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Module 5 – Understanding Other Federal Benefits and Associated Work Incentives

Introduction

Many Social Security disability beneficiaries receive additional benefits such as HUD housing subsidies, SNAP (formerly known as food stamps), veterans benefits, or other federal, state, or local benefits. Many of these additional benefits are means-tested, and paid employment or self-employment may affect them. Social Security requires CWICs to gain competency in understanding how paid employment affects a variety of other benefit programs, and this module covers the most common forms of benefits individuals may receive in addition to Social Security disability benefits. It's essential that CWICs recognize these as core competency areas, not optional areas of study.

This module consists of seven distinct units, with each unit covering a different type of benefit. These benefit programs are: Temporary Assistance to Needy Families (TANF), the Supplemental Nutrition Assistance Program or SNAP (formerly referred to as the Food Stamp Program), federal housing assistance provided by the U.S. Department of Housing and Urban Development (HUD), the Unemployment Insurance Program, Workers' Compensation benefits, benefits provided to veterans by the U.S. Department of Veterans Affairs (the VA) and the U.S. Department of Defense (DoD), and Individual Development Accounts (IDAs).

CWICs must understand that the material presented in the module reflects only the federal rules governing each program or benefit. Some programs permit state variance and even encourage it. This means that the development of competency in these areas doesn't stop with this manual but merely begins here. CWICs must conduct independent research into each of the six programs presented in this module to gain a functional knowledge of the state-specific variations that may apply.

CWIC Core Competencies

- Demonstrates knowledge of other federal benefit programs and associated work incentives, including TANF, SNAP, HUD housing subsidies, Workers' Compensation, Unemployment Insurance benefits, Veterans benefits, and other benefit programs, as well as the interaction of these programs with Social Security disability benefits.

- Demonstrates an understanding of state-specific regulations and policies that affect publicly funded benefits programs and the administration of these programs in the home state.

- Demonstrates the ability to analyze the effect of employment on program eligibility, cash-payment status, and benefit levels for TANF, SNAP, HUD housing subsidies, Workers' Compensation and Unemployment Insurance benefits, Veterans benefits, and other benefit programs.

- Demonstrates an understanding of the key components of federal and state IDA programs and supports beneficiaries to use these programs to achieve employment outcomes, including the treatment of IDAs within the Social Security disability benefits programs and the ways in which beneficiaries may use work incentives such as PASS in conjunction with participation in an IDA program.

Competency Unit 1 – Temporary Assistance for Needy Families (TANF) Program

Introduction

Congress enacted The Temporary Assistance for Needy Families (TANF) Program in 1996 under the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA). A block-grant program designed to make dramatic reforms to the nation's welfare system, TANF aims to move recipients into work and turn welfare into a temporary assistance program. TANF replaced the previous national welfare program known as Aid to Families with Dependent Children (AFDC), the related program known as the Job Opportunities and Basic Skills Training (JOBS), and the Emergency Assistance (EA) program.

TANF has a two-fold mission:

1. To assist families with dependent children in meeting transitional financial needs; and

2. To help these families become self-sufficient.

The TANF program has four specific purposes:

- Provide assistance to needy families so that children receive care in their own homes or in the homes of relatives;

- Reduce the dependency of needy parents by promoting job preparation, work, and marriage;

- Prevent and reduce unplanned pregnancies among single young adults; and

- Encourage the formation and maintenance of two-parent families.

Congress reauthorized the program under the Budget Reconciliation Act of 2005. Legislators didn't make changes at this time in terms of eligibility, but they did make some administrative changes in the work participation rules and increased the focus on the importance of healthy marriages and responsible fatherhood. Since 2010, Congress

has authorized the Temporary Assistance for Needy Families (TANF) block grant under a series of short-term extensions.

A Federal Program that States Administer

Every state in the nation offers the TANF program for people who need cash assistance and meet certain income and eligibility tests. States may refer to their TANF programs by a different name. For example, in Kentucky, the TANF program is referred to as the Kentucky Transitional Assistance Program (K-TAP). Florida calls its TANF program the Work and Gain Economic Self-Sufficiency (WAGES) program. To receive federal funds, states must also spend some of their own funds on programs for needy families. The TANF program refers to this requirement for spending by the states as the "maintenance of effort" (MOE) requirement. States have used their TANF funds for a variety of services and supports, including income assistance, child care, education and job training, transportation, aid to children at risk of abuse and neglect, and a variety of other services that help low-income families.

The TANF regulations provide states with a clear and balanced set of rules for meeting the law's performance goals. They reflect PRWORA's strong focus on moving recipients to work and self-sufficiency to ensure that welfare is a short-term, transitional experience. The regulations encourage and support flexibility, innovation, and creativity as states develop programs that can reach all families and provide support to working families. They don't tell states how to design TANF programs or spend funds. At the same time, the regulations hold states accountable for moving families toward self-sufficiency. Congress has given the Department of Health and Human Services (DHHS) authority to assess penalties if states fail to meet certain criteria, such as work participation rates.

Core Federal Requirements of TANF Programs

TANF is a federal program administered by the states. Therefore, instead of having detailed federal guidelines, states receive block grants that have a few core federal requirements. States write their own regulations and submit them for approval to the Office of Family Assistance (OFA), part of the Department of Health and Human Services (DHHS). State programs vary greatly, because many of the requirements that are part of the TANF program are state-specific or even county-specific.

The core federal requirements are:

- A family that includes an adult who has received assistance is limited to 60 months of TANF funds in a lifetime (with some exceptions); and
- A parent or caretaker in the household must pursue work in order to continue receiving benefits.

Time Limits

States establish their own time limits for TANF within broad federal parameters. The 60 months of assistance may be consecutive, or they can accumulate over time. States also have the ability to establish a shorter time frame. Virginia, for example, set a limit of 24 consecutive months of benefits. The federal government recognized that states would have a number of people who need this assistance for longer than 60 months. As a result, federal guidelines allow states to exclude up to 20 percent of their average number of monthly TANF recipients from this 60-month time limit. States may use separate state-only funds to provide assistance to families they wish to exempt from the limit or to families that have reached the federal limit, without counting against the 20 percent cap. These exceptions include:

- The hardship exception (States may define what constitutes a hardship); or
- Families that include a member who has been battered or subjected to extreme cruelty.

Although it isn't a federal requirement, most states include individuals with disabilities in their 20 percent exemption. TANF program personnel can assist people with disabilities in filing applications for the Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) programs. Once Social Security awards disability benefits, the individual would no longer be included in the 20 percent exemption group.

When calculating the 60-month lifetime limit of benefits, the TANF program doesn't count any months in which a minor child who isn't the head of household or married to the head of household receives assistance, or during which an adult who lives on an Indian Reservation

or in an Alaskan Native Village that has more than 50 percent unemployment rate gets assistance. Lastly, the TANF program doesn't count any months in which an individual receives only non-cash assistance provided under the Welfare to Work program. This generally involves someone who has lost the benefit due to earnings but remains eligible for Medicaid or other benefits tied to the Welfare to Work program.

Work Requirements

The core federal requirement that the parent or caretaker in the household must pursue work in order to continue receiving benefits states that work activity should begin within 24 months of receiving TANF. Again, states have some latitude, and they can make that 24-month period shorter. At least 35 states have done so. This work requirement applies to work-eligible individuals — adults or minors who are head of household and receiving assistance under TANF. The regulations exclude some groups from being work-eligible, such as:

- A minor parent who's not the head of household;
- A non-citizen ineligible due to immigration status;
- A parent caring for a disabled family member;
- Some individuals in Tribal TANF; and
- At the state's option on a case-by-case basis, Social Security disability beneficiaries.

States must offer people with disabilities an equal right to participate in programs instead of automatically exempting them from the participation requirements. They must provide services in the most integrated setting appropriate to the needs of people with disabilities. The regulations also stipulate that state TANF programs must not discriminate against individuals on the basis of disability, and they have to comply with relevant civil rights laws by providing reasonable accommodations to allow individuals with disabilities to participate.

The TANF regulations define 12 "work activities" that include job training, volunteer work, or actual paid employment. No more than 20 percent of the required number of work participants can qualify because they underwent vocational training or were a teen head of household in secondary school. Different work participation rules apply to one-and two-parent families, and states can make exceptions for single parents

with small children who are unable to find childcare. States must provide transitional Medicaid coverage to families that become ineligible for cash assistance due to increased earnings from work.

Most states use something called an Individual Responsibility Plan (IRP) to help track work activities. The IRP is an individualized plan written with the recipient that outlines the strategies and timelines associated with going to work. If the recipient refuses to put together an IRP or doesn't follow it, he or she can receive a "sanction," which means the TANF program will withhold some or all of his or her benefit.

Financial Eligibility for TANF

TANF recipients must meet a financial eligibility test in order to receive benefits. For this eligibility test, states consider both income and resources. Different states exempt different amounts and types of income, as well as different resources. For instance, all states exempt portions of earned income, but how much they exempt changes significantly from state to state. Some states exempt all earned income up to the federal poverty level. Others exempt some portion of it that may change over time.

In addition, states vary on the different resources they exempt. One important exemption is a vehicle. Many states exempt one vehicle in the household as part of the effort to help people go to work, but not all states do so. Some states use an Individual Development Account (IDA) in place of a resource exemption. TANF programs exclude money that individuals deposit into an IDA from the resources test. Individuals may only withdraw money deposited into the account to use for specified expenses, including post-secondary education, a first-home purchase, or business start-up capitalization. Individual Development Accounts vary greatly from state to state, and some states don't have them. States that do have IDA programs may put a cap on how much they exempt, ranging from $1,000 to no cap at all. For more information on IDA programs, see Unit 7 of this module.

Some states have emergency TANF payments they can make available under certain circumstances. Certain individuals on SSI or Social Security disability benefits who have temporary unemployment may be able to take advantage of this feature. Some states have a core set of basic requirements but leave it up to each county to decide on income eligibility and other benefit issues. This is true in California.

How Social Security Disability Benefits and TANF Interact

People receiving SSI or Social Security disability benefits or their family members may also be eligible for TANF. For this reason it's important for CWICs to include information about this program in the Benefits Summary & Analysis (BS&A) report and to carefully explain the effect earned income will have on this benefit.

TANF and SSI

CWICs need to understand how SSI and TANF interact. Remember that the SSI program bases eligibility on that person's individual circumstance, whereas TANF is a benefit to a family. The programs use different types of income tests. States vary greatly on how they treat SSI benefits when calculating a family's eligibility for TANF. An individual who is a household of one can't receive both TANF and SSI. If someone qualifies for SSI, he or she will receive SSI rather than TANF. However, one member of a family may receive SSI while the rest of the family gets TANF. This is often the case when a child receives SSI under the children's eligibility test, while a TANF check comes to the household based on the entire family's income.

If someone applies for TANF and the caseworker suspects that he or she may be eligible for Social Security disability benefits, the caseworker will refer the individual to the Social Security Administration and may provide some case-management services to assist in applying for Social Security benefits. There are a couple of reasons for that. First, TANF benefits have a limit of 60 months and include a work requirement. Social Security benefits may be a better fit if the applicant has a disability that may prevent them from working at the level required to live without benefits. Second, state workers will try to help an individual apply for and receive Social Security benefits, if possible, to save space on the 20 percent exemption discussed earlier.

TANF and Title II Disability Benefits

A Title II Social Security disability benefit, on the other hand, has no income eligibility requirement. Instead, Social Security bases this benefit on the individual's work history and credits earned under the disability insurance program. In addition to the Social Security disability check coming into the household, a child (or a child and caregiving spouse) may receive a Social Security benefit as well. Therefore, if a family applies for

TANF, and several members of that family receive Social Security benefits, often their combined household income will disqualify the family from TANF. Basically, TANF counts every penny of unearned income, so it doesn't take much in Social Security benefits to make a family or individual financially ineligible for TANF.

However, there are cases in which an individual is receiving a lower Social Security benefit amount, and for whatever reason, the person may not be eligible for SSI (e.g., he or she has excess resources). If that particular state's TANF office has a more lenient resource requirement, then the family may remain eligible for TANF while, at the same time, one or more of the family members receives rather low amounts of Social Security benefits.

Conclusion

It's critically important that CWICs remember to ASK beneficiaries about whether or not they or any members of their household receive TANF benefits before offering benefits counseling. Second, CWICs should verify a TANF payment with the local welfare agency to make certain they capture all relevant information. Third, it's essential that CWICs carefully research TANF implementation in their home state, as well as the counties in their catchment area, to ensure that they have a solid understanding of state and local rules. Finally, CWICs must remember that their job isn't to determine eligibility for the TANF program, but rather to offer information and resources that help individuals understand what role TANF plays in an overall benefits plan.

Conducting Independent Research

Administration for Children and Families Main TANF Webpage:
http://www.acf.hhs.gov/programs/ofa/programs/tanf

Welfare Rules Data Book:
http://www.acf.hhs.gov/sites/default/files/opre/welfare_rules_databook_final_v2.pdf

TANF Final Rule: http://www.acf.hhs.gov/programs/ofa/resource/tanf-final-rule

Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PL 104-193): http://www.gpo.gov/fdsys/pkg/PLAW-104publ193/pdf/PLAW-104publ193.pdf

Department of Health and Human Services, Office of Civil Rights Summary of Policy Guidance: Prohibition against Discrimination on the Basis of Disability in the Administration of TANF. http://www.hhs.gov/ocr/civilrights/resources/specialtopics/tanf/summaryofpolicyguidancetanf.html

Online Services for Key Low-Income Benefit Programs: What States Provide Online with Respect to SNAP, TANF, Child Care Assistance, Medicaid, and CHIP. http://www.cbpp.org/research/online-services-for-key-low-income-benefit-programs?fa=view&id=1414

Executive Summary of TANF Rules
https://www.acf.hhs.gov/ofa/resource/tanf-final-rule-executive-summary

Competency Unit 2 – Supplemental Nutrition Assistance Program (SNAP)

What Happened to the Food Stamp Program?

Congress created the original Food Stamp Program in 1939 to assist families during the Great Depression. A pilot project modernized the program in 1961, and it became a permanent program in 1964. In 1974, Congress required all states to offer food stamps to low-income households. The Food Stamp Act of 1977 made significant changes to the program regulations by creating more stringent eligibility requirements and administration, as well as removing the requirement that food stamp participants purchase food stamps.

Congress passed legislation in 2008 that changed several rules related to the former Food Stamp Program. They enacted Public Law 110-246, the Food Conservation and Energy Act of 2008, on June 18, 2008. Two of the changes that went into effect on October 1, 2008, have to do with the name of the program. Congress changed the program's name from The Food Stamp Program to the Supplemental Nutrition Assistance Program, or SNAP. Congress also changed the name of Food Stamp Act of 1977 to the Food and Nutrition Act of 2008. State agencies may continue to use state-specific program names.

Introduction to the Supplemental Nutrition Assistance Program or SNAP

SNAP is a federal program administered by the U.S. Department of Agriculture that helps low-income people purchase food. Individuals eligible to receive SNAP may include those who work for low wages, the unemployed or part-time workers, recipients of welfare or other public-assistance payments, the elderly or disabled who live on a small income, or the homeless. In most states, public-assistance agencies administer SNAP through a local network of city or county offices. These public assistance agencies, sometimes referred to as "welfare agencies," also administer TANF and often Medicaid.

SNAP benefits are typically awarded to "households". For the purposes of receiving SNAP, a household consists of a person or a group of people

living together, not necessarily related, who purchase and prepare food together. In some situations it's possible to have more than one food-stamp household per dwelling. Some people who live together, such as husbands and wives and most children under age 22, are included in the same household, even if they purchase and prepare meals separately. Normally people are not eligible for SNAP benefits if an institution gives them their meals. However, there is one exception for elderly persons and one for disabled persons:

- Residents of federally subsidized housing for the elderly may be eligible for SNAP benefits, even though they receive their meals at the facility.
- Disabled persons who live in certain nonprofit group living arrangements (small group homes with no more than 16 residents) may be eligible for SNAP benefits, even though the group home prepares their meals for them.

SNAP provides a type of debit card for food purchases, called the Electronic Benefit Transfer system, or EBT. The state agency electronically deposits the monthly SNAP allotment onto the card, based on the number of people in the household and the amount of monthly income remaining after certain deductions. The recipient can then use the EBT card at participating retailers to purchase eligible food items. The Food and Nutrition Act of 2008 defines eligible food as any food or food product for home consumption, and it also includes seeds and plants that produce food for consumption by SNAP households. The Act precludes people from purchasing the following items with SNAP benefits: alcoholic beverages, tobacco products, hot food, and any food sold for on-premises consumption. Nonfood items such as pet foods, soaps, paper products, medicines and vitamins, household supplies, grooming items, and cosmetics are also ineligible for purchase with SNAP benefits. In some areas, SNAP offices can authorize restaurants to accept the benefits from qualified homeless, elderly, or disabled people in exchange for low-cost meals.

SNAP Supports Work

While SNAP is intended to ensure that no one in our land of plenty should fear going hungry, it also reflects the importance of work and personal responsibility. In general, people must meet work requirements in order to be eligible for SNAP benefits. These work requirements include registering for work, not voluntarily quitting a job or reducing hours,

taking a job if offered, and participating in employment and training programs assigned by the state. Failure to comply with these requirements can result in disqualification from the Program. Some special groups may not be subject to these requirements including: children, seniors, pregnant women, and people who are exempt for physical or mental health reasons.

Some SNAP beneficiaries are "able-bodied adults without dependents" or ABAWDs. An ABAWD is a person between the ages of 18 and 49 who has no dependents and is not disabled. These individuals can only get SNAP for 3 months in 3 years if they do not meet certain special work requirements. This is called the time limit. To be eligible beyond the time limit, an ABAWD must work at least 80 hours per month, participate in qualifying education and training activities at least 80 hours per month, or comply with a workfare program. Workfare means that ABAWDs can do unpaid work through a special State-approved program. For workfare, the amount of time worked depends on the amount of benefits received each month. Another way one to fulfill the ABAWD work requirement is through a SNAP Employment and Training Program.

Basic Eligibility Requirements for SNAP

Some basic federal SNAP eligibility rules apply in almost every state, but states have the authority to establish their own rules beyond federal requirements. Therefore, CWICs need to become familiar with their state's specific rules in order to fully understand how SNAP works and who is eligible for benefits. Some states have very unique SNAP rules, so CWICs shouldn't assume that because SNAP works in a particular way in one state that it will function the same way in another.
In order to qualify for SNAP benefits, all members of the household, including children, must have a Social Security number. A household member who doesn't have a Social Security number can choose not to apply for benefits. Even though non-applicants are ineligible for SNAP benefits, the program will still count their income and resources to determine eligibility for the remaining household members. Students over the age of 18 are generally not eligible for SNAP, with some exceptions noted in the regulations. Most legal immigrants and certain non-citizens may also be eligible.

SNAP Resource Limits

Households may have $2,250 in countable resources, such as a bank account, or $3,500 in countable resources if at least one person is age 60

or older, or is disabled. However, certain resources are NOT counted, such as a home and lot, the resources of people who receive Supplemental Security Income (SSI), the resources of people who receive Temporary Assistance for Needy Families (TANF), and most retirement (pension) plans.

