Supporting a Beneficiary to Complete an SSA-821 Work Activity Report for Employees

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What is a Work Activity Report?

When a beneficiary reports work or when Social Security becomes aware that a beneficiary is engaging in work activity they may request a Work Activity Report, SSA-821 for wage employment, or SSA-820 for Self-Employment. Social Security uses these forms to gather comprehensive information about an individual's work activity in SSDI and SSI initial claims, SSDI continuing disability reviews, expedited reinstatement, and throughout the appeals process. The rest of this document discusses the SSA-821 for use in work continuing disability reviews for employees after someone has become entitled to Social Security Disability Insurance (SSDI), Childhood Disability Benefits (CDB), or Disabled Widow(er)s Benefits (DWB). The way a beneficiary answers questions on the SSA-821 can have a significant effect on whether or not Social Security determines the beneficiary is engaging in Substantial Gainful Activity (SGA).

SGA is far more than just a number, and the SGA determination process is often far from a simple decision. SGA determinations require Social Security personnel to gather the facts, apply applicable rules, and use their best judgment to make a final decision. The Work Activity Report provides Social Security personnel a means of gathering some of the information needed for an accurate decision.

Often, Social Security will need to verify wages for the individual undergoing an SGA determination. An Emergency Message (EM-23001) provided the new policy that the agency must obtain the SSA-8240 to obtain wage data from electronic wage verification companies, including the Work Number. Previously, Social Security could use the signature on the SSA-821 to show the agency had permission to verify the wages. Now, if the technician does not have an 8240 on file for the beneficiary at the time of the SGA determination, the technician will send both an authorization form and the work activity report. If the beneficiary receives both from Social Security, the beneficiary must return both.

CWICs Role in a Work Activity Report

Your understanding of available work incentives will be invaluable as you support the beneficiary by helping them to complete the SSA-821. Accurate completion ensures that Social Security has the necessary information to make the correct SGA determination. You will need to explain that Social Security is looking for evidence of work incentives, such as those you discussed in meetings or in their Benefits Summary and Analysis. Explain to beneficiaries that work incentives may help to reduce their countable income and can sometimes allow Social Security to continue payments.

If Social Security does not receive the information from the beneficiary, they will make the decision based on what is already in the person's record. That may mean the technician will not know about work incentives, and the beneficiary may inappropriately lose entitlement.

Preparing for a Work Activity Report

A beneficiary may receive a work activity report when they report work to Social Security or when Social Security receives earnings information from the IRS or other sources. This is most likely to occur when the beneficiary is near the end of their Trial Work Period (TWP), or earning above the SGA guideline after the TWP. You can help a beneficiary by anticipating this form and encouraging them to contact you when they receive it. You can often predict when Social Security should conduct a Work Activity Review and proactively reach out to help the beneficiary gather information that they will need to fill out the report accurately.

Ask a beneficiary to collect the following items:

- Pay stubs or employer Printouts showing gross wages;
- Current and past W-2's;
- Resume or a list of employment since they became entitled or had their last work activity review (Suggest that they ask family, friends, or employment service providers to assist them to list work activity.);
- Receipts from earnings already reported to SSA;
- Lists, Receipts or documentation of any impairment related expenses (You may need to help people recognize what might be an IRWE and think through sources of documentation if they didn't save receipts. For example, they may have insurance statements showing co-pays, printouts from pharmacies showing out-of-pocket medication costs, etc.); and
- List of any accommodations or services that the person has received while working.

Some beneficiaries may prefer to complete this form without any assistance. You can reassure them that an essential part of your job is to assist with Work Activity Reports. If a beneficiary declines your help, be respectful of their choice. Offer some suggestions or, if they are interested, you can even mail a copy of the 821 with notes or suggestions, considering what you know about their situation. Let the beneficiary know that if they have questions, your help is available to complete and submit the Work Activity Report whether they do it online, via paper, or by fax.

Information Gathered in an SSA-821 Work Activity Report

When Social Security sends out a Work Activity Report, the cover page may indicate the period the SSA-821 should cover and may indicate work activity that is already in the beneficiary's record on the cover page. Social Security needs information about all work activity since the date listed on the cover sheet of the report. This may represent the date the disability began, or the date Social Security last conducted a review. If someone receives a form without a date, they should complete it either from the approximate date that they last had a review or from the approximate time that they started getting disability benefits. Essentially, Social Security wants to make sure that they have all work-related information about this beneficiary since the last review, or the date of entitlement, whichever is more recent.

