Expedited Reinstatement

- Effective 1/1/2001
- Applies to both SSI and SSD
- For individuals who have stopped receiving benefits due to work and then at later date have to stop work because of their medical condition or disability.
- Provides up to 6 months provisional benefits
- Provides a 5 year (60 month) "safety net" from month of benefit termination.

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## SSD Work Incentive Phases

- Phase 1 - Trial Work Period (TWP)
- Phase 2 - Extended Period of Eligibility (EPE)
- Phase 3 - Cessation Month and Grace Period
- Phase 4 - Extended Period of Medicare Coverage

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## Trial Work Period (TWP)

- Earnings over \$620 in 2006 (or 80 hours of self-employment)
- 9 TWP months within a consecutive 5 year (60 month) period
- TWP Months need not be consecutive
- No other work incentives apply during TWP
- No special TWP amount for blind persons
- ALL gross earnings count – net earnings for self employed

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## Extended Period of Eligibility (EPE)

- Begins 10<sup>th</sup> month after 9<sup>th</sup> month of TWP
- EPE is 36 consecutive months (cannot "bank" months)
- First month of SGA after TWP is cessation month followed by two grace period months when benefits are received.
- After the cessation month, cash benefits are received only when earnings are below SGA (\$860/\$1,450 in 2006)

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## Cessation Month & Grace Period

The cessation month is important because it is the first month in which SSA determines a person to be officially engaging in SGA. The cessation month may occur during or after the EPE. SSD payments are due in the cessation and the next two "grace period months"

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## SGA Determinations

When making SGA decisions, SSA considers a wide variety of factors including pay, nature of job duties, hours worked, productivity, and any other factors related to the VALUE of services. SGA is not generally determined unless there is an ongoing pattern of work behavior over the SGA guideline.

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## SGA Earnings Guidelines

- SGA amounts are annually indexed since January 2001
- 2006 SGA amount for non-blind persons is \$860, and \$1,450 for blind beneficiaries
- Previous SGA amounts apply for the years they were in effect
- SGA test is applied to gross earnings for persons in wage employment and net earnings for self-employment

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## Factors Affecting SGA Decisions

- Unsuccessful Work Attempt (UWA)
- Income Averaging
- Subsidy
- Impairment Related Work Expenses (IRWEs)

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## UWA Definition

An unsuccessful work attempt (UWA) is an effort to do substantial work in employment or self-employment which was discontinued or reduced to the non-SGA level after a short time (no more than 6 months) because of the individual's impairment or the removal of special conditions related to the impairment that are essential to the further performance of work.

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## UWA Criteria

- There must be a significant break in continuity of work for work attempt to be considered unsuccessful
- The break must be caused by the disability or the removal of "special conditions" related to the disability
- SGA level work lasting more than 6 months cannot be UWA.

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## Subsidy

A subsidy is support a person receives on the job that could result in more pay being received than the actual value of services performed. Social Security considers the value of subsidies when they determine whether or not a person is engaging in substantial gainful activity (SGA).

Subsidies DO NOT reduce countable income for SSI purposes!!

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## Types of Subsidy

- Employer Subsidy
- Special Conditions
- Subsidy for Self Employed
  - Unpaid Help
  - Unincurred business expenses

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## Extended Medicare Coverage

- Created by Section 202 of TWWIIA
- Effective October 1, 2000
- Provides extended premium-free Medicare coverage for beneficiaries who lose cash benefits due to work
- Three rules apply depending on when the cessation month occurs
- At least 93 months of coverage is guaranteed after the TWP ends

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## Section 301 – Continued Payment Under VR Program

Under this provision, SSI and SSD benefits (and medical insurance) can continue even after a beneficiary medically recovers - if, at the time the disability ceases, the person is participating in an approved program of vocational rehabilitation, employment services, special education services under an IEP, or other support services which are likely to enable the person to stay off the disability rolls.

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## Plans For Achieving Self Support

A Plan for Achieving Self Support (also known as a PASS) allows a person with a disability to set aside income (earned or unearned) and/or resources for a specified period of time in order to attain a stated work goal. The purpose of a PASS is to help persons with disabilities establish or maintain SSI eligibility. It can also increase the person's SSI payment amount (up to the FBR). A PASS does NOT affect an SGA determination for SSDI recipients.