The procedures for handling vehicles are determined at the state level. States have the option of substituting the vehicle rules used in their TANF assistance programs for SNAP vehicle rules when it results in a lower attribution of household assets. A number of states exclude the entire value of the household's primary vehicle as an asset. In states that count the value of vehicles, the fair market value of each licensed vehicle that is not excluded is evaluated. Currently 32 state agencies exclude the value of all vehicles entirely while 21 state agencies totally exclude the value of at least one vehicle per household. The 2 remaining states exempt an amount higher than the SNAP's standard auto exemption (currently set at $4,650) from the fair market value to determine the countable resource value of a vehicle. For more information concerning state specific vehicle policy, check with the State agency that administers the SNAP program.

CWICs can find the federal parameters governing SNAP resource determinations on the USDA Food and Nutrition Service website at: http://www.fns.usda.gov/snap/resources-rules-resource-limits

SNAP Income Rules

To qualify for SNAP benefits, households have to meet certain income tests unless all members are receiving TANF, SSI, or in some places general welfare assistance. Most households must meet both the gross and net income tests. Gross income means a household's total, non-excluded income, before any deductions have been applied. Net income means gross income minus allowable deductions. Gross monthly income limits, before any deductions, equal 130 percent of the poverty level for the household size, while net monthly income limits equal 100 percent of the poverty level. A household with an elderly person or a person who is receiving certain types of disability payments only has to meet the net income test.

After adding up all of the household's countable income, the SNAP worker will subtract certain deductions. All households receive a "standard deduction" from gross income to cover basic, essential expenses unrelated to medical care, work, or childcare. The standard deduction varies according to household size and adjusts annually for inflation. In addition to the standard deduction, states must apply other deductions

when determining net income eligibility for SNAP. We list them here in the order in which SNAP personnel deduct the expenses:

- A 20 percent deduction from earned income;
- A standard deduction of $160 for households sizes of 1 to 3 people and $170 for a household size of 4 (higher for some larger households and the standard deduction is higher in Alaska, Hawaii and Guam);
- A dependent care deduction when needed for work, training, or education;
- Medical expenses for elderly or disabled members that are more than $35 for the month if they are not paid by insurance or someone else;
- Legally owed child support payments;
- Some states allow homeless households a set amount ($143) for shelter costs; and
- Excess shelter costs that are more than half of the household's income after the other deductions. Allowable costs include the cost of fuel to heat and cook with, electricity, water, the basic fee for one telephone, rent or mortgage payments and taxes on the home. (Some states allow a set amount for utility costs instead of actual costs.) The amount of the shelter deduction cannot be more than $535 unless one person in the household is elderly or disabled. (The limit is higher in Alaska, Hawaii and Guam.)

It's important to understand that the deductions described here are only the most common examples. There are many other income exclusions and some types of income don't count at all. The SNAP income rules are quite complex and may vary significantly by state.

> **IMPORTANT:** Federal law requires SNAP program personnel to disregard all funds set aside in an approved Plan to Achieve Self-Support (PASS) when they determine eligibility for SNAP.

The USDA adjusts SNAP income and resource standards at the beginning of each federal fiscal year (October 1) based on certain cost-of-living (COLA) adjustments. Figures provided in this unit reflect the amounts that the USDA established as of October 1, 2017 that will be applied through September 30, 2018. To find the exact amount of each type of deduction allowable for a calendar year, CWICs should refer to the USDA website Cost of Living Adjustment (COLA) Information at: http://www.fns.usda.gov/snap/government/cola.htm

SNAP Allotments

The amount of SNAP benefits the household gets is called an allotment. The net monthly income of the household is multiplied by 0.3, and the result is subtracted from the maximum allotment for the household size to find the household's allotment. This is because SNAP households are expected to spend about 30 percent of their resources on food. The USDA adjusts SNAP maximum allotments, at the beginning of each federal fiscal year based on cost of living adjustments (COLA). COLAs take effect each year in October. If a household applies after the first day of the month, it will receive benefits from the day the household applies.

The SNAP program calculates maximum allotments based on the Thrifty Food Plan for a family of four, priced in June that year. The Thrifty Food Plan estimates how much it costs to buy food to prepare nutritious, low-cost meals for a household, and it changes every year to keep pace with food prices. SNAP determines the maximum allotments for households larger and smaller than four persons using formulas that account for economies of scale. Smaller households get slightly more per person than the four-person household. Larger households get slightly less.

CWIC's Role in SNAP Income and Resource Determinations

While CWICs don't have the authority to make SNAP eligibility or allocation determinations, it is possible for you to provide a basic estimate of how much may be due in SNAP based on household income. This is an important role for you to play when beneficiaries go to work. CWICs can use a SNAP pre-screening eligibility tool to estimate if a household may be eligible for SNAP found online at: https://www.snap-step1.usda.gov/fns/.

Keep in mind that this tool is programmed with the federal rules. More accurate pre-screening tools will be those found on state SNAP web sites. You can research what online options your state provides for SNAP here: https://www.cbpp.org/research/online-services-for-key-low-income-benefit-programs?fa=view&id=1414

Applying for SNAP Benefits

Individuals apply for SNAP at the local welfare office and, more frequently now, online. CWICs can find the agency that administers the SNAP program in each state online at the state directory: http://www.fns.usda.gov/snap/apply

If the applicant or a member of the applicant's household is applying for or receiving Supplemental Security Income (SSI) benefits, he or she can apply for SNAP at the local Social Security office. Please note that this doesn't apply in California, where people who receive SSI benefits receive a cash supplement to their monthly SSI benefit instead of SNAP. SSI recipients in California are not eligible for SNAP in addition to this state supplement.

After the individual submits an application, the SNAP office will contact him or her to set up an interview. States can waive the requirement of a face-to-face interview for certain elderly or disabled persons who may be "homebound." If eligible, the individual will receive food stamps no later than 30 days from the date the office received his or her application. In the event that the household needs immediate assistance, the office can release the SNAP benefits within seven days. During the interview, the SNAP worker will explain the program rules. The worker can also assist in completing the application.

The applicant must show proof of certain information such as U.S. citizenship, or other documents for certain non-citizens and legal immigrants. Other required verification includes Social Security numbers, unearned and earned income, and resources.

Rights and Responsibilities under SNAP

It's important to help beneficiaries understand their rights under the SNAP program. They have the right to:

- Receive an application and have SNAP accept it on the same day.
- Designate another adult to make the request on the applicant's behalf.
- Receive food stamps within seven days if there is an immediate need for food.
- Receive service without regard to age, gender, race, color, disability, religious creed, national origin, or political beliefs.

- Be told in advance if the SNAP office would reduce or end benefits during the certification period because of a change in the recipient's circumstances that they did not report in writing.
- Access their case file and be provided a copy of SNAP rules.
- Appeal any decision.

Along with these rights come responsibilities. SNAP applicants and beneficiaries must answer all questions completely and honestly, provide proof they are eligible, and promptly report changes to the food stamp office. Applicants must not put money or possessions in someone else's name; make changes on any SNAP cards or documents; sell, trade, or give away their SNAP benefits; or use SNAP to buy ineligible items. People who break SNAP rules may lose their right to participate in the program. They may also be subject to fines or face legal consequences.

It's also the recipient's responsibility to report changes in a timely manner to avoid needing to pay back SNAP for erroneously issued benefits. CWICs should research how the local SNAP office expects participants to report changes to their household circumstances. Some households need to report changes in circumstances every month, others must report changes when they occur, and still other households must report changes once a quarter.

Special Rules for People Who Are Elderly or Have Disabilities

SNAP includes a number of special rules for people who are disabled or elderly. To be eligible for these special rules, the person must meet the definition of "elderly or disabled household member." According to the Food Stamp Act, an elderly person is one who is 60 years of age or older. Generally, the SNAP program considers a person to be disabled if he or she:

- Receives federal disability or blindness payments under the Social Security Act, including Supplemental Security Income (SSI) or Social Security disability or blindness payments;
- Receives state disability or blindness payments based on SSI rules;
- Receives a disability retirement benefit from a governmental agency because of a disability

considered permanent under the Social Security Act;
- Receives an annuity under the Railroad Retirement Act and is eligible for Medicare or is considered to be disabled based on the SSI rules;
- Is a veteran who is totally disabled, permanently housebound, or in need of regular aid and attendance; or
- Is a surviving spouse or child of a veteran who is receiving VA benefits due to a permanent disability.

One rule that applies only to people with disabilities has to do with living arrangement. Generally, people living in institutional settings that provide food aren't eligible for SNAP. However, under certain circumstances, people living in nonprofit residential settings of 16 or fewer individuals can qualify for SNAP even if they need someone within that setting to help them prepare the food.

In addition, individuals who are categorically eligible if they already receive SSI or TANF aren't subject to the SNAP resource test, because they have already met the resource tests to qualify for SSI or TANF. For more information about how the SSI program interacts with SNAP, see the following Social Security publications online:
http://www.ssa.gov/pubs/EN-05-10101.pdf

The work requirements of the SNAP program don't apply to people who receive Social Security disability benefits. This means people with disabilities don't need to be working to receive SNAP for more than three months, nor does the program require them to seek employment, including registering for work.

As noted earlier, families with elderly or disabled members receive an extra deduction when SNAP calculates net income. For elderly members and disabled members, allowable medical costs that are more than $35 a month may be deducted unless an insurance company or someone who is not a household member pays for them. Only the amount over $35 each month may be deducted. Allowable costs include most medical and dental expenses, such as doctor bills, prescription drugs and other over-the-counter medication when approved by a doctor, dentures, inpatient and outpatient hospital expenses, and nursing care. They also include other medically related expenses, such as certain transportation costs, attendant care, and health insurance premiums. The costs of special diets are not allowable medical costs. Proof of medical expenses and

insurance payments is required before a deduction for these expenses may be allowed.

Another important difference in SNAP for elderly and disabled individuals has to do with the shelter deduction. The shelter deduction is for shelter costs that are more than half of the household's income after other deductions. Allowable shelter costs include the costs of rent or mortgage, taxes, interest, and utilities such as gas, electricity, and water. For most households, there is a limit on the amount of the deduction that can be allowed, but for a household with an elderly or disabled member all shelter costs over half of the household's income may be deducted.

For more information about SNAP rules that apply to individuals who are elderly or disabled, refer to the USDA Food and Nutrition website at: http://www.fns.usda.gov/snap/rules/Elderly_Disabled.htm

Conclusion

In this unit, we have reviewed the basic federal parameters for SNAP. CWICs must remember that states have some discretion in terms of eligibility requirements, as well as income and resources tests. Within broad federal parameters, states vary significantly in how they design and operate their SNAP programs. It's very important that CWICs stay abreast of their state's requirements, as they may change periodically. Ask for literature, policies, and procedures in order to be specific with beneficiaries and recipients who come to you for information. We have provided resources below for conducting research into the federal rules, along with a link to individual state SNAP plans.

Conducting Independent Research

The Food and Nutrition Act of 2008: This is an excellent reference for the deductions states are required to make in income when determining SNAP eligibility.
http://www.fns.usda.gov/snap/rules/legislation/pdfs/pl_110-246.pdf

The SNAP Website: http://www.fns.usda.gov/snap/supplemental-nutrition-assistance-program-snap

This website sponsored by Benefits.gov lists food and nutrition online resources for each state:
https://www.benefits.gov/benefits/browse-by-category/category/16

SNAP Regulations for Income
https://www.govregs.com/regulations/title7_chapterII_part273_subpartD_section273.9

SNAP Regulations for Resources
https://www.govregs.com/regulations/title7_chapterII_part273_subpartD_section273.8

Competency Unit 3 – Federal Housing Assistance Programs

Introduction

The U.S. Department of Housing and Urban Development (HUD) funds a variety of programs designed to provide "decent, safe and sanitary" housing for families with low incomes. HUD's rental-subsidy programs make housing affordable by allowing families to pay a percentage of their adjusted income (usually 30 percent) for housing, while HUD funds make up the difference between the family's contribution and the total rent. Generally, when a family's income increases, so does their portion of the rent. Conversely, if family income decreases, their share of the rent usually goes down as well.

> **NOTE:** HUD's rental subsidies don't count as income for SSI, and they have no impact on Title II disability benefits.

Some HUD programs include incentives for families to pursue employment or economic self-sufficiency. These incentives take three forms:

- Allowing certain family members to work without the family's rent increasing immediately. Rent increases are phased in;
- Setting aside the increased rent a family pays when a member goes to work into a special account, and allowing the family to use those funds to pursue a self-sufficiency goal; or (after achieving the goal)
- Enabling a family to use its HUD subsidy to buy a home rather than rent it.

HUD funds a variety of rental-subsidy programs. The three primary programs are:

1. Public housing
2. Project-based Section 8
3. Housing Choice Voucher (also known as "tenant-based Section 8")

All three programs apply very similar rules to determine the amount a family will pay for housing. The major difference among the programs involves whether the family must live in a particular housing project or may choose where to live. Public housing and project-based Section 8 provide “project- based” assistance — families must live in particular housing projects, and if they move out, they lose their housing subsidies. Housing Choice Vouchers provide “tenant-based” assistance — families can choose where to live, and they may take their subsidies with them if they move.

Local agencies called “public housing agencies” (PHAs) generally administer HUD programs at the local or state level, using HUD funds. HUD rules govern the programs, but PHAs may set some rules as well.

HUD programs don’t have sufficient resources to serve all families who need and want assistance. As a result, programs usually have long waiting lists. Families often need to wait even to be included on waiting lists, and they should take certain measures to ensure they will be admitted to HUD programs once they have been added to the lists.

Basic HUD Rental Subsidy Programs and Eligibility Requirements

The three basic HUD rental subsidy programs are:

1. Public housing;
2. Project-based Section 8 rental subsidies; and
3. Housing Choice Voucher (and Project-Based Voucher)

Public Housing

PHAs own and operate public housing, although the funding comes from HUD. It takes a variety of forms, including high-rise apartment buildings, smaller groups of apartments, or even detached single-family homes. Families can only use the rental subsidies that come with public housing in public housing; if a family moves out, they lose the subsidy.

To be eligible for public housing, a family must have "low income." However, 40 percent of public housing units newly rented each year must go to "extremely low income" families.

Project-Based Section 8 Rental Subsidies

Project-based Section 8 rental subsidies make housing affordable in privately owned and operated housing projects. The subsidy applies to a specific unit in the project, so if the family moves, they usually lose the subsidy.

A family must have "very low income" to be eligible for a project-based Section 8 subsidy, although projects that began receiving rental assistance before October 1, 1981 may admit families with "low income". Forty percent of new admissions each year to project-based Section 8 subsidies must go to "extremely low income" families.

Housing Choice Voucher (also known as "Tenant-Based Section 8")

Housing Choice Vouchers subsidize rent in privately owned housing units other than housing projects. Generally, a family may use a Housing Choice Voucher to rent an apartment or house if the landlord is willing to participate in the program. Housing Choice Vouchers are portable. This means that a family may move and bring the subsidy with them, and can live anywhere in the United States.

Only families with "very low income" may qualify for Housing Choice Vouchers. Each year, "extremely low income" families must receive 75 percent of the vouchers.

PHAs can use up to 20 percent of their Housing Choice Voucher funding to provide Project-Based Vouchers, which apply to particular units in privately owned housing projects. A family that receives a Project-Based Voucher must live in the unit for at least a year, or else they will lose their subsidy. If the family moves out of the unit after a year, they may request a tenant- based rent subsidy in the unit to which they move.

HUD Income Definitions:

1. **Low income:** At or below 80 percent of the median income for a family of a given size in the local area.

2. **Very low income:** At or below 50 percent of the median income for a family of a given size in the local area.

3. **Extremely low income:** At or below 30 percent of the median income for a family of a given size in the local area.

Because median income in a local area determines income eligibility for HUD programs, actual income dollar limits will differ widely from one area to the net. Find income limits online at: http://www.huduser.gov/portal/datasets/il.html.

In addition to meeting income limits, a family must meet these criteria:

- Constitute a "family," as defined by the PHA;
- Prove that at least one member is a U.S. citizen or eligible immigrant (see https://www.law.cornell.edu/uscode/text/42/1436a#a);
- Provide Social Security numbers for all members of the family aged 6 or older; and
- Complete a satisfactory background check that considers rental history and criminal background.

Who Is Included in a "Family"?

To be eligible for HUD rental subsidy programs, the household members must meet the definition of a "family." Each PHA provides its own definition of "family," using HUD guidelines. Generally, a family is a single person or a group of people, with or without children. A child who is temporarily out of the home due to placement in foster care remains a member of the family. All residents of a single dwelling count as part of the family, except live-in aides.

HUD also provides these definitions:

Disabled or elderly family: A family whose head, co-head, spouse, or sole member is disabled or at least age 62; two or more persons living together who are all disabled or at least age 62; or one or more persons living together who are all disabled or at least age 62 and who live with one or more live-in aides.

Person with a disability: A person who:

- Meets Social Security's adult definition of disability (see Section 223, Social Security Act); or
- Is determined by HUD regulations to have a physical, mental, or emotional impairment that:

  a. Is expected to be of long, continued, and indefinite duration;

  b. Substantially impedes his or her ability to live independently; and

  c. Is of such a nature that such ability could improve with more suitable housing conditions; or

  d. Has a developmental disability as defined in Section 102 of the Developmental Disabilities Assistance and Bill of Rights Act.

The disability must not be based solely on drug or alcohol dependency. HUD programs may exclude a person who would pose a direct threat to the health or safety of others, or who would cause substantial damage to the property of others.

A student in higher education can't qualify for HUD Section 8 assistance if she or he:

- Is under age 24;
- Isn't a U.S. military veteran;
- Is unmarried;
- Doesn't have a dependent child;
- Isn't a person with a disability who was receiving Section 8 assistance as of November 30, 2005; and
- Isn't otherwise individually eligible, or has parents who aren't eligible for Section 8 on the basis of income (24 CFR 5.612)

Basic Rent and Utility Payment Calculation

A family in a HUD rental subsidy program generally pays the highest of the following for rent and utilities ("total tenant payment"):

- 30 percent of adjusted family income;

- 10 percent of gross family income;
- If the family receives welfare assistance payments, the amount of that assistance designated for housing; or
- The minimum rent for some programs ($25/month to $50/month), unless the family is exempt from the minimum rent due to financial hardship.

For most families, the rent and utility payment is 30 percent of adjusted income. PHAs can choose different calculation methods to set total tenant payment, so long as they don't yield amounts higher than the standard method.

NOTE: If a family with a Housing Choice Voucher rents a unit whose gross rent exceeds the "payment standard" – an amount set by the PHA based on average market rental costs for a unit with a given number of bedrooms – they must pay the difference between the gross rent and the payment standard PLUS the amount they would otherwise pay (usually 30% of adjusted income). When the family first chooses the unit, they will only be allowed to rent it if their total payment is no greater than 40% of adjusted income. However, if rent rises after initial occupancy, a family with a Housing Choice Voucher may pay more than 40% of adjusted income.

Calculating Adjusted Income

To compute adjusted income, the PHA:

1. Adds all included income;
2. Doesn't include any excluded income; and
3. Subtracts income deductions.

Included Income

Income includes, but isn't limited to:

- Earned income of employees (before taxes or other payroll deductions).
- Self-employment earnings, after subtracting:

a. Business expenses (but not expenses used to expand the business or capital improvements);

b. Interest paid on loans for the business (but not loan principal, or interest on loans used to expand the business or make capital improvements);

c. Depreciation computed on a straight-line basis; and

d. Interest and dividends.