Question 1: Other Work Activity

> *"Have you had any employment income or wages since the DATE shown above in the Identification section?"*

If the answer to Question 1 is yes, the beneficiary must document specifics of each additional period of employment in Question 3.

In some cases, the answer to the first question will be no. Confirm this is correct, and if so, help the beneficiary to identify in Question 2 any other type of income that may have been reported for them. Once they complete Question 2, the beneficiary may make any remarks and sign the form. Social Security may have evidence of some sort of income that initiated the work review. It is important for people who answer no to Question 1, to complete Question 2 "other income". Filling out Question 2 accurately will tell the technician if Social Security can exclude income that might look like wages, for example sick pay. After completing Question 2, they can then skip to the remarks and signature.

Question 2: Other Income

> *"If you did not work, other types of income may have been reported for you. Please complete the information below. We may ask you for proof of this income."*

Sometimes beneficiaries receive income other than wages from work activity or self-employment. An employer may also make a current payment for work previously performed such as retroactive payments, bonus or commission payments. These earnings may represent the beneficiary's work effort, and therefore may count as earned income, but for a different period of consideration. You should understand the various categories of income on the Work Activity Report so that you can help a beneficiary know what to list. Social Security will review this income to see how and when it counts.

Some income from employers, such as vacation pay, sick pay, holiday pay, etc., does not represent work effort under the Title II disability programs. Social Security needs a breakdown of what this income represents in order to determine whether to include it as countable earned income.

Tips to help a beneficiary fill out Question 2:

- Familiarize yourself with each of these types of income so that you can explain each category briefly if asked.
- Social Security may ask for proof of this income. You should have already advised the beneficiary to gather this information during your benefits counseling. Discuss with the beneficiary how to take the information they gathered and make copies for submission with this report. Remind them to keep the original documents.
- If a beneficiary has not been keeping records, this is a great time to give them information on what to keep and tips for how to keep records organized.

Question 3: Gathering Information about Employment

> *"Please tell us about your work since the DATE shown in the Identification section, beginning with your most recent employer. If you are not sure about this, ask your employer(s) to help you."*

Question 3 allows a beneficiary to document all work activity from the date listed in the identification section. The beneficiary may need to list all of the employment they have had since the date on the cover page, or the approximate date of their last review. The beneficiary will need to begin with their current job or their most recent employment and work backwards. When you completed the intake, you developed some of this past work activity. Use this information to help document their employment history in a reverse chronological order. A great way to explain this is to tell a beneficiary to think about this as if they were developing a resume. They can even use an existing resume to help them organize their thoughts.

Have the beneficiary look for pay stubs or employer printouts that include gross wages for this work activity. Within this question, Social Security asks if the beneficiary will include pay stubs or wage printouts showing gross monthly earnings with this report. If they have this information, they can select the option to include attachments with the electronic SSA-821 or they should include copies if they are submitting the SSA-821 via mail or fax. These paystubs or printouts may include items like sick or vacation pay and may show the period when the beneficiary worked. These details are important for Social Security to accurately determine when to count earnings and what earnings represent work efforts.

Work with the beneficiary to go through each of the employment activities starting with the present, through the date that Social Security indicated on page one, or that the beneficiary thinks their last review occurred. Question 3 allows for only three periods of employment before it continues to Question 4. When a beneficiary has additional work activity, direct them to continue documenting this work activity on pages 11-12 in the Additional Employment Information section. They may also use the remarks section of the form if they need more space. Ensure they provide complete information.

Tips for helping a beneficiary complete Question 3:

- Help the beneficiary look up the addresses for past employers and help them describe the type of work.
- Help the beneficiary identify someone to contact at their current or former employer who knows the beneficiary. At times the beneficiary may list contact information for a central location for their company. People at that location may not be able to answer questions regarding the beneficiary's work activity or the supports the beneficiary required. This is particularly important for beneficiaries who may have a subsidy.
- Make sure to let the beneficiary know that it's okay if they don't know the answer to every question but that it's important to complete as much of the form as possible.
- Providers in the beneficiary's life such as a job coach or case manager may be able to provide prompts or details to help them to remember previous work details. Remember to encourage a beneficiary to enlist help recalling past employment, employment dates, and other details of the job from others in their life (friends, family, employment service providers, etc.).

When they have filled in all work activity, move on to Question 4.