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## PASS Requirements

- Submitted on form SSA-545
- Identifies feasible occupational goal
- Definable timeframe with steps
- Identifies sources and amounts of income to be set aside
- Details all planned expenditures & justifies major purchases
- Initial PASS will be for no more than 18 months
- Leads to SGA level employment, or significantly reduces SSI

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## CDR Protections

Effective January 1, 2001, the SSA will not be able to initiate a Continuing Disability Medical Review (CDR) while an SSI recipient or SSDI beneficiary is using a "Ticket" under the Ticket to Work and Self-Sufficiency program.

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## CDR Protections for SSD Beneficiaries

Effective January 1, 2002, work activity by an SSDI beneficiary who has received SSDI for at least 24 months cannot be used as a basis for conducting a medical CDR. However, work CDRs will still be conducted and earnings at or above the SGA level may lead to termination. Also, any previously diared medical CDRs will still be conducted unless the beneficiary is exempt due to participation in the ticket program.

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## For More Information

- [www.socialsecurity.gov](http://www.socialsecurity.gov)
- SSA toll free number 1-800-772-1213 operated from 7 am till 7 pm weekdays
- [www.vcu-barc.org](http://www.vcu-barc.org)
- Benefits Plus - Benefits Planning Assistance and Outreach Services (BPAO) for KY 1-888-813-8497
- <http://www.ilr.cornell.edu/edi/s-SSAcurriculum.cfm> (National BPAO Manual)

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## The Effect of Earned Income on the KY SCL Medicaid Waiver Program

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## Common Medicaid Waiver Myths

- The SCL waiver works just like SSI Medicaid, right?
- It is not my job to worry about the effect of earned income on various Medicaid programs – that is something for the case manager to deal with
- DCBS workers understand the Medicaid rules about earned income – I don't need to know them.

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## SCL Medicaid Facts

- SCL Medicaid and SSI Medicaid are completely separate programs. Some SCL participants have both – others only have SCL Medicaid.
- SSI and SCL Medicaid are both “means-tested” programs in that income and resources affect eligibility. BUT – the two programs have different rules!
- Unlike SSI, SCL Medicaid also includes “patient liability or share-of-cost (SOC)

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## Dual Income Effect in SCL Medicaid Waiver Program

Since the SCL Medicaid Waiver is “means-tested”, excess income/resources may effect eligibility for the program.

Even if income does not cause the person to be ineligible entirely, it may cause “patient liability” to be assessed. In other states this is sometimes called “share-of-cost” or “cost of care”.

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## Eligibility for SCL Medicaid Waiver Programs

- Eligibility is determined by income and resources PLUS other factors (level of care)
- Eligibility is re-established every year in a process called re-certification performed by DCBS workers
- Countable income must be less than a specified income standard. Countable resources must not exceed \$2,000 (SSI standard).
- SSI income and resource methodologies are used to determine what counts

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## Income Standards & Personal Needs Allowances in 2006

- SCL income standard is \$3,582 per month. The PNA is \$623 (SSI FBR + \$20 GIE)
- Special Income Standard for other waivers (HCBS and ABI) is \$1,809 per month (always 3 times the current FBR per federal regulations). The PNA for the HCBS and ABI waivers is also \$623

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## Counting Income for Medicaid Waiver Eligibility

- Individual's GROSS income (or net profit) is determined
- Income is compared to Special Income Standard. If it is less than the SIS, the individual is eligible.
- If the gross income is MORE than the SIS, calculate adjusted income and compare to SIS again
- Adjusted income is after these deductions are taken: \$20 GIE, work related expenses, applicable PNA, and verified medical expenses
- If adjusted income is less than SIS, eligibility is established – if more, the individual is NOT eligible.

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## Patient Liability

- Once eligibility is established, the next step is to determine if patient liability or share of cost needs to be assessed
- Another series of calculations is performed to determine amount of patient liability (if any)
- If patient liability is in evidence, the provider of services is required to collect it directly from the SCL participant. Medicaid will NOT pay the provider for this amount!

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## Calculating Patient Liability

- Patient liability for the Medicaid waiver programs is determined by DCBS using a standard worksheet known as form MAP-552K.
- Earnings are treated more leniently in the SCL waiver than in the HCBS/ABI waivers

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## Things to Remember

- Benefits Specialists only provide estimates of patient liability – only DCBS is authorized to calculate actual amount
- Don't assume DCBS knows the rules – they DON'T!
- Use KMAP policies to support contentions Find Medicaid operations manuals at [http://manuals.chfs.ky.gov/dcbs\\_manuals/DFS/index\\_dfs.asp](http://manuals.chfs.ky.gov/dcbs_manuals/DFS/index_dfs.asp)

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