- Most periodic payments, including Social Security, SSI, public assistance, annuities, insurance payments, pensions, retirement funds, disability and death benefits, unemployment and workers compensation, alimony and child support received, etc.
- Income deriving from assets.
- Assets.

HUD programs don't have asset limits. However, HUD counts any income that a family derives (or could derive) from assets during income determinations. If total assets are $5,000 or less, HUD counts only the actual income (interest, dividends) the family receives from the assets. If total assets are more than $5,000, HUD counts the larger of:

- The actual income received from the assets, or
- A percentage of the value of the assets based on the current passbook savings rate established by HUD.

Excluded Income

HUD doesn't count some types of income under HUD mandatory rules. The following types are especially relevant to family members who are working for pay and for people with disabilities:

- Earnings from work of children under age 18.
- Earnings in excess of $480 per year for each full-time student 18 years or older (excluding the head of household and spouse).
- Amounts received in training programs funded by HUD, and in qualifying state or local employment training programs, including payments for job-related expenses.

- Reimbursement for expenses incurred to participate in publicly assisted programs.
- Resident service stipends up to $200 per month.
- Income used to pay expenses under a Plan to Achieve Self Support (PASS).
- Payments received for providing foster care.
- Income of a live-in aide.
- Funds paid by state agencies to a family to offset services needed to keep a family member with a developmental disability living at home.
- Reimbursements for medical expenses.
- Lump sum SSI and Social Security benefits.
- Amounts withheld from public benefits to recover overpayments.
- SNAP and other food assistance program benefits.
- Earned Income Tax Credit (EITC) refunds.
- Personal needs allowances received by people in intermediate care facilities for people with developmental disabilities and assisted living units.

Mandatory Income Deductions

HUD deducts these amounts from family income under mandatory HUD rules:

- $480 per year ($40 per month) for each dependent who is under age 18, disabled, or a full-time student.
- $400 per year ($33.33 per month) for a disabled or elderly family.
- Child care expenses for a child under age 13 to enable a family member to work, seek work, or further his or her education.
- The amount of the following two expense types that exceed 3 percent of gross family income:

a. Unreimbursed medical expenses for all members of a disabled or elderly family.

b. Unreimbursed reasonable attendant care and assistive technology costs needed by a family member with a disability to enable any family member to be employed. Attendant care "includes but isn't limited to reasonable expenses for home medical care, nursing services, housekeeping and errand services, interpreters for hearing-impaired, and readers for persons with visual disabilities."

Optional Income Deductions

PHAs may adopt optional deductions for public housing, but only if they are willing to absorb the costs (i.e., the PHA must provide funds to offset the reductions in rent resulting from the optional deductions). As a result, most PHA's don't offer optional deductions. For complete instructions for calculating adjusted income, go to: http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_35649.pdf.

Utility Allowance

If a family pays for utilities separately from their rent, the PHA or project owner will determine a utility allowance to deduct from their payment for rent and utilities. The amount that remains after deducting the utility allowance is the amount the family pays for rent.

The PHA or project owner calculates the utility allowance based on the family and unit size, the types of utilities the family pays, the average cost of those utilities in the area in which the family lives, and other factors. Utilities include gas, electricity, heating fuel, water, trash collection and sewerage, but not telephone or cable TV. If the utility allowance is greater than the total tenant payment, the PHA or project owner provides a payment (utility reimbursement) to the family or utility supplier to make up the difference. In some cases, a higher utility allowance may be provided as a reasonable accommodation for a family that includes a member with a disability. A family whose rent includes utilities doesn't receive a utility allowance.

Programs that Promote Employment and Financial Independence

Several HUD programs encourage certain family members to pursue employment and greater financial self-sufficiency. These include the Earned Income Disregard (EID), the Family Self-Sufficiency (FSS) program, and Individual Savings Accounts (ISAs). Another — the Homeownership Voucher Program — enables a family to convert its Housing Choice Voucher to help the family buy a home, rather than rent one. Finally, HUD's Moving to Work (MTW) demonstration program allows selected PHAs to test innovative, locally-designed strategies that use federal dollars more efficiently, help residents find employment and become self-sufficient, and increase housing choices for low income families. Moving to Work gives PHAs exemptions from many existing public housing and voucher rules, and more flexibility with how they use their federal funds.

Earned Income Disregard (also known as "Earned Income Disallowance")

The Earned Income Disregard (EID) enables certain family members with certain HUD rental subsidies to go to work without having the family's rent increase immediately. HUD phases in the rent increase.

Who Is Eligible?

- Adults with and without disabilities in public housing; and
- Adults with disabilities who receive assistance from the:
  - **a.** Housing Choice Voucher program,
  - **b.** HOME Investment Partnerships program,
  - **c.** Housing Opportunities for Persons with AIDS (HOPWA) program, or
  - **d.** Project-Based Section 8 Voucher (but not other project-based Section 8 programs).

When Does It Apply?

The EID applies in any of three situations:

1. When an adult family member is newly employed and the family's income increases as a result. The member must have been previously unemployed or minimally employed (earning no more than the equivalent of 500 hours at the local minimum wage) during the year before the new employment starts; or

2. When an adult family member has an increase in earnings during participation in a self-sufficiency or other job training program (which may include employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeship, community college, substance abuse or mental health treatment program, etc.), and the family's income increases as a result; or

3. When an adult family member is newly employed or increases his or her earnings during (or within 6 months after) receiving TANF-funded assistance (including one-time payments, wage subsidies and transportation aid totaling at least $500 in a 6-month period), and the family's income increases as a result.

The EID also applies to a family member who reaches age 18 and meets one of the above three conditions.

How Does It Work?

When a family member qualifies for the EID, the PHA disregards the increase in family rent resulting from the new or increased earnings in two phases:

1. During the first 12 months of the EID, the PHA excludes 100 percent of the increase in family income resulting from the new or increased earnings. As a result, the family's rent doesn't increase due to the earnings for the first 12 months of work. The 12 months continue to be counted even if the family member stops working during that time period.

2. During the second 12 months of the EID, the PHA excludes at least 50 percent of the increase in family income resulting from the new or increased earnings. PHAs may opt to exclude more than 50 percent. The family's rent increases during this second 12 month period, but only half as much as if HUD counted all the increase in

income. Again, the second 12 months of the EID continue to be counted even if the family member stops working during that time period. It's important to understand that once the family member is found eligible for the EID and the EID 24-month period begins, there is no way to stop it. At the end of the 24-month period, eligibility for the EID ends even if the family member didn't work the entire time and wasn't able to use the benefit of the disregard for all 24 months. Furthermore, the EID benefit is only afforded once per life time. When the 24-month period ends, there is no additional EID benefit.

After the beneficiary has used up the EID, the exclusion of earnings ends. HUD computes the family's rent based on family income, including all of the earnings.

Examples of How the EID is Applied

Example of someone who works all 24-months of the EID period:

Mephisto is 37 years old. He receives $750 per month in SSI and lives alone with a Housing Choice Voucher. He hasn't worked in more than 12 months. He pays $215 per month for rent including utilities ($750 SSI – $33.33 disabled family deduction = $716.67 × 30% = $215). He starts a job earning $10 per hour working 30 hours per week (an average of $1,300 per month gross wages). On average, his SSI payment reduces to $142.50 per month.

Mephisto qualifies for the EID. During the first 12 months, the PHA fully excludes the increase in his income resulting from his earnings. bHis rent and utility payment remains $215 per month.

During the second 12 months, the PHA excludes 50 percent of the increase in his income. His income increase is $692.50 ($1,300 wages + $142.50 reduced SSI = $1,442.50 – $750 original SSI). Fifty percent of $692.50 is $346.25. Mephisto's rent increases to $317.08 ($1,300 wages + $142.50 reduced SSI – $346.25 excluded income increase – $33.33 disabled family deduction = $1,062.92 × 30% = $318.87) after his next rent reexamination. Mephisto uses up his EID after 24 months. Now the PHA includes all his earnings in the rent calculation. After his net redetermination, his rent increases to $422.75 ($1,300 wages + $142.50 SSI – $33.33 disabled family deduction = $1,409.17 × 30% = $422.75).

Example of someone who only works for part of the 24-month EID period:

Alex is 23 years old. He receives $900 per month in SSDI and lives alone. He has a Housing Choice Voucher. He hasn't worked in more than 12 months. He pays $260 per month for rent including utilities ($900 SSDI – $33.33 disabled family deduction = $866.67 × 30% = $260). He starts a seasonal job earning $10 per hour working 22 hours per week (an average of $953 per month gross wages).

Alex qualifies for the EID. During the first 12 months, the PHA excludes 100 percent of the increase in his income resulting from his earnings. His rent and utility payment remains $260 per month.

However, Alex did not actually work all 12 months since his job is seasonal. He only worked for 6 of those months. Even though Alex didn't work for all 12 months, the 12-month EID period continued to be used up. Alex's rent remains the same for the entire year because 100% of the increased income he had when he worked was disregarded. For the other 6 months, he had no increased income because he didn't work, therefore his rent was the same as it was before he started working. The EID exclusion isn't applied in these months because Alex didn't have any increased income, but the EID 12 month period is still being used – that initial 12 month clock is ticking.

During the second 12 months, the PHA excludes 50 percent of the increase in Alex's income. His income increase is $953 ($953 wages + 900 SSDI = $1,853 – $900 original SSDI). Fifty percent of $953 is $476.50. Alex's rent increases to $402.95 ($953 wages + $900 SSDI – $476.50 excluded income increase – $33.33 disabled family deduction = $1,343.17 × 30% =$402.95) after his next rent reexamination.

Again, since Alex's job is seasonal, he only actually worked for 6 months of this second 12-month period. Because of this, he only received the benefit of the disregard for those 6 months. In the months Alex didn't work, his rent went back down to the original amount because he didn't have earnings for those months. The EID exclusion isn't applied in these months because Alex didn't have

any increased income, but the EID second 12 month period is still being used – that second 12 month clock is still ticking.

Alex uses up his EID after 24 months even though he didn't have increased income due to work for all of those months. Now the PHA includes all his earnings in the rent calculation for the months Alex wsorks. After his net redetermination, his rent increases to $545.90 ($953 wages + $900 SSDI – $33.33 disabled family deduction = $1819.67 × 30% = $545.90).

For more information about the EID, refer to: http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/phr/about/ao_faq_eid

Family Self-Sufficiency Program

The Family Self-Sufficiency (FSS) Program provides case management and an escrow fund to families who agree to a plan to achieve self-sufficiency. When the head of the family goes to work, the family's rent increases. However, the local PHA deposits the amount of the rent increase into an escrow account for the family to withdraw after they have reached their goal.

Who Is Eligible?

Families are eligible for the FSS who receive rental assistance through:

- Public housing, or
- Housing Choice Voucher, or
- Indian housing through the Native American Housing Assistance and Self-Determination Act.

How Does It Work?

The family enters into a service plan and a contract with the local PHA to pursue self-sufficiency objectives. The head of the family agrees to seek and maintain paid work. The goal of the plan is to end the family's dependence on public assistance or rental subsidies by achieving the plan objectives, or by increasing family income enough that HUD is no longer subsidizing their rent (i.e., 30 percent of their adjusted income equals or

exceeds the total rent and utilities for their unit). The family receives case management to help them achieve their goal. They may receive assistance including education, job training, counseling, childcare, and transportation aid.

The family also receives an escrow account. The PHA deposits funds into the account that are equal to the increase in rent the family pays after the head of the family becomes employed (for very low-income families). Low-income families receive a lesser contribution, based on what their rent increase must have been if their income were 50 percent of the area median income. The family receives all the funds in the account once they have reached their FSS goals. The PHA may release some funds to the family if they have reached interim goals and need money to pay for education, work-related expenses, or other needs related to the goal. The FSS typically lasts for five years.

In some cases, the head of a family may be eligible for both FSS and the Earned Income Disregard (EID) at the same time. HUD applies the EID first. Because HUD doesn't increase the family's rent for the first 12 months of earnings, the PHA makes no contribution to the FSS escrow account for those 12 months. During the second 12 months of earnings, the EID causes the rent to increase only half as much as if HUD counted all earnings. The PHA deposits the amount of the increase into the FSS account. After the second 12 months, when the EID has expired, HUD increases the rent based on all of the earnings. The PHA deposits the full amount of the increase into the FSS account for up to the remaining three years of the FSS contract.

A family that receives a Housing Choice Voucher and participates in the FSS Program must live in a unit in the area served by the PHA that administers the FSS Program for at least 12 months, but may then move out of the jurisdiction and continue the FSS Program.

Individual Savings Accounts

As an alternative to the Earned Income Disregard, PHAs may offer a family in public housing the option to have their rent increase due to employment deposited into an Individual Savings Account (ISA) for the family to use for certain self-sufficiency purposes.

Who Is Eligible?

Only families in public housing who pay an income-based rent are eligible. A family may choose between the Earned Income Disregard and an ISA; PHAs can't require a family to use an ISA. PHAs may offer ISAs, but HUD doesn't require them to. Most PHA's don't offer them.

How Does It Work?

When an adult family member goes to work, the family pays an increased rent. The local PHA deposits the rent increase into an interest-bearing account. The family may withdraw funds from the account, but only for:

- Buying a home;
- Paying a family member's education costs;
- Moving out of public housing; or
- Other expenses the PHA approves to support greater self-sufficiency.

An ISA can last for up to 24 months. Although this is the same time limit as for the EID, an ISA can provide a family with a greater benefit. The ISA receives deposits of the full rent increase for the family resulting from new earnings for 24 months. The EID prevents rent from increasing for only the first 12 months, and then provides a rent increase based on no more than half the increased income resulting from the new earnings.

Moving to Work (MTW)

Moving to Work (MTW) is a HUD demonstration program that provides PHAs the opportunity to design and test innovative, locally-designed strategies that use Federal dollars more efficiently and help residents find employment and become self-sufficient. PHAs selected for the demonstration are permitted to seek exemption from many existing Public Housing and Housing Choice Voucher program rules found in the United States Housing Act of 1937 in pursuit of the three MTW statutory objectives:

- Reduce cost and achieve greater costs effectiveness in Federal expenditures;
- Give incentives to families with children where the head of household is working, is seeking work, or is preparing for work by

participating in job training, educational programs, or programs that assist people to obtain employment and become economically self-sufficient; and

- Increase housing choices for low-income families.

MTW PHAs are expected to use the opportunities presented by MTW to inform HUD about ways to better address local community needs. Some of the innovative strategies MTW PHAs are testing include:

Cost Savings

- Using the MTW block grant to leverage funds
- Streamlining HUD processes
- Redesigning HUD forms
- Risk-based inspections
- Rent simplification

Self Sufficiency

- Self-sufficiency requirements
- Linking rental assistance with supportive services
- Escrow accounts
- Earned income exclusions
- Increased case management services

Housing Choices

- Developing mixed-income and tax credit properties
- Foreclosure prevention, mortgage assistance and homeownership programs
- Increasing the percentage of project-based vouchers

PHAs in the MTW Demonstration also have the flexibility to combine Federal funds from the public housing operating and modernization programs and Housing Choice Voucher program into a "block grant" to

help them better meet the purposes of the demonstration and the needs of their communities.

The MTW Demonstration was authorized under Section 204 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996. The original MTW Demonstration statute permitted up to 30 PHAs to participate in the demonstration program. Additional MTW 'slots' have been added by Congress over time through appropriations statutes. Currently there are 39 PHAs participating in the MTW demonstration program. You can find a map showing all of the current MTW sites here: https://www.hud.gov/program_offices/public_indian_housing/programs/ph/mtw/mtwsites

An important thing to be aware of is that MTW PHAs may choose NOT to provide the Earned Income Disregard, or may modify the EID. In some cases, MTW PHAs provide a more generous exemption for earned income than is provided by the EID. CWICs must conduct research to determine if the local PHAs in their area are part of the MTW demonstration, and if so, whether they have eliminated or modified the EID as part of that program. To conduct this reseach, CWICs need to locate the MTW Annual Plan. This plan, like the Annual PHA Plan, provides an easily identifiable source by which residents, participants in tenant based programs, and other members of the public may locate policies, rules, and requirements concerning the PHA's operations, programs, and services. CWICs can find these plans here:
https://www.hud.gov/program_offices/public_indian_housing/programs/ph/mtw/mtwsites

While MTW agencies have considerable flexibility, they must still abide by all other federal rules and regulations, including the Fair Housing Act, the Civil Rights Act, labor standards, environmental rules, procurement guidelines, demolition and disposition procedures and relocation regulations. For all activities that affect their residents' rent payments, PHAs must also conduct an impact analysis that recognizes the unforeseen circumstances that may affect their residents and develop an appropriate hardship policy. These safeguards help minimize any potentially negative impact of MTW on residents and communities.

Plan to Achieve Self Support (PASS)

A Plan to Achieve Self Support (PASS) is a SSI work incentive designed to help a person with a disability to reach a work goal that makes him or her less dependent on cash benefits from Social Security. If the beneficiary achieves the goal, the earnings will reduce or stop SSI payments, or stop Social Security disability payments. The PASS enables the user to pay for a variety of expenses to reach the work goal. Social Security subtracts the expenses from "countable" income, which provides the user with a higher SSI payment than she or he would receive without the PASS. See Module 3, Unit 7 for details about PASS.

While PASS isn't a HUD work incentive, HUD programs deduct PASS expenses when computing a family's adjusted income, thereby reducing the family's rent and utility payments. PASS users are better able to afford to pay for PASS expenses when their family's rents in HUD programs are lower.

Homeownership Voucher Program

HUD's Homeownership Voucher Program enables some Housing Choice Voucher recipients to use their vouchers to help them purchase homes, instead of renting.

Who Is Eligible?

The HUD Homeownership Voucher Program is optional. PHAs may choose whether to offer it, so many don't. However, HUD may require a PHA to provide homeownership assistance as a reasonable accommodation to a family that includes a member with a disability.

A list of PHAs that participate in the program can be found at:
http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/hcv

To be eligible for the program, a family must have a Housing Choice Voucher and must live in the area served by a PHA that participates in the Homeownership Voucher Program. The family may convert their newly acquired Housing Choice Voucher to a Homeownership Voucher and use it exclusively for homeownership. In most cases, however, families that have been using their Housing Choice Vouchers in rental properties will later convert them to Homeownership Vouchers.

For a family with a disabled member, annual income of each adult member who will own the home must be at least as high as the SSI Federal Benefit Rate (FBR) for an individual ($750 per month in 2018), unless the PHA chooses to make it higher.

How Does It Work?

A family with a Housing Choice Voucher contacts the PHA and requests to participate in the Homeownership Voucher Program. If the PHA participates in the program and approves the request, the PHA converts the voucher, and the family uses it to pay for expenses to buy a home, rather than to rent one. Homeownership expenses may include:

- Mortgage payments
- Mortgage insurance
- Property taxes and insurance
- Utilities
- Maintenance, repairs, and replacements

The PHA, its contractor, or a HUD-approved agency must provide the family with homebuyer counseling. The PHA may set a down payment requirement (e.g., at least 1 percent of the purchase price from the family's personal resources).

The housing assistance payment (the amount HUD will pay toward homeownership expenses) is the lesser of: (a) the payment standard minus the total tenant payment, or (b) the monthly homeownership expenses minus the total tenant payment.