Question 4: Gathering Information about Other Payments or Benefits

> *"Do or did you get any other payment(s) or benefit(s) from an employer in addition to the regular pay shown in Question 3?"*

Sometimes a beneficiary may have received other payments or benefits in addition to the earnings that they listed in their answers in Question 3. Examples may be free lodging in exchange for monitoring a building, or other items in exchange for services the person performed. Ask questions that would prompt the beneficiary to think about possible additional payments or "perks" they received on the job. In some situations, these items may be obvious, such as tips for someone who worked in a service field. Other situations may be less obvious.

While going through the employment activities in Question 3, you should ask the beneficiary about additional payments or benefits and make notes. Use these notes as prompts when you get to Question 4. Remember your role as a CWIC is to be there to help support the beneficiary and make this form as simple as possible to complete. It requires listening carefully and thinking ahead when a beneficiary is sharing details.

Question 5: Indication of Subsidies and Special Conditions

> *"For any job(s) that you told us about in Question 3, have you worked under any special conditions listed below?"*

Too often beneficiaries skip over this question or misunderstand what this asks. Take some time to explain Subsidy and how this can help a beneficiary. You might say, "Social Security wants to know if you had extra support from your employer or another source to help you with work. This help may mean that Social Security will ignore some of your earnings when deciding if your benefits can continue."

A beneficiary may find it difficult to admit that they received help or that their condition or disability might have resulted in alteration to aspects of their work. Clarify that this is not meant to be a judgment on their competency on the job but rather asks if their condition or disability resulted in some sort of adjustment of that role or job duties that differs from co-workers. These accommodations or adjustments are what Social Security needs to identify.

Social Security may follow up with the employer to look for evidence that a subsidy exists. You should become familiar with the Work Activity Questionnaire SSA-3033. The questions on this form correlate to the questions asked in the Work Activity Report. If the beneficiary does not want Social Security to contact their employer, they may have another knowledgeable source complete the form and then submit it to Social Security. Examples of knowledgeable sources include Vocational Rehabilitation Counselors, Education Providers, Job Coaches, or even you, the CWIC, would be a knowledgeable source if you are aware of the special conditions or accommodations that the beneficiary receives on the job. The technician will evaluate these statements instead of a statement from the employer. It is important that the beneficiary indicate clearly in the remarks of the Work Activity Report that they do not want us to contact their employer, if this is the case. Otherwise, signing the SSA-821 gives the technician permission to contact the employer.

Tips for helping a beneficiary answer Question 5:

- Think through any details or information that the beneficiary shared when you reviewed past employment. A beneficiary may have shared indications of possible accommodations, job coaching, reduced workload, or a close (friend or family) relationship to the employer. Remind the beneficiary what they said previously and ask questions to extract more details.
- Help the beneficiary to describe what assistance they received and to explain the situation clearly and concisely.
- Be familiar with each of the questions in this section so that you can think ahead as you work through their employment information.

Question 6: Indication of Unsuccessful Work Attempt (UWA)

"For any job that you told us about in Question 3, did you make any of the changes below since the DATE shown in the Identification section."

Social Security is looking for evidence of a possible Unsuccessful Work Attempt (UWA). An Unsuccessful Work Attempt is when a beneficiary earns above the SGA guideline but must stop or reduce their earnings below the SGA level within six months or less. This must be as a result of their impairment, or the removal of special conditions related to their impairment. The connection between the disability and leaving or losing a job may not be obvious. When in doubt, have the person list the period of work. Remind the beneficiary that Social Security may be able to exclude the period of work when deciding if their benefits can continue, and only Social Security can determine if that work was an UWA.

Tips for helping a beneficiary answer Question 6:

- As you talk through their employment activities, it is critical to ask questions and find out why the beneficiary left each position. Ask if there were changes in their hours, supports, or duties. Make notes if they shared that the reason was related to their condition or their disability getting worse or if they indicate an adjustment to their job duties that ended.
- Help the beneficiary describe what happened and how stopping or reducing work was related to their disability. Some beneficiaries may not be able to relate their disability to the loss of a job or reduction in hours. They often only report what the employer told them even though disability-related issues and behaviors are the real reason they lost their job, or the employer reduced their hours. For example, they may have been let go for "insubordination," but really their disability-related anger issues were the cause. You can help them find this connection. When in doubt, list the potential UWA and let Social Security decide.