Homeownership assistance may last indefinitely for a family with a disabled member. Families may use Homeownership Vouchers in combination with other public homeownership programs, such as mortgage or loan guaranty programs. Unlike other homeownership assistance programs, the Homeownership Voucher can help avert foreclosure by providing more financial assistance if a family's income drops due to unemployment, loss of public benefits, or other reasons.

Re-examinations of Income

PHAs must reexamine a family's income at least once every 12 months if the family pays an income-based rent. A PHA must adopt a policy detailing whether families must report increases in income between annual reexaminations, or whether the families need only to report changes annually. If a PHA requires families to report income increases between annual reexaminations, then the PHA will conduct interim reexaminations when the families report changes, adjusting families' rents accordingly.

If a family's income decreases between annual reexaminations, or another change occurs that would reduce the family's income-based rent (e.g., a new dependent joins the family, child care or medical expenses increase, etc.), the family can report the change to the PHA and trigger an interim reexamination to reduce the rent. This is true even if the PHA doesn't require families to report income changes between annual reexaminations.

Flat Rates in Public Housing

Flat rent is an option for families in public housing that prevents them from paying more than the market rent for their unit when their income rises. If a family chooses to pay a flat rent, the amount they pay is based on the housing unit's actual market value in the private rental market. The flat rent is approximately the amount the landlord could rent the unit for without a public subsidy.

Why Would a Family Choose a Flat Rent?

If a family's income increases enough, their income-based rent (usually 30 percent of adjusted income) may be higher than the market rent for the unit they occupy. If the family chooses a flat rent instead, they pay only the market rent, and not more.

When Can a Family Choose a Flat Rent?

Each year, families can select between income-based and flat rent at the time of annual reexamination. The PHA must inform the family of the actual amount of their income-based rent and the flat rent applicable to their unit.

Flat Rent Adjustments

A PHA must reexamine the family composition and housing unit size of a family in public housing at least once a year, even if the family pays a flat rent. The PHA may choose to reexamine the income of a family paying a flat rent as rarely as once every three years, though the PHA may choose to conduct reexaminations annually. PHAs must review the amounts of flat rents at least annually to ensure they still reflect actual market rents.

Flat Rents — When To Do Interim Adjustments

PHAs must allow families to immediately switch from flat rent to income-based rent in the event of financial hardship that prevents the family from paying the flat rent. PHAs must establish policies on hardships that warrant switching from flat rent to income-based rent, which must include:

- Decreases in income;
- Loss or reduction of employment;
- Death in the family;
- Reduction in or loss of earnings or assistance;
- Increase in medical, childcare, transportation, education, or other expenses;
- Demonstrated financial hardship; and
- Other situations the PHA defines.

When a family's rent reduces due to their changing from flat rent to income-based rent, they must wait for their net annual reexamination to switch back to flat rent if their income increases again.

Flat rent is an important option for families in public housing whose incomes increase substantially due to employment.

Minimum Rates and Hardship Exemptions

A PHA may set a minimum rent for particular programs. The minimum will be between $0 and $50 per month for public housing and some Section 8 programs (moderate rehabilitation, tenant-based, and project-based voucher). For other Section 8 programs, the minimum rent is set at $25 per month. The minimum rent generally applies even if the usual rent or utility calculation (30 percent of adjusted family income) shows the family should pay a lesser amount. However, there are exceptions when the family may pay less than the minimum rent.

Common reasons why families pay minimum rent:

- Family's major source of income the PHA has excluded; or
- Family has little income from any source; or
- Family has income they haven't disclosed to the PHA.

Hardship Exemption Requirements

If a PHA adopts a minimum rent over $0, the PHA must adopt hardship exemptions that exclude a family from having to pay the minimum rent. Hardship exemptions include:

- Family has lost eligibility for or is waiting for eligibility determination for a federal, state, or local assistance program.
- Family would be evicted because they are unable to pay minimum rent.
- Family income decreases due to changed circumstances (e.g., job loss, medical problem, family member with income leaving home).
- Death in the family.
- Other PHA-determined circumstances.

If a family requests a hardship exemption from a PHA, HUD can't evict them for 90 days after the month of the request. The PHA must suspend the minimum rent while determining if (a) there is a hardship, and (b) if so, whether it's temporary or long-term. If the PHA determines there is

no hardship, the tenant must pay the rent it owes during the suspension period, and resume paying the minimum rent.

In public housing, if the hardship is temporary (less than 90 days), HUD reinstates the minimum rent from the start of the suspension period, and sets a repayment agreement to recoup the back minimum rent owed. In Section 8 programs, if the hardship is less than 90 days, HUD reinstates the minimum rent after the suspension period, and sets up a repayment agreement to recoup back minimum rent owed to the start of the suspension period. If the hardship is long-term (more than 90 days), HUD suspends the minimum rent for as long as the hardship continues.

Effect of Welfare Assistance Reductions on Rent

If the state reduces the family's Temporary Assistance to Needy Families (TANF) or other welfare assistance (such as subsidized transportation or childcare), HUD may or may not reduce rent in HUD-funded programs.

When HUD Doesn't Reduce Rent

HUD doesn't reduce rent when TANF or other assistance decreases because:

- The family has committed fraud, or
- The family hasn't complied with a requirement to participate in an economic self-sufficiency program.

When HUD Does Reduce Rent

HUD does reduce rent when TANF or other assistance decreases because of circumstances including (but not limited to):

- The family has reached the maximum time limit for receiving TANF or welfare benefits.
- The family isn't able to find a job in spite of full compliance with all program requirements.

- The family is being sanctioned for failure to comply with program requirements OTHER THAN participation in an economic self-sufficiency program.

- The family's benefit is reduced because of an earlier, inadvertent overpayment.

What Is An Economic Self-Sufficiency Program?

An economic self-sufficiency program is any program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work for such families. These programs include:

- Job training
- Work placement
- Education
- Workfare
- Employment counseling
- Basic skills training
- English proficiency
- Apprenticeship
- Financial or household management
- Any program necessary to ready a participant for work, including a substance abuse or mental health treatment program

HUD Grievance Procedure Requirements for PHAs

HUD requires all PHAs to establish and implement a formal grievance procedure to assure that a PHA tenant is afforded an opportunity for a hearing if the tenant disputes any PHA action or failure to act involving the tenant's lease with the PHA or PHA regulations which adversely affect

the individual tenant's rights, duties, welfare or status. PHAs are required to include or reference the grievance procedure in all tenant dwelling leases and provide a copy of the grievance procedure to each tenant and to resident organizations.

Local PHAs may design their grievance procedures in a variety of ways as long as all federal requirements are met. The federal requirements are listed in the Code of Federal Regulations found online here: https://www.gpo.gov/fdsys/pkg/CFR-2017-title24-vol4/xml/CFR-2017-title24-vol4-part966.xml#seqnum966.50

Individuals should contact their local PHA for a copy of the grievance procedure if they wish to file a grievance about a determination.

The CWIC's Role in Helping Beneficiaries with Housing Programs

A CWIC doesn't typically help people apply for HUD-funded housing programs, but she or he may recommend that families who are having difficulty affording their housing payments apply for HUD-funded assistance from PHAs.

As with other public benefits, CWICs need to verify HUD program participation. CWICs should verify the following information:

- The type of HUD program that assists the individual or family;
- The amount of the tenant's rent payment and utility allowance (if any);
- Participation in the Earned Income Disregard (EID), including the number of EID months still available;
- Participation in the Family Self Sufficiency Program (FSS);
- Participation in the Individual Savings Account (ISA) program.

Beneficiaries may have letters from PHAs that provide some of these details. The local PHA or the rental office for a housing project can usually verify the information. If these sources aren't forthcoming, the nearest HUD local office may provide the verification.

PHAs can be searched at:
http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/pha/contacts.

HUD local offices are listed at:
http://portal.hud.gov/hudportal/HUD?src=/program_offices/field_policy_mgt/localoffices. CWICs should cultivate relationships with helpful staff in these offices.

CWICs should be familiar with the features of various HUD programs and should advise individuals and families they serve who participate in these programs about their options and responsibilities when they go to work. CWICs should focus especially on:

- When families should report new employment or changes in earnings to the PHA or housing management office.
- The likely impact of changes in income (particularly earnings) on the family's payments for rent and utilities.
- Whether family members may qualify for the EID, FSS, or ISA to delay or alleviate the impact of rent increases resulting from employmen.t
- Whether an individual or family with a Housing Choice Voucher might request to use their voucher to purchase a home rather than rent one, if their PHA offers the Homeownership Voucher.
- Options (if any) for the individual or family to remain in their home or remain eligible for program assistance if their income should increase above the income limit for the program that assists them.

CWICs should always include information about HUD programs and work incentives in Benefits Summary and Analyses reports (BS&As) and Work Incentive Plans (WIPs), when applicable. Address the impact of projected income changes (e.g., new employment or increased earnings) on expenses and net income.

Remember to verify an individual's eligibility for the Earned Income Disregard (EID), and how many EID months are still available, before providing guidance regarding this work incentive. When an individual qualifies for the EID, it's important for the CWIC to highlight the family's projected net income after paying for rent and utilities during each of the three phases of the EID — the first 12 months (when rent doesn't

increase), the second 12 months (when the rent increases partially), and after 24 months (when the full rent increase occurs). Individuals and families need to prepare for changing net income levels, especially because net income may decrease as rent rises.

Tips to Help Applicants Get Approved for Housing Assistance

- Apply everywhere (within reason) with an open waiting list.
- Apply for multiple types of programs.
- Keep application information current — report address changes.
- Respond promptly to PHA contacts to verify continuing interest, to avoid PHA purging you from waiting lists.
- Address issues that may cause PHAs to deny housing subsidies or landlords to deny rental applications, including credit problems, substance abuse, and criminal records.

Tips for Current HUD Housing Tenants

- Communicate with the PHA in writing, have the PHA date stamp correspondence, and place it in the file. Keep copies of all correspondence.
- Keep copies of repair requests, dates of repair requests, work order numbers, and other communications with the landlord.
- If the landlord fails to make necessary repairs in a timely way, a tenant with a Housing Choice Voucher should request an inspection from the PHA or contact the local court to initiate paying rent into escrow. A Public Housing tenant should have a discussion with the property manager.
- Notify the PHA in writing of any changes to household size or income within 10 days.
- Request access to the PHA's tenant file in writing, if necessary.
- Report to the PHA immediately if the landlord asks for "side payments" in addition to the required tenant payment. This is fraud.
- Document the condition of the unit when moving in and out, and send copies to the PHA. Request a copy of the Housing Quality

Standards inspection from the PHA to prove the condition of the unit upon moving out.

- Always pay the tenant's portion of rent, even if the PHA "abates" (holds back) its portion of the rent to prompt the landlord to meet its obligations. This prevents the possibility of eviction.

Tips for Retaining Program Eligibility When Earned Income Increases

Public Housing: If a family in public housing has their income increase above 80 percent of the median area income, the PHA may evict the family. However, the PHA may NOT evict a family solely for exceeding the income limit if the family either:

- Participates in the FSS Program, or
- Has a member who receives the EID (2 CFR 960.261).

Housing Choice Voucher: If income increases enough that the family pays the full rental cost of the unit, the PHA ceases payments to the owner. The family may resume a subsidy if income drops within six months of the last subsidy payment. If income doesn't drop, the family loses eligibility for the Housing Choice Voucher. However, if the family moves to a unit with a higher rent before their voucher eligibility ends, and their income is low enough that HUD pays a portion of the rent, the family remains eligible for the Housing Choice Voucher. In this situation, the family would need to move for another compelling reason (e.g., to be closer to work), and not just to continue the Housing Choice Voucher.

Advocating for Reasonable Accommodations

CWICs should also help individuals with disabilities request reasonable accommodations when necessary. HUD programs must comply with Section 504 of the Rehabilitation Act, which requires them to make services and facilities accessible. Some reasonable accommodations include (but aren't limited to):

Application Process

- Providing applications in accessible formats.

- Providing sign language interpreters for interviews.
- Scheduling interviews in applicants' homes or other locations besides PHA offices.
- Permitting another person to represent an applicant.
- Contacting the applicant in the manner she or he requests.
- Granting extra time to respond to information requests.
- Reinstating an applicant's place on the waiting list if the PHA removed him or her from the list for failure to respond to an information request by the deadline, if the delay in response resulted from a disability.
- Some PHAs provide preferences for single individuals with disabilities, or families that include members with disabilities. Preferences provide higher priority for people on waiting lists.

Accessible Housing Units

- Allowing an applicant to request a larger unit to accommodate a live-in aide or medical equipment.
- An applicant who needs an accessible unit may — in the absence of any accessible units — request that the PHA modify a unit to make it accessible, if this wouldn't cause an undue burden or expense to the PHA.
- An applicant can refuse an offer of public housing, but still keep his or her place on the waiting list, if the refusal is for "good cause," including if the offered unit isn't sufficiently accessible.
- A PHA may provide a Homeownership Voucher as an alternative to a Housing Choice Voucher if necessary to accommodate a person with a disability (e.g., if no accessible rental units are available, but the person could buy an accessible home instead).

Grievance Process

- Accepting grievances at alternative sites or by mail.

- Having PHA staff transcribe an oral request from an applicant who can't write due to a disability.
- Providing sign language interpreters, readers, attendants, or accessible locations for hearings.

Conducting Independent Research

PHA search:
http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/pha/contacts.

HUD local office search:
http://portal.hud.gov/hudportal/HUD?src=/program_offices/field_policy_mgt/localoffices.

The following citations are from the U.S. Code of Federal Regulations (CFR). These can be found online by using the electronic CFR (eCFR) system found here: http://www.ecfr.gov/cgi-bin/ECFR?page=browse

- HUD Income Rules and Earned Income Disregard – 24 CFR 5.609 – 5.617; 24 CFR 982
- HOME Investment Partnerships Program – 24 CFR 92
- Housing Opportunities for Persons with AIDS – 24 CFR 574
- Continuum of Care Program – 24 CFR 578
- Supportive Housing for the Elderly and Persons with Disabilities – 24 CFR 891
- Housing Choice Voucher – 24 CFR 982
- Project-Based Voucher – 24 CFR 983
- Family Self Sufficiency Program – 24 CFR 984

HUD Documents

- **Public Housing Occupancy Guidebook:** http://www.hud.gov/offices/pih/programs/ph/rhiip/phguidebooknew.pdf

- **Housing Choice Voucher Program Guidebook:** http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/hcv/forms/guidebook

- **HUD Handbook 4350.3, Occupancy Requirements of Subsidized Multifamily Housing Programs:** http://portal.hud.gov/hudportal/documents/huddoc?id=43503HSGH.pdf

- **General Income and Rent Determination Frequently Asked Questions (FAQs):** http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/rhiip/faq_gird#aieid

- **Instructions for calculating adjusted income:** http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_35649.pdf

- **Homeownership Vouchers Frequently Asked Questions:** http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/hcv/homeownership

HUD Programs – This is a comprehensive manual describing all HUD programs.
https://www.hud.gov/sites/documents/HUDPROGRAMS2016.PDF

Additional Resources

HUD Checklist for CWICs

The following checklist provides reminders to CWICs about information they need to obtain to advise individuals and families who participate in HUD programs.

HUD Checklist for CWICs

____ When family income increases (e.g., when an adult member goes to work or has an increase in earnings), do they need to report the increase promptly, or can they wait for the net annual reexamination?

____ Do any household members qualify for the Earned Income Disregard (EID)? NOTE: Be sure to check to see if the local PHA is participating in the Moving to Work (MTW) Demonstration. If so, verify with the PHA that the EID is applicable. If so, verify whether the EID has been modified in any way? If not, does the PHA apply any other earned income disregards?

____ **Must meet one of the following:**

- Adult (18 or older) in public housing
- Adult (18 or older) with disability in one of the following:
    - Housing Choice Voucher (tenant-based Section 8) program,
    - Supportive Housing program,
    - HOME Investment Partnerships program,
    - Housing Opportunities for Persons with AIDS (HOPWA) program, OR
    - Project-Based Section 8 Voucher (but not other project-based Section 8 programs)

____ **Must also meet one of the following:**

- Previously unemployed, or earned no more than the equivalent of 500 hours at minimum wage in 12 months before starting work
- Had an increase in earnings in a self-sufficiency program or other job training program, and household income increased as a result
- Became employed, or increased earnings, during (or within 6 months after) receipt of TANF-funded employment assistance

____ Must not have exhausted EID in the past

____ If some EID months have been used, verify how many are still available, and when the 48-month limit will expire

____ If a household member qualifies for the EID, need his/her baseline income (before she or he qualified for the EID) – types and amounts of nonexcluded income, AND

____ Need his/her current income - types and amounts of nonexcluded income, AND

____ Need to know in which time period of EID the member is currently (first 12 months of work, second 12 months of work, or EID has been exhausted)

____ Does the family qualify for an Individual Savings Account (ISA) as an alternative to the EID, and if so, would they prefer the ISA?

____ Must live in public housing and be served by a PHA that offers ISA's

____ Does the family have a Housing Choice Voucher and would they prefer to convert it to a Homeownership Voucher, if their PHA allows this?

____ Current non-excluded income type and amount for each other household member

____ Any member using Plan to Achieve Self Support (PASS)?

____ Household qualifies for disabled or elderly family deduction? (Head of household, spouse of head of household, or sole household member is disabled or at least age 62)

____ # of dependents of head of household living in home

____ Household paying for unreimbursed attendant care and/or assistive technology costs for a household member with a disability so that any household member can work? (If yes, need amounts.)

____ Disabled or elderly household paying for unreimbursed medical expenses for any household member? (If yes, need amounts.)

____ Household paying for child care so a household member can work? (If yes, need amount.)

____ Household paying for child care so a household member can seek work or participate in education to prepare for employment? (If yes, need amount.)

____ Utility allowance granted by PHA (if household pays for utilities separately from rent)? (If yes, need amount.)

NOTE: Income and expense amounts based on average month (i.e., annual total divided by 12 months, or weekly total multiplied by 4.33 weeks).

Competency Unit 4 – Unemployment Insurance Program

Introduction to Unemployment Insurance

Unemployment Insurance (UI) is a joint state-federal program that provides cash benefits to certain eligible workers who become unemployed through no fault of their own. In times of economic distress, UI benefits provide a critical financial safety net for American workers who are suddenly without employment. In addition to helping workers and their families, the Unemployment Insurance programs play a key role in helping businesses, communities, and our nation's overall economy. It was originally created by the federal government in 1935 in response to the Great Depression, when millions of people lost jobs. Since then, the UI program has continued to help cushion the impact of economic downturns and bring economic stability to communities, states, and the nation by providing temporary income support for laid-off workers.

At the federal level, the Office of Unemployment Insurance under the U.S. Department of Labor's Employment and Training Administration (ETA) administers the UI program. The Office of Unemployment Insurance is responsible for providing leadership, direction, and assistance to state workforce agencies in the implementation and administration of state UI programs, Federal unemployment compensation programs, and other wage-loss, worker dislocation, and adjustment assistance compensation programs. The Office of Unemployment Insurance works collaboratively with business, labor, and state governments by providing oversight, guidance, and technical assistance for the federal-state unemployment compensation system and providing budget and legislative support to state workforce agencies to administer their UI programs and assist individuals to return quickly to suitable work.

At the state level, the State Workforce Agency typically administers UI, usually through a department or office of unemployment compensation.

The Purpose of Unemployment Insurance (UI)

Unemployment insurance payments provide temporary financial assistance to eligible workers who are unemployed through no fault of their own (as determined under state law), and meet other eligibility requirements of state law.

Each state administers its own separate UI program within guidelines established by federal law. The state law under which unemployment claims are established determines eligibility for unemployment insurance and benefit amounts, and the length of time benefits are available. In the majority of states, the state bases UI benefit funding solely on a tax imposed on employers. However, in three states, employees are required to make require minimal employee contributions.

Like the Social Security system, the UI system provides an important source of social insurance. The goals of today's UI program are (1) to prevent individuals from experiencing severe financial hardships, and (2) to provide time for individuals to find work again. Through payments UI makes directly to eligible, unemployed workers, UI ensures that at least a significant proportion of the necessities of life, most notably food, shelter, and clothing, workers can meet on a week-to-week basis while job searching.

As temporary, partial wage replacement to the unemployed, UI is of vital importance in maintaining consumer purchasing power and in stabilizing the national economy. It provides a source of income during periods of economic adjustment so that laid-off workers have money to spend and will be able to stay in their communities, thus being available to the employer when he or she has additional work.

> **IMPORTANT:** A key to understanding unemployment benefits rests on two important words: **temporary** and **partial**. These benefits are a stopgap protection for individuals who are temporarily out of work and supplement other forms of financial support the individual has, such as a personal savings.

Who and What Funds Unemployment Insurance?

Unemployment Insurance is a federal-state program jointly financed through federal and state employer payroll taxes (federal or state UI tax). Generally, employers must pay both state and federal unemployment taxes if: (1) they pay wages to employees totaling $1,500, or more, in any quarter of a calendar year; or, (2) they had at least one employee during any day of a week during 20 weeks in a calendar year, regardless of whether or not the weeks were consecutive. However, some state

laws differ from the federal law, and employers should contact their state workforce agencies to learn the exact requirements.

Federal Unemployment Tax Act (FUTA)

The Federal Unemployment Tax Act (FUTA) authorizes the Internal Revenue Service (IRS) to collect a federal employer tax used to fund state workforce agencies. Employers pay this tax annually by filing IRS Form 940. FUTA covers the costs of administering the UI and Job Service programs in all states. In addition, FUTA pays one-half of the cost of extended unemployment benefits (during periods of high unemployment) and provides for an unemployment insurance fund from which states may borrow, if necessary, to pay benefits. FUTA taxes are calculated by multiplying 6.0 percent times the employer's taxable wages. The taxable wage base is the first $7,000 the employer pays in wages to each employee during a calendar year.

State Unemployment Tax

State law determines individual state unemployment insurance tax rates. The taxable wage base and tax rates vary from state to state. Generally, the UI tax rate depends on reserves in the state UI trust fund and on an employer's history of laying off workers or UI benefits charged to an employer's account. Employers pay state unemployment tax to state workforce agencies. The agencies use these funds solely to pay benefits to eligible unemployed workers.

For a table of current tax rates and taxable wage base information for individual states, go to: http://www.unemploymentinsurance.doleta.gov/unemploy/statelaws.asp. Select Significant Provisions of State UI Laws.

The UI Federal – State Relationship

The UI program is a federal-state partnership based upon federal law but administered by state employees under state law. Because of this structure, the program is unique among the country's social insurance programs. The UI program is also unique in that it's almost totally funded by employer taxes, either federal or state — only three states collect UI taxes from employees.

Federal law defines certain requirements for the UI program. The Social Security Act and the Federal Unemployment Tax Act (FUTA) set forth broad coverage provisions and certain benefit provisions. The major UI functions of the federal government are to:

- Ensure conformity and substantial compliance of state law, regulations, rules, and operations with federal law;

- Determine administrative fund requirements and provide money to states for proper and efficient administration;

- Set broad overall policy for administration of the program, monitor state performance, and provide technical assistance as necessary; and

- Hold and invest all money in the unemployment trust fund until drawn down by states for the payment of compensation.

Each state designs its own UI program within the framework of the federal requirements and is subject to approval by the U.S. Secretary of Labor. The state statute sets forth the benefit structure (e.g., eligibility and disqualification provisions, benefit amount) and the state tax structure (e.g., state taxable wage base and tax rates). The primary functions of the state are to:

- Determine operation methods and directly administer the program;

- Take claims from individuals, determine eligibility, and ensure timely payment of benefits to workers; and

- Determine employer liability, and assess and collect UI contributions.

Most of the UI benefits unemployed individuals receive come from the UI contributions collected by the states. In periods of very high and rising unemployment in individual states, states pay UI benefits for a much longer period of time than usual. State and federal sources each fund approximately half of these "extended benefits." In periods of national recession, when high and sustained unemployment impact all states, states have occasionally adopted federally funded programs of supplemental benefits.

Covered Employment

A primary requirement to collect UI benefits is that the individual must have worked in a type of employment that's covered under his or her state's law. The UI program covers almost all wage and salary workers. The rules that determine classification for employment at the federal level follow common law. Federal law defines an employer-employee relationship by the amount of control exerted by the company. The facts that provide evidence of the degree of control and independence fall into three categories:

1. **Behavioral:** Does the company control or have the right to control what the worker does and how the worker does his or her job?

2. **Financial:** Does the payer control the business aspects of the worker's job?

3. **Type of Relationship:** Are there written contracts or employee type benefits, such as pension plan, insurance, vacation pay, etc.? Will the relationship continue, and is the employee's work a key aspect of the business?

The IRS evaluates these factors on IRS Form SS-8 at http://www.irs.gov/pub/irs-pdf/fss8.pdf, which employers and workers can file with the IRS to request a determination of the status of a worker for purposes of federal employment taxes and income tax withholding. State UI agencies use their own rules to determine whether to categorize an activity as employment for state UI purposes The UI program requires states to cover two specific groups of workers whom the IRS doesn't always identify as employees.

Domestic Employers Coverage

Employers of domestic employees must pay state and federal unemployment taxes if they pay cash wages to household workers totaling $1,000, or more, in any calendar quarter of the current or preceding year. A household worker is an employee who performs domestic services in a private home. Examples of household employees are: babysitters, caretakers, cleaning people, drivers, nannies, health aides, yard workers, and private nurses.

Employers of Agricultural Employees

Employers must pay federal unemployment taxes if:

1. They pay wages to employees of $20,000, or more, in any calendar quarter; or,
2. In each of 20 different calendar weeks in the current or preceding calendar year, there was at least one day in which they had 10 or more employees performing service in agricultural labor. The 20 weeks don't have to be consecutive weeks, nor must they be the same 10 employees, nor must all employees be working at the same time of the day. Generally, agricultural employers are also subject to state unemployment taxes, and employers should contact their state workforce agencies to learn the exact requirements.

States tend to cover employers or employment subject to the federal UI tax (FUTA), even though the federal statute doesn't require this. While states generally cover all employment that is subject to the federal tax, they also may cover some employment that is exempt from the tax, such as smaller employers of agricultural labor and domestic service. The federal statute excludes from the UI tax liability those employers who don't meet the specific monetary or number of employee requirements.

Although the extent of state coverage is greatly influenced by the federal statute, each state is, with a single exception, free to determine the employers who are liable for contributions and the workers who accrue rights under the UI laws. The exception is the federal requirement that states provide coverage for employees of nonprofit organizations, services performed for Indian tribes, and employees of state and local governments, even though such employment is exempt from FUTA.

The UI program specifically excludes some individuals from coverage. These include, but aren't limited to, self-employed individuals, workers who are employed by their own families, elected officials and legislators, members of the judiciary, and the State National Guard. Remember, states have a great deal of discretion to expand coverage, and state-by-state variance in coverage is significant. CWICs must contact their local workforce development agency or American Job Center for more specific information on coverage under the UI program.

Eligibility

Once the UI agency has established that an individual was in covered employment, the next step is to determine eligibility for benefit payments. The UI agency is looking for two specific criteria during eligibility determinations:

1. The individual must meet the state requirements for wages earned or time worked during an established period of time referred to as a "base period." In most states, this is usually the first four out of the last five completed calendar quarters prior to the time that the individual filed the UI claim. This concept of "base period" is critical to understanding how eligibility is determined. It isn't only a question of whether the individual worked in a covered class and whether an employer-employee relationship existed, but also when the individual did this work.

2. Second, individuals must be unemployed through no fault of their own (as determined under state law) and meet other eligibility requirements of state law. The state will deny UI claims if the applicant doesn't meet this test. This eligibility criterion is one area that produces the largest number of challenges in the appeal process for both employer and employee alike. Remember that each time an employee makes a claim against the employer, the employer's tax rate will likely go up because of the "experience rating."

UI Claims

It's important to remember that UI isn't a means-tested program like Temporary Assistance for Needy Families (TANF) or Medicaid, in which the primary eligibility criteria are based on strict income and resource limits. Unemployment Insurance is an insurance program, not a welfare program. To receive UI benefits, one must file a claim and have earned the right to the benefits.

Individuals file UI claims with the state Unemployment Insurance agency. In most states, individuals file the claim through the American Job Center (AJC) system. In some states, applicants may need to go to an AJC to file a claim, but many states now have systems where applicants may phone in or file their claims online. The state usually issues the first UI check within two to three weeks. Some states require a one-week

waiting period. To locate the UI agency in each state, go to: http://www.servicelocator.org/OWSLinks.asp

General Requirements

Once the UI Claims Representative has established basic coverage by class and individual work and has determined that the individual lost his or her job through no fault of his or her own, the UI Claims Representative asks a series of questions focused on the individual's ability and willingness to return to work.

Once again, remember that employers pay for this program, and the system is focused on ensuring that individual claimants are using this program's benefits as a temporary support while they look for work. If the system finds that an individual isn't looking for work or isn't able or available to work, the state will deny the claim. Similarly, the state will cease benefits if a claimant doesn't continue to meet these requirements after the state initially approved the claim. The individual making a UI claim must:

- Be actively seeking employment;
- Be available for work;
- Be able to work;
- Be willing to accept a suitable position when an employer offers one;
- Meet the state-specific eligibility requirements; and
- Have no disqualifying factors.

Most UI agencies require individuals to file weekly or biweekly claims and respond to questions concerning continued eligibility. UI recipients must report any earnings from work during the week(s) and must report any job offers or refusal of work that occurred during the week(s). Individuals usually file these claims by mail or telephone. When the UI agency directs them, individuals must report to the local Unemployment Insurance Claims Office or Employment Services/American Job Center at a scheduled date and time. Failure to report as scheduled for an interview may cause the state to deny UI benefits.

Registering for Work

The state may direct claimants who file for unemployment benefits to register for work with the State Employment Service, so it can assist in finding employment. The Employment Service Office/American Job Center has current labor market information and provides a wide array of re-employment services free of charge. Employment Service/American Job Center staff can refer claimants to job openings in the local area or in other parts of the state or country if an individual is willing to relocate. If job openings in a given field are limited, the staff can offer testing and counseling to determine other jobs individuals might like to do and are able to do.

Hot Topics in the UI System

Several issues within the UI system are currently under debate. CWICs should have an awareness of these topics when providing WIPA services to beneficiaries who have applied for UI or are already receiving these benefits.

Hot Topic #1: Concurrent Receipt of UI and Social Security Disability Benefits

Under certain circumstances, individuals may be eligible for concurrent cash benefit payments due to differences in DI and UI eligibility requirements. Specifically, Social Security's definition of a disability involves work that doesn't rise to the level of substantial gainful activity (SGA). In contrast, the Department of Labor allows states' determination of "able and available for work" eligibility criteria for UI benefits to include work that doesn't rise to the level of SGA. Therefore, some individuals may have a disability under federal law but still be eligible for UI under state law because they are able and available for work that doesn't rise to the level of SGA. Although DI and UI generally provide separate services to separate populations — and thus aren't overlapping programs — the concurrent cash benefit payments for individuals eligible for both programs are an overlapping benefit when both replace lost earnings. While Social Security must reduce DI benefits for individuals receiving certain other government disability benefits, such as worker's compensation, no federal law authorizes an automatic reduction or elimination of overlapping DI and UI benefits. As a result, neither Social Security nor the U.S Department of Labor (DOL) has any processes to identify these overlapping payments.

In some cases, Social Security disability beneficiaries face obstacles when applying for UI benefits. UI personnel may state that if an individual is receiving Social Security disability benefits, the individual had "proved" that he or she was unable to work and that the state would deny UI benefits based on the disability, thereby making the "assumption" that the beneficiary wasn't eligible. A review of state statutes and codes doesn't substantiate this position, but this is the attitude that Social Security disability beneficiaries may face when they file a claim. When assisting beneficiaries in these cases, it's important for CWICs to focus on the fact that the individual with the disability has been working and has established the fact that he or she "is able" to work and "available" to work per UI requirements. The person's work history shows the required quarters in the base period to prove this.

If the state denies an individual UI benefits on the basis that he or she isn't "able to work" because of his or her disability, the claimant should file an appeal. In many states the claimant can engage a separate appellate board or appeals commission if the first level appeal isn't favorable.

This is an area where the state and federal systems are changing but they aren't in complete alignment. Social Security wants beneficiaries to work, but agencies like UI haven't always adjusted their rules and training of field staff to support the efforts of their sister federal agency.

For a detailed discussion of this issue, refer to a GAO report entitled "Overlapping Disability and Unemployment Benefits Should be Evaluated for Potential Savings?", GAO-12-764: Published: Jul 31, 2012. Publicly Released: Aug 30, 2012. Accessed online at: http://www.gao.gov/products/GAO-12-764

Hot Topic #2: Part-time Work

Part-time work is another hot topic within the Unemployment Insurance community. It's possible in 27 states for an individual to establish a strong history of working part-time and have his or her employer pay UI taxes on his or her wages, and yet that person is still not be eligible to collect UI benefits if he or she becomes unemployed. In fact, nationally, only 12 percent of unemployed part-time workers receive unemployment benefits. This is particularly challenging for individual workers with disabilities who may only be able to work part-time.

According to the National Employment Law Project, "Part-time workers most commonly run afoul of the 'able and available' rule or rules

disqualifying those not seeking or accepting 'suitable work.'" A majority of states explicitly require full-time work to satisfy these rules.

This issue has been debated for a number of years, and the U.S. Department of Labor encourages states to review their rules in this area and seek legislative changes to state laws that would allow unemployed part-time workers to receive benefits when otherwise eligible. To read more about this topic, refer to the National Employment Law Project's website at: http://www.nelp.org/

UI Benefit Payments

Keep in mind that states base UI benefits on earnings, not on need. In general, UI benefits replace about half of an individual's after-tax earnings per week, but each state sets up its maximum and minimum benefits. Some states have also developed additional allowances for dependents. Most states may give individuals up to 26 weeks of unemployment benefits.

Additional weeks of benefits may be available during periods of high unemployment. These are called "extended benefits." Extended benefits are available to workers who have exhausted regular unemployment insurance benefits during periods of high unemployment. The basic extended benefits program provides up to 13 additional weeks of benefits when a state is experiencing high unemployment. Some states have also enacted a voluntary program to pay up to seven additional weeks (20 weeks maximum) of extended benefits during periods of extremely high unemployment. When a state begins an extended benefit period, it notifies those who have received all of their regular benefits that they may be eligible for extended benefits. CWICs should contact the state UI agency to ask whether extended benefits are available. State agencies can be found online at: http://www.servicelocator.org/OWSLinks.asp. More information about extended UI benefits can be found at: http://www.ows.doleta.gov/unemploy/etenben.asp

> **IMPORTANT NOTE:** UI benefits are subject to federal income taxes, and beneficiaries must report UI benefits on their federal income tax return. Individuals may elect to have the State Unemployment Insurance agency withhold the tax.

Other Unemployment Compensation Programs

Several other programs offer unemployment compensation in addition to the federal-state UI program. These programs typically provide coverage to certain types of employees. These programs include the following:

Unemployment Compensation for Federal Employees

The Unemployment Compensation for Federal Employees program provides benefits for eligible unemployed former civilian federal employees. States administer the program as agents of the federal government. This program operates under the same terms and conditions that apply to regular State Unemployment Insurance. The law of the state (under which beneficiaries file their claims) determines benefit amounts, number of weeks the state can pay benefits, and other eligibility conditions. Individuals file claims through their State Unemployment Insurance Agency.

For more information, refer to:
http://www.workforcesecurity.doleta.gov/unemploy/unemcomp.asp.

Unemployment Compensation for Ex-service Members

The Unemployment Compensation for Ex-service Members (UC) program provides benefits for eligible ex-military personnel. In addition, the UC program covers former members of the National Oceanographic and Atmospheric Administration (NOAA) and U.S. Public Health Service (USPHS) Commissioned Corps. The states, as agents of the federal government, administer the program. Program specifics include:

- Individuals who were on active duty with a branch of the U.S. military may be entitled to benefits based on that service.
- Individuals must have separated from the military under honorable conditions.
- There is no payroll deduction from service members' wages for unemployment insurance protection. The various branches of the military, NOAA, or USPHS pay benefits.

The law of the state (under which individuals files their claims) determines benefit amounts, number of weeks the state can pay benefits, and other eligibility conditions. Individuals should contact the State Workforce Agency at http://www.servicelocator.org/OWSLinks.asp as

soon as possible after discharge to apply for UI benefits. Applicants should have a copy of their service and discharge documents (DD-214 or similar form) when they submit a claim.

For more information, refer to:
http://workforcesecurity.doleta.gov/unemploy/uc.asp

Self-Employment Assistance

Self-Employment Assistance (SEA) offers dislocated workers the opportunity for early re-employment. The program encourages and enables unemployed workers to create their own jobs by starting their own small businesses. Under these programs, states can pay an SEA allowance, instead of regular unemployment insurance benefits, to help unemployed workers while they are establishing businesses and becoming self-employed. Participants receive weekly allowances while they are getting their businesses off the ground.

Generally, to receive these benefits, an individual must first be eligible to receive regular Unemployment Insurance under state law. Individuals who have been permanently laid off from their previous jobs and the state identifies (through its profiling system) as likely to exhaust regular unemployment benefits are eligible to participate in the program. Individuals may be eligible even if they are engaged full-time in self-employment activities including entrepreneurial training, business counseling, and technical assistance.

SEA allowances are the same weekly amounts as the worker's regular unemployment insurance benefits. Participants work full-time on starting their business instead of looking for wage and salary jobs.

This is a voluntary program for states and, to date, Delaware, Mississippi, New Hampshire, New York, Oregon, Rhode Island, and Vermont have active Self-Employment Assistance programs. Individuals should contact the State Workforce Agency as soon as possible after discharge to apply for UI benefits. Links to each State Workforce Agency's website can be found online here: http://us.jobs/state-workforce-agencies.asporg/OWSLinks.asp

Impact of UI on Other Federal Benefits

Impact of UI on Social Security Disability Benefits (SSDI, CDB, DWB)

Social Security defines Unemployment Insurance benefits as unearned income. That is the key to understanding the impact of UI benefits on Title II disability benefits, SSI, and Medicaid benefits. Individuals who receive Title II disability benefits will experience no effect on their cash benefit eligibility or payment amount as a result of receiving UI benefits. The Title II disability benefits are not means-tested in any way and are not affected by any form of unearned income, including UI.

It's important to keep in mind that a person applying for UI benefits has lost employment. Beneficiaries should report loss of these earnings to Social Security. This will allow Social Security to make any required adjustments in the amount of the cash benefit. This is especially important during the Extended Period of Eligibility (EPE). Notifying Social Security of the loss of earnings will enable the agency to reinstate the individual's cash benefit during the EPE.