Question 7: Indication of Impairment-Related Work Expenses (IRWE)

> *"Do or did you spend any of your own money for items or services related to your physical and/or mental condition(s) that you needed in order to work and for which you did not get reimbursed? (For example; medicines or co-pays, medical devices or procedures, Braille equipment, special telephone or equipment, service animal, attendant care, modifications to a car used for work, or other special transportation.) We may ask you for proof of payment."*

Social Security is looking for indications that Impairment Related Work Expenses (IRWE) have occurred during the period the report reflects. Remember, expenses that are related to an impairment, that are necessary to be able to work, that the beneficiary pays out of pocket, and that insurance or other sources do not reimburse can help to reduce countable income. Many beneficiaries incur these costs but may not recognize them. Some of the most common forms of IRWEs are co-pays for prescriptions, doctor's visits, and the out-of-pocket cost for therapy medical devices, or equipment the beneficiary purchased, and that were not reimbursed.

Often, beneficiaries may leave this section blank or may not relay all of the expenses that could qualify as an IRWE. Help the beneficiary identify possible expenses to discuss. You may have already introduced the concept when you reviewed the Benefits Summary and Analysis (BS&A) report. It can be helpful to refer back to the BS&A report as you fill out the Work Activity Report together.

Tips for helping a beneficiary answer Question 7:

- Review information you gathered about the beneficiary prior to going through the Work Activity Report to identify possible IRWE. Ask about any additional costs that they currently have, and track those back to see if they occurred during applicable earlier work periods.
- When discussing each expense they have, ask if this has been a consistent expense or if there have been any changes in the expense.

Part of your role as a CWIC is to educate a beneficiary on how to collect evidence of these expenses. Keep in mind that many times they do not have past receipts. Let them know that they may be able to get this information from their pharmacy, doctors, and past credit card or bank statements. These provide evidence of when these expenses occurred, the frequency of the expense, and the amount that they paid. Discuss how to gather this past information and how to begin to collect and file receipts for such expenses on an ongoing basis.

Remarks and Signature

After Question 7, the Work Activity Report allows space for a beneficiary to add any additional information that they did not have enough room to provide, or additional information not asked on the form that the beneficiary wishes to relay to Social Security. It may be helpful to fill out this additional information while going through the form, so the questions are fresh. Relate the additional information in the remarks section to the original question and, make sure you tell the beneficiary to list the corresponding question number with the additional information they provide, when applicable.

The last part of the Work Activity Report is for the beneficiary to sign and include their current contact information. They must fill out this section. If a beneficiary does not look through the rest of the pages and believes that they have completed the form, they may miss the required signature.

Providing Support after the Work Activity Report

Ask the beneficiary to let you know when they receive a notice with the results of the Work Activity Report from Social Security. A beneficiary might need your assistance understanding Social Security's determination. You may need to write an updated BS&A report for this person or provide additional counseling. If you assisted a beneficiary with filling out a Work Activity Report and you do not hear back, make sure to check in with them periodically.

Tips for Continued Success:

- Look for critical times when a Work Activity Report should occur for a beneficiary and reach out to them at these times to assist.
- Because some work incentives may require the employer's verification, it is important to counsel the beneficiary on how to discuss this with their employer. If they do not want the employer to be involved, discuss with them other sources who may be able to provide the information. You may need to assist the beneficiary in understanding how to explain any forms an employer may receive if they have chosen to allow Social Security to contact their employer.
- Help beneficiaries know what to collect, and how to organize and retain it for future work reviews. Let beneficiaries know that you are always available to assist them with filling out this form.

Conclusion

One of the most effective actions you can take as a CWIC is to plan for follow-up services. You should help beneficiaries anticipate when Social Security would require a work activity report and support them to submit the information. If the Social Security technician does not have this information, the technician must make a determination based on what they have in file. Where subsidy or IRWE would have resulted in additional benefit entitlement, the person could unnecessarily receive an overpayment notice and have to appeal to have Social Security adjust the decision based on additional evidence. Stay positive when you talk about this form but also stress the importance of completing it accurately and submitting it timely.

Conducting Independent Research

- **DI 10505.005 Determining and Verifying Gross Earnings from Employment** (https://secure.ssa.gov/poms.nsf/lnx/0410505005)
- **DI 10505.010 Determining Countable Earnings** (https://secure.ssa.gov/poms.nsf/lnx/0410505010)
- **DI 11010.145 Unsuccessful Work Attempt (UWA) Overview** (https://secure.ssa.gov/apps10/poms.nsf/lnx/0411010145)

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