UI Impact on SSI

Federal law requires SSI beneficiaries to apply for any other benefit to which they are entitled. This goes back to the SSI principle of being the "payer of last resort." If an SSI recipient is potentially entitled to receive unemployment benefits, he or she must apply before Social Security will process eligibility for SSI.

SSI recipients will experience an impact on the cash benefit payment status as a result of receiving an unemployment insurance benefit. Remember, for purposes of the SSI program, Social Security considers unemployment benefits unearned income. As a result, while the individual will receive a partial replacement of their wages through the UI benefit, he or she will simultaneously experience a reduction in their monthly SSI cash benefit.

Social Security will reduce the SSI cash benefit by the amount of the unemployment insurance benefit minus the $20 general income exclusion (GIE). This is assuming that Social Security hasn't already applied the general exclusion to some other type of unearned income the person may be receiving.

Unemployment benefits also affect the person's cash benefit in a situation where deeming is taking place. If an SSI recipient is subject to deeming and the ineligible parent or spouse whose income is deemed becomes eligible for unemployment benefits, a portion of these unemployment benefits are consequently going to be deemed as being available to the SSI recipient. Again, because Social Security will consider the person to have income from this source, it may result in a reduction in the SSI cash benefit.

UI Impact on Medicaid

It's also important to keep in mind that the potential exists for the beneficiary to lose his or her eligibility for SSI related Medicaid coverage if he or she receives UI benefits. This won't happen in every single case, but it may happen when the amount of the unemployment benefit in a given month is sufficient to exceed the Federal Benefit Rate (FBR) + $20 general income exclusion.

The critical issue here is one of continued eligibility. The focus needs to be on "countable unearned income." If the countable unearned income exceeds the FBR amount, the individual won't be eligible for continued Medicaid eligibility.

The likelihood that Medicaid eligibility will be affected is greater for individuals who are already receiving other types of unearned income such as SSDI. When Social Security adds the unemployment insurance to the SSDI, there is a greater likelihood that it will make them ineligible for SSI benefits and cause them to lose their eligibility for SSI related Medicaid.

Conclusion

CWICs need to be aware of Unemployment Insurance as a valuable financial protection for individuals who suddenly lose their jobs. This benefit offers significant protection to individuals who may have no other source of income and can help fill the gap until Social Security reinstates disability benefits, or until the agency processes a new application. It's important to remember that Title II disability beneficiaries will experience no negative effect on their benefits from accessing UI. However, SSI recipients who are receiving UI payments will have a source of unearned income counting against them. This unearned income may cause a reduction in SSI cash payments, or may result in ineligibility for SSI and SSI related Medicaid.

Conducting Independent Research

Department of Labor – Unemployment Insurance Program:
http://workforcesecurity.doleta.gov/unemploy/uifactsheet.asp

Unemployment Compensation: A Federal State Partnership. US Department of Labor, June 2017. This manual provides an excellent explanation of the UI system.
https://workforcesecurity.doleta.gov/unemploy/pdf/partnership.pdf

State Unemployment Insurance Tax Agencies Contact Information: http://www.ows.doleta.gov/unemploy/agencies.asp

USDOL/Benefits by State:
http://www.servicelocator.org/OWSLinks.asp

USDOL State-by-State Chart of Significant UI Laws:
http://workforcesecurity.doleta.gov/unemploy/comparison2001.asp

Contact information for State Workforce Investment Boards and contractors: http://www.servicelocator.org/

Competency Unit 5 – Workers' Compensation Benefits

Introduction to the Workers' Compensation Program

The purpose of this section is to provide information on the Workers' Compensation Program, and in particular, the impact of Workers' Compensation benefits, as well as other public disability benefits (PDB), on Social Security Disability Insurance (SSDI) and SSI. It's important to identify general provisions of the Workers' Compensation Program that are common across states. First, under the Workers' Compensation Program, states authorize benefits for accidental, job-related injury. Employees are entitled to Workers' Compensation benefits from the business only when they suffer a personal injury that arises out of an accident they incurred on the job. The injury or illness must not be self-inflicted or caused by intoxication or substance abuse. If it's self-inflicted, or caused by intoxication or substance abuse, the individual won't be eligible for a Workers' Compensation benefit. Secondly, the types of Workers' Compensation benefits employers provide include partial replacement of the individual's lost wages as well as payment for medical costs and death benefits. Third, each state defines the covered businesses as well as the types of jobs that are covered under the Workers' Compensation Program.

In other words, for businesses, the Workers' Compensation Program essentially limits their liability for on-the-job injury or illness to the remedies and benefits that are available to the individual under the workers' compensation statutes in their particular state. It's important to keep in mind, however, that while employees generally give up their right to sue their employer, they still retain the right to sue negligent third parties. If a third party is liable for the illness or injury, the proceeds from those lawsuits reimburse the business for benefits that they paid to the injured worker.

Public Disability Benefits (PDB) Other than Workers' Compensation

A Public Disability Benefit or PDB as defined by Social Security is a benefit employers pay under a federal, state, or local law or plan to workers for temporary or permanent disabilities. PDBs usually are not based on a

work-related injury or illness and may be in the form of periodic payments or a lump sum. The persons receiving the benefit don't necessarily have to have been employees of the public entity paying or requiring the benefit. PDBs may cause a reduction in Social Security disability insurance benefits (often referred to as an "offset"), so it's imperative that CWICs know which benefits available in their areas count as PDBs and which don't.

There are potentially thousands of separate benefits that Social Security considers to be a PDB, and it can be difficult to determine if a payment is a PDB. Social Security provides a list of benefits that the agency doesn't consider a PDB for offset purposes, but this list isn't all-inclusive. These benefits include:

- Non-disability benefits
- Private disability benefits, including benefits paid by private employers under their own plans which aren't required by federal, state, or local laws; benefits paid from short- or long-term disability insurance policies purchased by individuals
- Department of Veterans Affairs (formerly VA) benefits paid under title 38, U.S.C., including Agent Orange payments
- Union disability benefits
- Needs-based benefits
- Federal disability pensions that meet the offset exclusions in POMS DI 52130.001 Types of Federal Public Disability Benefits found online at: https://secure.ssa.gov/apps10/poms.nsf/lnx/0452130001
- Federal discontinued service pensions
- Part B black lung benefits where the coal mine employment was covered for Social Security purposes. See DI 52115.015 Federal Mine Safety and Health Act (FMSHA) found online at: https://secure.ssa.gov/apps10/poms.nsf/lnx/0452115015
- Railroad disability pensions paid under the Railroad Unemployment Insurance Act
- Radiation Exposure Compensation Act payments
- Public Safety Officer Benefit Act payments

- Energy Employee's Occupational Illness Compensation Program (EEOICP) payments to Department of Energy employees, contractors, or subcontractors with a work-related injury or illness

- Crime Victim Compensation awards for injuries suffered as a result of a compensable crime

Only Social Security personnel may make PDB offset determinations. When questions arise, refer beneficiaries to the local field office. For more information, refer to:

DI 52125.001 Public Disability Benefits (PDB) - Definitions and Rules for Applying Offset found online at:
https://secure.ssa.gov/apps10/poms.nsf/lnx/0452125001

DI 52125.005 - Benefits Not Considered a Public Disability Benefit (PDB) found online at:
https://secure.ssa.gov/apps10/poms.nsf/lnx/0452125005

Benefits of the Workers' Compensation Program

Income replacement is the most important benefit that the Workers' Compensation Program typically provides. Income replacement benefits are essentially wage-loss benefits that states provide to an individual. These wage-loss benefits can usually cover about one-third to two-thirds of the individual's average weekly wage. Almost all of the states' statutes place lower and upper limits on the amount of the weekly payments.

In addition to wage replacement, other benefits that the program provides include medical costs, rehabilitation costs, coverage for certain occupational diseases established by state laws, and survivor benefits in the case of death. Workers' Compensation programs vary a great deal from state to state. As a result, CWICs must take the time to investigate state-specific Workers' Compensation statutes, paying close attention to the details such as the amount of payments, coverage, and limits, along with other details.

Only by investigating a particular state's laws will one be able to discern which businesses must participate, how much Workers' Compensation insurance businesses must purchase, the types of employment covered in that state as well as the percentage of wage replacement. These

standards in Workers' Compensation state laws provide for consistency in the program between employers within a given state. In most states, Workers' Compensation laws apply to employers with at least one employee. Some states, however, exempt small businesses. How states define a small business also varies from state to state. Generally, small businesses are those who employ fewer than three, four, or five individuals.

To be eligible for Workers' Compensation benefits, an individual must work for a business that is covered in his or her state's Workers' Compensation law. In addition to working for a covered business, the law must cover the type of work or position. Workers' Compensation programs frequently exclude or don't cover individuals working in the following types of positions: business owners, independent contractors, domestic employees in private homes, farm workers, maritime workers, railroad employees, and unpaid volunteers.

Federal Employees Compensation Act (FECA)

The types of coverage available for individuals who are federal employees vary. For federal civilian employees who are injured on the job, their state's Workers' Compensation program doesn't provide Workers' Compensation benefits. Instead, for individuals who meet all of the necessary eligibility standards, the Federal Employees Compensation Act (FECA) provides Workers' Compensation. The Office of Workers' Compensation Programs (OWCP), located in the U. S. Department of Labor, administers the Federal Employees Compensation Act. Like the states' Workers' Compensation Programs, specific regulations apply to the Federal Employee Compensation Act coverage in terms of eligibility, benefits, and payment periods.

FECA Benefits

FECA provides injured workers partial wage replacement, vocational rehabilitation, and medical benefits. This is similar to the common types of benefits state Workers' Compensation laws provide injured workers. FECA pays wage-loss compensation at two-thirds of the employee's pay rate if he or she has no dependents or three-fourths of the pay rate if he or she is married or has one or more dependents. The maximum payment per month can't exceed three-fourths of the highest rate of basic pay provided for Grade GS-Basic pay excludes locality pay.

Conditions that result in a reduction of the wage replacement benefit include the following:

- The employee returns to work and has actual earnings from employment, either with the original employer, or with a new employer, or from self-employment, and those earnings don't equal the wages of the job held at the time of injury, as adjusted for inflation.

- The employee can earn wages in a particular job which is both medically and vocationally suitable, and which is reasonably available in the employee's commuting area. FECA can reduce compensation even if the employee doesn't actually work in the job identified. When FECA reduces compensation on this basis, OWCP issues a formal decision describing the job, its physical requirements, and the vocational preparation needed for it.

FECA Benefit Payment Period

FECA can make compensation payments after wage loss begins and the medical evidence shows the employee can't perform the duties of his or her regular job. FECA doesn't require a waiting period when permanent disability exists, or when the disability causing wage loss exceeds 14 days.

FECA issues short-term compensation payments each week. The period covered may include compensation for several days to several weeks. FECA issues long-term compensation payments every four weeks. An employee may receive compensation payments for as long as the medical evidence shows that total or partial disability exists and is related to the accepted injury or condition. OWCP requires most employees receiving compensation for disability to undergo medical examinations at least once a year, usually conducted by the employee's treating physician. OWCP may, however, require another physician to examine the employee.

Compensation ends when:

- The employee returns to full duty in the job he or she held when injured, or is otherwise re-employed in a job, which results in no loss of wages.

- The employee refuses an offer of a suitable job, and the cause for refusal isn't reasonable. OWCP will decide whether the job offer

was suitable and whether the refusal was reasonable. Acceptable reasons for refusal include, but aren't limited to: Withdrawal of the offered position by the employer; acceptance of other work by the employee which fairly and reasonably represents his or her earning capacity; and a worsening of the employee's medical condition, as documented by the medical evidence, to the point the employee is disabled for the job in question. Unacceptable reasons for refusal include, but aren't limited to: The employee's preference for the area in which he or she currently resides; personal dislike of the position offered or the work hours scheduled; lack of potential for promotion; lack of job security; retirement; and previously-issued rating for loss of wage-earning capacity based on a constructed position where the employee isn't already working at a job which fairly and reasonably represents his or her wage-earning capacity.

- The employee abandons a suitable job. OWCP will decide whether the job was suitable and whether the reason for abandonment was reasonable and will apply its finding retroactively.
- OWCP receives medical evidence showing that the employee no longer has limitations from the work-related injury which affected the performance of his or her duties when the injury occurred, or that the employee's disability isn't usually related to the work-related injury; or
- A beneficiary is convicted of defrauding the federal government with respect to a claim for benefits.

Effect of Receiving Workers' Compensation or Public Disability Benefits (PDB) on Social Security Title II Disability Benefits

Receiving a Workers' Compensation benefit or other public disability benefit doesn't affect eligibility for Social Security disability benefit. However, receipt of Workers' Compensation or other PDB may affect the amount of the monthly Social Security payment. Depending on the dollar amount of an individual's Workers' Compensation or public disability benefit, receipt of these types of benefits may result in a reduction of his or her or his or her family's Social Security cash benefit. See the formula below that Social Security uses to determine the effect of Workers' Compensation or public disability benefits on the SSDI cash benefit.

Step One:

Establish the exact amount of the following figures:

1. The first figure is the dollar amount of the monthly Social Security disability benefit the beneficiary receives. In cases where there are spouses' or children's insurance benefits paid on the wage-earners record, then it will be necessary to determine the Social Security total family benefit paid.

2. The second figure is the dollar amount of the Workers' Compensation or public disability insurance benefit the beneficiary received.

3. The third figure is the dollar amount that represents 80 percent of the beneficiary's average current earnings. Social Security defines the average current earning as the highest of the following:

   a. The average earnings the Social Security Administration uses to figure the Title II disability benefit;

   b. The person's average monthly earnings from any work he or she performed that Social Security covered during the five highest years in a row after 1950; or

   c. The person's average monthly earnings for work during the five-year period immediately prior to becoming disabled.

Again, the average current earnings figure is the highest of these three amounts. Once Social Security determines the average current earnings figure, the agency uses 80 percent of this figure as the benchmark in determining the effect on the Social Security disability cash benefit.

In summary, for step one we have established the amount of Social Security disability benefit the beneficiary received, the amount of the workers' compensation or public disability benefit the beneficiary received, and finally, 80 percent of the average current earnings benchmark.

Step Two:

In step two of this process, ask the question, "Which is higher, the Title II disability benefit or the 80 percent of the average current earnings figure?" Using whichever of the two figures is higher, subtract the dollar amount of the Workers' Compensation or the public disability benefit.

The remaining amount represents the new adjusted Social Security disability monthly benefit.

Step Three:

Finally, in step three, add the adjusted Social Security disability benefit to the Workers' Compensation or public disability benefit to arrive at the total monthly income the individual receives from these two sources.

Let's look at a few examples using this formula.

Here's an example for a beneficiary named Harold:
In example one, Harold, who is receiving a monthly SSDI benefit, becomes eligible for a Workers' Compensation benefit in September 2017. In step one, we establish the following factors for Harold: His monthly SSDI benefit is $507.90; his Workers' Compensation benefit each month is $410; and 80 percent of his average current earnings is $800. Now in step two, take the greater of his SSDI cash benefit and 80 percent of his average current earnings figure. In Harold's case, 80 percent of his average current earnings is higher. From the $800 amount, we then subtract the $410 Workers' Compensation benefit. This leaves Harold with an adjusted SSDI cash benefit of $390.

In the final step, we add the adjusted SSDI benefit of $390 to the Workers' Compensation benefit of $410. This provides Harold with a total monthly income from these two sources of $800.

Step One: Establish factors.

Item	Amount
Social Security Disability Benefit	$507.90
Workers' Compensation Benefit	$410.00
80% of average current earnings	$800.00

Step Two: Determine if the Social Security Disability Benefit or 80% of average current earnings is higher.

Item	Amount
80% of average current earnings	$800.00
Workers' Compensation Benefit	– $410.00
Adjusted DI Monthly Benefit	$800.00

Step Three: Add adjusted Social Security disability benefit to Workers' Compensation Benefit.

Item	Amount
Adjusted SSDI	$390.00
Workers' Compensation Benefit	+ $410.00
Total Monthly Income	$800.00

Here's an example for a beneficiary named Tom:

This example involves both the beneficiary, Tom, and his family members receiving a Social Security benefit on his wage record. In this situation, Tom is entitled to a monthly SSDI cash benefit of $559.30. His wife and two children are also entitled to monthly benefits of $93.20 each. The total family Social Security benefit is $838.90. Tom also begins to receive a monthly Workers' Compensation benefit of $500.

In step one, the SSDI total family benefit is $838.90. The Workers' Compensation monthly benefit is $500, and Tom's 80 percent of average current earnings figure is $820.10. In step two, take the total family Social Security benefit, which is the higher of the two figures when you compare it to the 80 percent of the average current earnings figure. Again, the total family Social Security benefit figure is $838.90. From this figure, subtract the $500 Workers' Compensation benefit. This results in an adjusted Social Security benefit amount of $338.90.

Tom's wife and two children will lose their benefits altogether, as Social Security always takes the reduction from the dependents' benefits first. Subtract the remaining amount of the reduction from Tom's benefit to arrive at the $338.90 figure. In the final step, add Tom's revised SSDI of $338.90 to his $500 Workers' Compensation benefit. This gives him a total monthly benefit of $838.90. This is the exact amount of the SSDI total family benefit Tom and his family members previously received.

Step One: Establish factors.

Item	Amount
Total Family SSDI Benefit	$838.90
Workers' Compensation Benefit	$500.00
80% of average current earnings	$820.10

Step Two: Determine if the Social Security Disability Benefit or 80% of average current earnings is higher.

Item	Amount
SSDI total family benefit	$838.90
Workers' Compensation Benefit	− $500.00
Adjusted amount	$338.90

Step Three: Add adjusted Social Security disability benefit to Workers' Compensation Benefit.

Item	Amount
Adjusted SSDI amount	$338.90
Workers' Compensation Benefit	+ $500.00
Total Monthly Income	$838.90

Important Points about the WC/PDB Offset

There are a couple of key points that CWICs should keep in mind with regard to the effect of the Workers' Compensation or other public disability benefits on Social Security disability insurance.

- If a beneficiary receives a lump sum Workers' Compensation benefit, then Social Security calculates the monthly Workers' Compensation benefit amount by prorating the Workers' Compensation payment over the number of months the payments would otherwise have been made.
- Other public disability payments may affect the Title II disability check in the same manner as described for the Workers' Compensation benefit. These payments would include those made under federal, state, or local government law that pays for injuries or illnesses that aren't job related. Examples of these programs would include civil service disability benefits, military disability benefits, and state and local retirement benefits based upon disability.
- A third factor to keep in mind is that, while the beneficiary may experience a reduction in his or her Social Security disability benefit, the total amount of the combined Social Security disability benefit and Workers' Compensation will never be less than the total amount of Social Security disability benefit the individual and his or her family received prior to reduction.
- Finally, changes in factors such as family composition and the amount of the Workers' Compensation or public disability benefit the beneficiary received will result in Social Security recalculating the reduction. This may potentially mean an adjustment in the Social Security disability benefit. The beneficiary must report all changes to the Social Security Administration.

Reverse Offsets

It's important to note that the Workers' Compensation offset calculation previously described doesn't apply to all paid Workers' Compensation or public disability benefits. In some states, the Workers' Compensation or public disability benefit is reduced by the state instead of the Social Security disability benefit payment. These are called "reverse offset"

states. States that reduce some or all Workers Compensation benefits through a reverse offset plan are:

- Alaska
- California
- Colorado
- Florida
- Louisiana
- Minnesota
- Montana
- Nevada
- New Jersey
- New York
- North Dakota
- Ohio
- Oregon
- Washington
- Wisconsin

The state rules are all different, and the only way to know for sure if a given plan is offset is by checking the Social Security's Program Operations Manual Systems (POMS) at: https://secure.ssa.gov/poms.nsf/ln/0452105001.

It's important to be aware of offsets and reverse offsets, but remember, calculating these amounts is Social Security's job. If a beneficiary reports receiving Workers' Compensation or a public disability benefit, check to see if that the beneficiary reported the benefit to Social Security. If not, encourage the individual to make the report so that Social Security can calculate the offset, or determine if an offset is appropriate.

Effect of Workers' Compensation or Public Disability Benefits (PDB) on SSI Benefits

Supplemental Security Income (SSI) is a program based on economic need. The more a person has in income, both earned and unearned, the less he or she receives in SSI cash benefit. For purposes of the SSI program, Social Security considers a Workers' Compensation benefit one type of unearned income. Therefore, a person who receives a Workers' Compensation benefit or other public disability benefit will experience a reduction in his or her SSI cash benefits. Specifically, Social Security will reduce the SSI cash benefit by the amount of the monthly Workers' Compensation payment or public disability benefit less the $20 general income exclusion. This is assuming Social Security hasn't already applied this exclusion to some other form of unearned income the person receives.

So, if an individual had no other earned or unearned income and received a monthly Workers' Compensation benefit of $400, Social Security would calculate his or her SSI cash benefit as follows. Subtracting the $20 general exclusion from the $400 Workers' Compensation benefit leaves the person with a total countable income of $380. This $380 total countable income figure would then be subtracted from the individual's base SSI rate to arrive at the amount of the monthly SSI cash benefit.

It's important to keep in mind that Workers' Compensation benefits or other public disability benefits will also affect SSI when deeming is involved. This includes both situations of spouse-to-spouse deeming as well as parent-to-child deeming. If the spouse or parent begins receiving a Workers' Compensation benefit, a portion of this benefit will be deemed available to the SSI recipient, and may result in a reduction in his or her SSI cash benefit.

Of potentially greater concern than the effect on the SSI cash benefit is the potential loss of Medicaid eligibility if someone receives the Workers' Compensation or public disability benefit. Because health insurance coverage is so important, it's absolutely critical that CWICs make SSI recipients aware of this potential effect. The receipt of a Workers' Compensation or other public disability benefit will only result in a loss of Medicaid coverage in situations where the amount of the Workers' Compensation or public disability benefit, in a given month, is sufficient to place the person over their break-even point.

The break-even point is the point at which the individual is no longer eligible to receive a SSI cash benefit, and this is the point at which Social Security or the State Medicaid agency determines eligibility for 1619(b) continued Medicaid. Just as a reminder, 1619(b) is a provision that enables individuals who qualify to continue their Medicaid coverage in spite of the fact they are no longer eligible for a SSI cash benefit. To be eligible for 1619(b), there are a number of requirements that the beneficiary needs to meet. One of these requirements is that the individual meet all other SSI eligibility standards with the exception of the earnings disregarded by 1619(b). In other words, individuals won't meet the criteria for 1619(b) if the unearned income such as a Workers' Compensation benefit would preclude SSI eligibility. Also, keep in mind that the likelihood a person's Medicaid eligibility will be affected is even greater for individuals who already receive some other type of unearned income such as Social Security disability benefits.

Conclusion

In summary, the receipt of a Workers' Compensation or public disability benefit may have a significant effect on a person's Social Security disability benefits. In some cases, the compensation or benefit could affect the beneficiary's health care coverage as well. CWICs should commit the time necessary to become familiar with their own states' Workers' Compensation statues as well as the implications for beneficiaries and recipients who receive these benefits.

Conducting Independent Research

POMS DI 52101.000 Workers Compensation/Public Disability Benefits (WC/PDB) Offset – Subchapter Table of Contents: Begin here to find numerous POMS citations on how PDB affects Title II disability benefits:
https://secure.ssa.gov/apps10/poms.nsf/ln/0452101000

Social Security Publication No. 05-10018: How Worker's Compensation and Other Disability Payments May Affect Your Benefits:
http://www.ssa.gov/pubs/10018.html

Questions and Answers about the Federal Employee' Compensation Act (FECA): http://www.dol.gov/owcp/dfec/fec-faq.htm

Reverse Offset:
https://secure.ssa.gov/apps10/poms.nsf/ln/0452105001

Competency Unit 6 – Benefits for Veterans with Disabilities

Introduction

A wide range of special cash benefits, medical services, and other programs are available to veterans of the U.S. Armed Forces who experience disabilities. The programs covered in this unit are limited to those administered by the U.S. Department of Veterans Affairs (VA) under the Veterans Benefits Administration (VBA). The Veterans Benefits Administration (VBA) oversees all of the federal benefit programs available to veterans and their family members. The programs include monetary benefits such as Disability Compensation and Veterans Pension as well as vocational rehabilitation services, educational assistance, life insurance, home loans programs, and other special services.

This unit describes the most common cash payments provided to veterans with disabilities and offers detailed explanations about how employment affects these cash benefits and how these benefits interact with Social Security disability benefits. The VA administers two separate programs that provide monthly cash payments to veterans with disabilities: Disability Compensation and Veterans Pension. In addition, the U.S. Department of Defense also offers cash payments to disabled veterans through the military retirement program. Each of these programs will be described separately.

> **NOTE:** CWICs must remember that additional benefits are available to ALL veterans (not just those with disabilities) including life insurance, home loan programs, and educational assistance. None of these generic benefits for veterans will be covered in this unit, but you may access information on these programs at the VA website at: http://www.vba.va.gov/VBA/. For information about healthcare benefits afforded veterans with disabilities, refer to unit 3 of Module 4.

Military Separation and Retirement Based on Disability

CWICs often believe that the only benefits provided to veterans based on disability originate from the U.S. Department of Veterans Affairs, but this isn’t the case. When military members have a physical or mental health

condition that renders them unfit to perform their required duties, they may separate or retire from the military for medical reasons (Title 10, U.S.C., Chapter 61). In many instances, separation or retirement from the military due to medical reasons will result in the U.S. Department of Defense providing some sort of cash payment.

There are a basically three different ways this can happen as described below:

1. **Separation with severance pay:** Separation with disability severance pay occurs if the member is found unfit for active duty, has less than 20 years of service, and has a disability rating of less than 30 percent. For those who separate with severance pay rather than medical retirement, the Department of Defense calculates the pay by taking the base pay, multiplying it by two, and multiplying that number by the number of years of service the member completed. These payments are generally in a one- time lump sum fashion. If a member separating with severance pay also qualifies for VA disability compensation, he or she won't receive the VA compensation until the total severance pay has been recouped. For example, if a veteran received $12,000 in lump sum severance pay and also qualified for $2,000 each month in VA compensation, the compensation benefits will be delayed by 6 months ($2,000 × 6 = $12,000). However, if the member incurred the disability in the line of duty in a combat zone or during performance of duty in combat-related operations, there will be no recoupment of the disability severance pay.

2. **Permanent disability retirement (PDR):** If the PEB finds a service member unfit with a 30 percent or greater combined disability rating, and the medical condition is considered stable (unlikely to improve), he or she will be placed on the PDR list. Service members may also qualify for PDR if they have a disability rating of less than 30 percent but have completed 20 or more years of service. Monthly payments are determined using a complex formula that uses ranges of combined disability rating to determine a percentage of base pay provided each month.

3. **Temporary disability retirement (TDR):** Temporary disability retirement occurs if the member is found unfit for duty and entitled to permanent disability retirement except that the disability isn't stable for rating purposes. "Stable for rating purposes" refers to whether the condition has the potential to change within the next five years, which could result in a different disability rating. The

service member will be reevaluated every 12-18 months to see if the medical condition has stabilized. During those five years, service members who are subsequently found fit for duty have the option of returning to duty or being discharged without severance payment (TDR payments will stop). Service members whose disability has stabilized but are still unfit for duty with a disability rating between 0-20 percent will be discharged with severance pay as described above. Service members whose condition has stabilized and who have a disability rating of 30 percent or higher will be transferred to the PDR list. Monthly benefit amounts for TDR are determined in the same manner as monthly PDR payments.

An individual who is a member of the TDR or the PDR lists is a retired member of the armed forces. He or she remains entitled to all rights and privileges of retired status including disability retirement pay, access to TRICARE health insurance, and participation in the Survivor Benefit Plan, as well as commissary and exchange privileges. The member may apply for disability compensation from the VA. If he or she also meets the requirements for a non-disability retirement, the member may qualify for Combat-Related Special Compensation or Concurrent Retirement and Disability Pay.

For more information about retirement based on disability, refer to: http://www.dfas.mil/retiredmilitary/disability/disability.html

Understanding Benefits for Veterans with Disabilities Administered by the VA

Disability Evaluation under the VA System

Unlike the Social Security system of determining disability using an "all or nothing" criteria, the VA system uses a disability rating structure in which it assesses degree of disability using percentages. The system may determine individuals to be disabled anywhere along a continuum ranging from 0 percent to 100 percent disabled. The U.S. Department of Veterans Affairs (VA) uses the "Schedule for Rating Disabilities" for evaluating the degree of disability in claims for veterans' disability compensation, disability and death pension, and in eligibility determinations. The provisions contained in the VA rating schedule represent (as far as can practicably be determined) the average impairment in earning capacity in civil occupations resulting from disability. In other words, a veteran who is assessed at the 30 percent rating level the VA expects would have a 30 percent reduction in earnings

capacity due to disability. The Schedule for Rating Disabilities is published in Title 38 of the Code of Federal Regulations, and you can be access it online at http://www.benefits.va.gov/warms/topic-title38.asp.

Total Disability

In addition to the percentage rating system, the VA also designates certain veterans as having "total disability" and "permanent total disability." Total disability exists when any impairment of mind or body is present which is sufficient to render it impossible for the average person to pursue a substantially gainful occupation. Total disability may or may not be permanent. The VA generally doesn't assign total disability ratings for temporary exacerbations or acute infectious diseases except where specifically prescribed by the ratings schedule. Total ratings are authorized for any disability or combination of disabilities for which the Schedule for Rating Disabilities prescribes a 100 percent evaluation. In certain prescribed circumstances, a disability rating of less than 100 percent may result in a total disability rating.

Total Disability Ratings Based on Individual Unemployability

The VA may assign total disability ratings for Disability Compensation in certain cases in which the schedule rating is less actually less than 100 percent, the usual standard for total disability. If the individual with the disability is, in the judgment of the rating agency, unable to secure or follow a "substantially gainful occupation" as a result of service-connected disabilities, that individual may be deemed to have total disability for the purposes of VA Compensation. The VA refers to this designation as "individual unemployability," and it may occur under the following circumstances:

- If there is only one disability, this disability is rated at 60 percent or more; or
- If there are two or more disabilities, there must be at least one disability ratable at 40 percent or more and sufficient additional disability to bring the combined rating to 70 percent or more.

The VA provides specific instruction to VA disability rating adjudicators about how to determine when a veteran is individually unemployable. The regulations read in the following manner:

> *"It is provided further that the existence or degree of nonservice-connected disabilities or previous unemployability status will be*

disregarded where the percentages referred to in this paragraph for the service-connected disability or disabilities are met and in the judgment of the rating agency such service-connected disabilities render the veteran unemployable. Marginal employment shall not be considered substantially gainful employment. For purposes of this section, marginal employment generally shall be deemed to exist when a veteran's earned annual income doesn't exceed the amount established by the U.S. Department of Commerce, Bureau of the Census, as the poverty threshold for one person. Marginal employment may also be held to exist, on a facts found basis (includes but isn't limited to employment in a protected environment such as a family business or sheltered workshop), when earned annual income exceeds the poverty threshold. Consideration shall be given in all claims to the nature of the employment and the reason for termination."

"It is the established policy of the Department of Veterans Affairs that all veterans who are unable to secure and follow a substantially gainful occupation by reason of service-connected disabilities shall be rated totally disabled." (emphasis added) (From 40 FR 42535, Sept. 15, 1975, as amended at 54 FR 4281, Jan. 30, 1989; 55 FR 31580, Aug. 3, 1990; 58 FR 39664, July 26, 1993; 61 FR 52700, Oct. 8, 1996)

The determination of whether or not a veteran is able to follow a substantially gainful occupation is left up to the Ratings Adjudicator's discretion within very broad guidelines. The term "unemployability" isn't synonymous with the terms unemployed and unemployable for the purpose of determining entitlement to increased compensation. A veteran may be unemployed or unemployable for a variety of reasons yet still not be "unemployable" for the purposes of establishing a total disability rating.

Permanent Total Disability

The VA may classify a veteran as having permanent total disability when the impairment is reasonably certain to continue throughout the individual's life. The federal regulations governing permanent total disability describe the impairments that would qualify for this designation in the following manner:

"The permanent loss or loss of use of both hands, or of both feet, or of one hand and one foot, or of the sight of both eyes, or becoming permanently helpless or bedridden constitutes permanent total

disability. Diseases and injuries of long standing which are actually totally incapacitating will be regarded as permanently and totally disabling when the probability of permanent improvement under treatment is remote.

Permanent total disability ratings may not be granted as a result of any incapacity from acute infectious disease, accident, or injury, unless there is present one of the recognized combinations or permanent loss of use of extremities or sight, or the person is in the strict sense permanently helpless or bedridden, or when it is reasonably certain that a subsidence of the acute or temporary symptoms will be followed by irreducible totality of disability by way of residuals. The age of the disabled person may be considered in determining permanence."

(From 38 CFR §3.340 Total and Permanent Total Ratings and Unemployability)

The designation of total disability or permanent total disability is important because the VA only affords certain benefits to individuals with these classifications. In addition, designations of total or permanent total disability may increase the amount of monetary benefits the VA entitles a veteran to receive.

Disability Re-Examinations

After the VA has made an initial disability rating, the VA may subject veterans to periodic re-examinations. This is similar to the medical Continuing Disability Review (CDR) process utilized in the Social Security disability benefit system. The VA will request reexaminations whenever it determines there is a need to verify either the continued existence or the current severity of a disability. Generally, the VA will require reexaminations if it's likely that a disability has improved, or if evidence indicates there has been a material change in a disability or that the current rating may be incorrect. Individuals for whom the VA has authorized or scheduled reexaminations are required to report for such reexaminations.

The schedule of reexaminations will vary depending on whether an individual receives Disability Compensation or Veterans Pension. For veterans receiving Disability Compensation, assignment of a pre-stabilization rating requires reexamination within the second six-month period following separation from military service. Following initial VA examination or any scheduled future or other examination, the VA will

schedule reexamination, if in order, within not less than two years or more than five years within the judgment of the rating board, unless the VA specifies another time period.

In Disability Compensation cases, the VA doesn't deem reexaminations necessary under the following circumstances:

- When the VA establishes the disability as static;
- When examinations and hospital reports show symptoms to have persisted without material improvement for a period of five years or more;
- Where the disability from disease is permanent in character and of such nature that there is no likelihood of improvement;
- In cases of veterans over 55 years of age, except under unusual circumstances;
- When the rating is a prescribed scheduled minimum rating; or
- Where a combined disability evaluation wouldn't be affected if the future examination should result in reduced evaluation for one or more conditions.

For veterans receiving Pension benefits in which the permanent total disability has been confirmed by reexamination or by the history of the case, or with obviously static disabilities, the VA generally won't request further reexaminations. In other cases, the VA won't request further examination routinely and will only request further examination if considered necessary based upon the particular facts of the individual case. In the cases of veterans over 55 years of age, the VA will request reexamination only under unusual circumstances.

Applying for VA Disability Benefits

Veterans can apply for both Disability Compensation and Veterans Pension benefits by filling out VA Form 21-526, Veterans Application for Compensation or Pension. Individuals should attach the following material to their application if it's available:

- Dependency records (marriage and children's birth certificates)
- Medical evidence (doctor and hospital reports)

Veterans can also apply for benefits online through the eBenefits website, which can be found at:
https://www.ebenefits.va.gov/ebenefits/homepage

For more information about applying for VA benefits for individuals with disabilities, call toll-free 1-800-827-1000.

VA Disability Compensation

VA Disability Compensation is a monetary benefit the VA pays to veterans who are disabled by an injury or disease that they incurred or aggravated during active military service. The VA considers these disabilities to be service-connected. The amount of Disability Compensation varies with the degree of disability and the number of veteran's dependents, and the VA pays it monthly. Veterans with certain severe disabilities may be eligible for additional special monthly compensation. The veteran's Disability Compensation benefits aren't subject to federal or state income tax. To be eligible for Disability Compensation, the service of the veteran must have terminated through separation or discharge under conditions other than dishonorable.

To find the current as well as past VA benefit rates, go to the VA website at:
https://www.benefits.va.gov/COMPENSATION/resources_comp01.asp

Veterans with disability ratings of at least 30 percent are eligible for additional allowances for dependents. This includes spouses, minor children, children between the ages of 18 and 23 who are attending school, children who are permanently incapable of self-support because of a disability arising before age 18, and dependent parents. The additional amount depends on the disability rating. Disability Compensation benefits are an entitlement program and aren't means-tested. Veterans who have other types of income or who own resources won't lose their entitlement to Disability Compensation benefits. However, military retirement pay, disability severance pay, and separation incentive payments known as SSB (Special Separation Benefits) and VSI (Voluntary Separation Incentives) do affect the amount of VA compensation paid to disabled veterans.

Special Monthly Compensation

The VA can pay an added compensation known as "Special Monthly Compensation" or SMC in addition to the regular Disability Compensation under certain circumstances. For example, the VA may pay SMC to a

veteran who, as a result of military service, incurred the loss or loss of use of specific organs or extremities. Loss, or loss of use, is either an amputation or, having no effective remaining function of an extremity or organ. The disabilities the VA can consider for SMC include:

- Loss, or loss of use, of a hand or foot;
- Immobility of a joint or paralysis;
- Loss of sight of an eye (having only light perception);
- Loss, or loss of use, of a reproductive organ;
- Complete loss, or loss of use, of both buttocks;
- Deafness of both ears (having absence of air and bone conduction);
- Inability to communicate by speech (complete organic aphonia); or
- Loss of a percentage of tissue from a single breast, or both breasts, from mastectomy or radiation treatment.

The VA will also pay higher rates for combinations of these identified disabilities (such as loss or loss of use of the feet, legs, hands, and arms) in specific monetary increments, based on the particular combination of the disabilities. There are also higher payments for various combinations of severe deafness with bilateral blindness. Additional SMC is available if a veteran is service connected for paraplegia, with complete loss of bowel and bladder control. In addition, for veterans who have other service-connected disabilities that, in combination with the above special monthly compensation, meet certain criteria, the VA can consider a higher amount of SMC.

Finally, if a veteran has a service-connected disability at the 100 percent rate and is "housebound, bedridden, or is so helpless to need the aid and attendance of another person," the VA can consider payment of additional SMC. The VA refers to this additional monthly payment as "Aid and Attendance and Housebound Allowance." The amount of this extra monthly payment will vary depending on the level of aid and attendance needed. The VA also considers unusual medical expenses when determining some needs- based pension and compensation payments. Medical expenses that exceed five percent of the maximum annual VA payment rate are considered to be "unusual." As a result, the veteran will have a higher monthly VA payment, an extra payment, or an increase in an extra payment.

Veterans Pension

A pension is a needs-based benefit the VA pays to a veteran because of permanent and total nonservice-connected (NSC) disability, or a surviving spouse or child because of a wartime veteran's nonservice-connected death. The VA currently pays the following three types of pensions:

- Improved Pension, per Public Law (PL) 95-588,
- Section 306 Pension, per PL 86-211, and
- Old Law Pension.

Because the Old Law and Section 306 Pension programs have been phased out, a veteran filing a new claim for pension benefits must qualify under the Improved Pension program. Pension beneficiaries who were receiving a Veterans Pension on Dec. 31, 1978 and don't wish to elect the Improved Pension will continue to receive the pension rate they were receiving on that date. This rate generally continues as long as the beneficiary's income remains within established limits, his or her net worth doesn't bar payment, and the beneficiary doesn't lose any dependents. These beneficiaries must continue to meet basic eligibility factors, such as permanent and total disability for veterans, or status as a surviving spouse or child. The VA must adjust rates for other reasons, such as a veteran's hospitalization in a VA facility.

> **NOTE:** From this point forward, we will refer only to the pensions the VA provides directly to veterans based upon disability (as opposed to death pensions the VA provides to surviving spouses and children) and will focus on the Improved Pension, because this is the program currently available to veterans making claims. Because there are some differences in the way the VA counts income and assets in the pension programs that have been discontinued, it's important to know exactly WHICH pension benefit an individual is receiving. CWICs are cautioned to confirm which type of Veterans Pension an individual is receiving before offering case-specific advisement.

Improved Pension

Veterans with low incomes who are permanently and totally disabled, or are age 65 and older, may be eligible for a type of monetary support known as "Veterans Pension." To qualify for this benefit, veterans must

have 90 days or more of active military service, at least one day of which was during a period of war. Veterans who entered active duty on or after September 8, 1980, or officers who entered active duty on or after October 16, 1981, may have to meet a longer minimum period of active duty. In addition, the veteran's discharge must have been under conditions other than dishonorable, and the disability must be for reasons other than the veteran's own willful misconduct.

Pension payments bring up the veteran's total income, including other retirement or Social Security income, to a level set by Congress. Unlike the Disability Compensation program, the Pension program is means-tested, and bases eligibility upon meeting certain income and asset tests. In addition, the amount of countable income of the veteran, spouse, or dependent children reduces pension payments. Just as in the SSI program, the VA disregards numerous types of income and assets. Other factors may also reduce pension payments. For example, when the VA furnishes a veteran without a spouse or a child with nursing home or domiciliary care, the VA reduces the pension to an amount not to exceed $90 per month after three calendar months of care. The VA may delay the reduction if nursing-home care is being continued to provide the veteran with rehabilitation services.

The current and past pension rates are available online at:
http://benefits.va.gov/pension/vetpen.asp

The VA also evaluates a veteran's net worth when determining eligibility for the Pension program. The regulations state that "Pension shall be denied or discontinued when the corpus of the estate of the veteran, and of the veteran's spouse, are such that under all the circumstances, including consideration of the annual income of the veteran, the veteran's spouse, and the veteran's children, it is reasonable that some part of the corpus of such estates be consumed for the veteran's maintenance" (Authority: 38 U.S.C.1522(a)).

"Corpus of estate" and "net worth" mean the market value, less mortgages or other encumbrances, of all real and personal property owned by the claimant except the claimant's dwelling (single-family unit) including a reasonable lot area, and personal effects suitable to and consistent with the claimant's reasonable mode of life.

In determining whether the VA should consume some part of the veteran's estate for his or her maintenance, the VA will consider the amount of the individual's income and the following factors:

- Whether the VA can readily convert the property into cash at no substantial sacrifice;
- Ability to dispose of property as limited by community property laws;
- Life expectancy of the veteran;
- Number of dependents;
- Potential rate at which the VA would deplete the estate if the VA used it for maintenance; and
- Unusual medical expenses for the veteran and his or her dependents. With regard to the transfer of property, the VA rules state: "A gift of property made by an individual to a relative residing in the same household shall not be recognized as reducing the corpus of the grantor's estate. A sale of property to such a relative shall not be recognized as reducing the corpus of the seller's estate if the purchase price, or other consideration for the sale, is so low as to be tantamount to a gift. A gift of property to someone other than a relative residing in the grantor's household won't be recognized as reducing the corpus of the grantor's estate unless it's clear that the grantor has relinquished all rights of ownership, including the right of control of the property" (Authority: 38 U.S.C. 501(a)).

Concurrent Retirement and Disability Payments (CRDP) for Disabled Veterans

Concurrent Retirement and Disability Payments (CRDP) restore retired pay on a graduated 10-year schedule for retirees with a 50 to 90 percent VA- rated disability. Concurrent retirement payments increased 10 percent per year through 2013. Veterans rated 100 percent disabled by the VA are entitled to full CRDP without being phased in. Veterans receiving benefits at the 100 percent rate due to individual unemployability are entitled to full CRDP starting in 2009. To qualify for concurrent retirement and disability payments, veterans must also meet all three of the following criteria:

1. Have 20 or more years on active duty, or a reservist age 60 or older with 20 or more creditable years;
2. Be in a retired status; and

3. Be receiving retired pay (must be offset by VA payments).

Retirees don't need to apply for this benefit. The VA and the Department of Defense (DOD) coordinate the payment.

Disability Benefit Payment Options

The VA offers three payment options to veterans eligible to receive disability benefit payments whether it is Disability Compensation or Veterans Pension. Most veterans receive their payments by direct deposit to a bank, savings and loan, or credit union account. In some areas, veterans who don't have a bank account can open a federally insured Electronic Transfer Account, which costs about $3 a month, provides a monthly statement, and allows cash withdrawals. Other veterans may choose to receive benefits by check.

The VA Appeals Process

An appeal is a request for a review of a VA determination on a claim for benefits issued by a local VA office. Anyone who has filed a claim for benefits with VA and has received a determination from a local VA office is eligible to appeal to the Board of Veterans' Appeals.

The Board of Veterans' Appeals (also known as "BVA" or "the Board") is a part of the Department of Veterans Affairs (VA), located in Washington, D.C. "Members of the Board" review benefit claims determinations made by local VA offices and issue decisions on appeals. These board members, attorneys experienced in veterans' law and in reviewing benefit claims, are the only ones who can issue board decisions. Staff attorneys, referred to as Counsel or Associate Counsel, are also trained in veterans' law. They review the facts of each appeal and assist board members.

Individuals may file an appeal up to one year from the date the local VA office mails its initial determination on the claim. After that, the VA considers the determination final and the veteran can't appeal it unless it involved a clear and unmistakable error by the VA. Veterans may appeal any determination issued by a VA regional office (RO) on a claim for benefits. Some determinations by VA medical facilities, such as eligibility for medical treatment, veterans may also appeal to the board. Veterans may appeal a complete or partial denial of a claim or may appeal the level of benefit granted.

The appeal process requires no special form to begin. All that the veteran needs is a written statement that the individual disagrees with the local

VA office's claim determination and wants to appeal this decision. This statement is known as the Notice of Disagreement, or NOD. Normally, a veteran files the appeal with the same local VA office that issued the original decision, because that office keeps the individual's claims file (also called a claims folder).

Veterans who are appealing a VA determination should submit any evidence that supports their argument that the original determination was wrong. This evidence could include records from recent medical treatments or evaluations or anything else that the veteran feels supports their contentions. If the individual wants the board to consider the new evidence without sending the case back to the local VA office, he or she should include a written statement to this effect in the letter requesting the appeal. If the veteran neglects this statement, a considerable delay may occur, as the board will send back the information to the local VA office to consider.

Veterans can get help preparing and submitting an appeal from a veterans' service organization (VSO) representative, an attorney-at-law, or an "agent." Representatives who work for accredited veterans' service organizations know how to prepare and present claims and will represent veterans. A listing of these organizations is available at: http://www.va.gov/ogc/apps/accreditation/inde.asp. Veterans may also hire private attorneys or "agents" to represent them in the appeals process. The local bar association may be able to provide a list of attorneys with experience in veterans' law. The VA only recognizes attorneys who are licensed to practice in the United States or in one of its territories or possessions. An agent is a person who isn't a lawyer, but is someone whom the VA recognizes as knowledgeable about veterans' law.

For more information about appeal rights, how to submit and appeal, and a user-friendly guide to the VA Appeals Process, go to: http://www.va.gov/vaforms/va/pdf/VA4107c.pdf.

Other Special Programs for Veterans with Disabilities

In addition to cash benefits, healthcare coverage, and vocational rehabilitation services, the VA offers several special benefits to certain veterans with disabilities. These programs can help a veteran pay for adaptations they need for a home or vehicle, pay for attendant care, or purchase needed clothing.

Housing Grants for Veterans with Disabilities

The VA provides grants to service members and veterans with certain permanent and total service-connected disabilities to help purchase or construct an adapted home, or modify an existing home to accommodate a disability. Two grant programs exist: the Specially Adapted Housing (SAH) grant and the Special Housing Adaptation (SHA) grant.

Specially Adapted Housing (SAH) Grants

The SAH grant helps disabled veterans by providing a barrier-free living environment, such as a wheelchair accessible home, that affords veterans a level of independent living they may not otherwise enjoy. The VA may entitle veterans and service members with specific service-connected disabilities to a grant for the purpose of constructing or modifying a home to meet their adaptive needs, up to the current maximum of $81,080 in federal fiscal year 2018.

The SAH grant is available to veterans and service members who are entitled to disability compensation for permanent and total disability due to:

- Loss or loss of use of both lower extremities, such as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair, or
- Blindness in both eyes, plus loss or loss of use of one lower extremity, or
- (1) Loss or loss of use of one lower extremity together with residuals of organic disease or injury, or (2) the loss or loss of use of one upper extremity, affecting balance or propulsion as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair, or,
- Loss or loss of use of both upper extremities at or above the elbows, or
- A severe burn injury.

Special Home Adaptation (SHA) Grants

Eligible veterans and service members can use the SHA grant to increase their mobility within their residences by helping adapt or purchase a home to accommodate the disability. The VA may entitle veterans and service members with specific service-connected disabilities to this type of grant, up to the current maximum of $16,217 in federal fiscal year 2018. Veterans can use SHA grants in one of the following ways:

- Adapt an existing home the veteran or a family member already owns in which the veteran lives;
- Adapt a home the veteran or family member intends to purchase in which the veteran will live; or
- Help a veteran purchase an already adapted home in which the veteran will live.

The SHA grant is available to veterans and service members who are entitled to disability compensation for permanent and total disability due to:

- Blindness in both eyes with 20/200 visual acuity or less, or
- The anatomical loss or loss of use of both hands or extremities below the elbow, or
- A severe burn injury.

Home Improvements and Structural Alterations (HISA) Grant

Veterans and service members may receive assistance for any home improvement necessary for the continuation of treatment or for disability access to the home and essential lavatory and sanitary facilities. A veteran may receive a HISA grant in conjunction with either a SAH or SHA grant. The HISA program is available for both veterans with service-connected disabilities and veterans with non-service-connected disabilities. The HISA program may provide:

- Home improvement benefits up to $6,800 to veterans with service-connected disabilities.
- Home improvement benefits up to $2,000 to veterans with non-service-connected disabilities.

Veterans may visit www.prosthetics.va.gov/HISA2.asp to learn more about HISA grants.

Applying for Housing Grant Programs

Veterans may apply for either the SAH or SHA programs by completing VA Form 26-4555, *Veterans Application in Acquiring Specially Adapted Housing or Special Home Adaptation Grant*, and submitting it to the local VA Regional Loan Center. Veterans may also apply online by visiting the veteran's portal at www.ebenefits.va.gov to register and submit an application for Specially Adapted Housing benefits. For more information, veterans may call toll-free **1-800-827-1000** or visit the VA website at https://www.benefits.va.gov/homeloans/adaptedhousing.asp

Service-Disabled Veterans Insurance (S-DVI)

Service-Disabled Veterans Insurance (S-DVI) is life insurance for veterans who have received a service-connected disability rating by the Department of Veterans Affairs. The basic S-DVI program, commonly referred to as "RH Insurance," insures eligible veterans for up to $10,000 of coverage. Veterans who have the basic S-DVI coverage and are totally disabled are eligible to have the program waive their premiums. If the program grants a waiver, totally disabled veterans may apply for additional coverage of up to $20,000 under the Supplemental S-DVI program. Veterans can't, however, waive premiums for Supplemental S-DVI coverage. To be found eligible for S-DVI, an individual must:

- Have been released from service under other than dishonorable conditions on or after April 25, 1951;
- Have been notified by VA that they have a service-connected disability;
- Be healthy except for the service-related disability; and
- Apply within two years of being notified of your service-connected disability.

To be eligible for Supplemental S-DVI, an individual must:

- Have an S-DVI policy;
- Have the premiums on the basic coverage waived due to total disability;

- Apply within one year of being notified of the waiver; and
- Be under 65 years of age.

Veterans may be eligible for a waiver if they become totally disabled before their 65th birthday and remain disabled for at least six consecutive months. Veterans can't waive premiums for Supplemental S-DVI. The cost of the premiums varies depending upon age, type of plan (term or permanent), and the amount of coverage.

For more information, refer to: https://www.benefits.va.gov/insurance/s-dvi.asp

Assistance with Adapting an Automobile to Meet Disability Needs

As of October 1, 2016, veterans with certain service-connected disabilities may be eligible for a one-time payment of not more than $20,235.20 toward the purchase of an automobile or other conveyance if they have certain service-connected disabilities. The VA pays the grant directly to the seller of the automobile and the veteran may only receive the automobile grant once in his or her lifetime. To be eligible for the automobile grant, an individual must:

- Be either a service member who is still on active duty or a veteran, AND
- Have one of the following disabilities that are either rated as service- connected or treated as if service-connected under 38 U.S.C 1151:
    - Loss, or permanent loss of use, of one or both feet, OR
    - Loss, or permanent loss of use, of one or both hands, OR
    - Permanent impairment of vision in both eyes to a certain degree.

Certain veterans may also be eligible for adaptive automobile equipment. Adaptive equipment includes, but isn't limited to, power steering, power brakes, power windows, power seats, and special equipment necessary to assist the eligible person into and out of the vehicle. The VA may provide financial assistance in purchasing adaptive equipment more than once. This benefit is payable to either the seller or the veteran. Veterans must

have prior VA approval before purchasing an automobile or adaptive equipment using grant funds.

To be eligible for adaptive equipment, an individual must:

- Be either a service member who is still on active duty or a veteran, AND
- Meet the disability requirements for the automobile grant (see above), OR
- Have ankylosis (immobility of the joint) of one or both knees or hips that the VA recognizes.

For more information, refer to:
https://www.benefits.va.gov/compensation/claims-special-auto-allowance.asp

Annual Clothing Allowance for Veterans with Service-Connected Disabilities

Any veteran who is service-connected for a disability for which he or she uses prosthetic or orthopedic appliances may receive an annual clothing allowance. The clothing allowance also is available to any veteran whose service-connected skin condition requires prescribed medication that irreparably damages his or her outer garments. To apply, contact the prosthetic representative at the nearest VA Medical Center.

For more information, refer to:
https://www.benefits.va.gov/compensation/claims-special-clothing_allowance.asp

Veterans Requiring Aid and Attendance or Housebound Veterans

A veteran whom the VA determines to be in need of the regular aid and attendance of another person, or a veteran who is permanently housebound, may be entitled to additional disability compensation or pension payments. A veteran whom the VA evaluates at 30 percent or more disabled is entitled to receive an additional payment for a spouse who is in need of the aid and attendance of another person.

For more information, refer to:
https://www.benefits.va.gov/pension/aid_attendance_housebound.asp

Subsistence Allowance for Work-study Participants

In addition to receiving the monthly Disability Compensation payment, some veterans who are participating in training or education programs may also qualify for a monthly subsistence allowance. The VA pays this each month during training and is based on the rate of attendance (full-time or part-time), the number of dependents, and the type of training. Veterans training at the three-quarter or full-time rate may also participate in the VA's work- study program. Work-study participants may provide VA outreach services, prepare and process VA paperwork, and work at a VA medical facility or perform other VA-approved activities. A portion of the work-study allowance equal to 40 percent of the total may be paid in advance. View the current VR&E subsistence allowance rates at:
http://www.benefits.va.gov/vocrehab/subsistence_allowance_rates.asp.

State Veterans Benefits

Many states offer special benefits to veterans in addition to the benefits available from the federal government. These benefits may include educational grants and scholarships, special exemptions or discounts on fees and taxes, home loans, veteran's homes, free hunting and fishing privileges, and more. Each state manages its own benefit programs through the state's Veterans Affairs Office. A directory of these offices can be found at: http://www.va.gov/statedva.htm. The VA also maintains a comprehensive searchable online directory of Veteran's Service Organizations at:
http://www.va.gov/ogc/apps/accreditation/inde.asp.

How Employment Affects VA Disability Benefits

The Veterans Pension program is means-tested, and earned income from employment would definitely affect a veteran's eligibility for this program as well as the amount of payment due each month. In the Veterans Pension program, the VA will consider all income from sources such as wages, salaries, earnings, bonuses from employers, income from a business or profession or from investments or rents, as well as the fair value of personal services, goods, or room and board the veteran received in lieu thereof. Furthermore, the VA doesn't determine salary by "take-home" pay, but on "gross pay" before any deductions made under a

retirement act or plan and amounts withheld by virtue of income tax laws.

In the case of self-employment, necessary operating expenses, such as cost of goods sold, or expenditures for rent, taxes, and upkeep, may reduce the gross income from a business or profession. Depreciation isn't a deductible expense. The VA may deduct the cost of repairs or replacement. The VA doesn't consider the value of an increase in stock inventory of a business as income. The VA may not deduct a loss sustained in operating a business, profession, or farm or from investments from income the veteran derived from any other source.

Any income that the VA deems countable under VA rules reduces a Veterans Pension dollar for dollar. For example, if a veteran was entitled to pension benefits in the amount of $400 per month and went to work earnings $300 in gross wages per month, the VA would reduce the pension one dollar for each of the 300 dollars the veteran received in wages. The reduced Veterans Pension payment would be $100. Veterans receiving a Veterans Pension must report all income to the VA.

Disability Compensation benefits aren't means-tested, so income or resources don't affect them. Neither wages nor net income from self-employment affects Disability Compensation payments in the sense that in and of themselves they would cause a reduction or "offset" in the VA payment amount. The Disability Compensation program doesn't take into consideration other forms of income (not related to employment), and assets and have no effect on benefit eligibility or amount of monthly payment.

Effect of Employment on Disability Rating

As the reader will recall from the section describing the VA disability evaluation system, the percentage "rating" the VA assigns to an individual reflects the effect the VA expects the disability to have on that individual's earnings capacity. The lower the rating, the less the VA expects the disability to diminish the earnings capacity of the individual; the higher the rating, the more the VA expects the disability to diminish earnings capacity. It's possible for the VA to reduce a veteran's rating after a medical reexamination if the VA determines that the disability has substantially improved.

Veterans sometimes fear that working might reduce their VA rating. Fortunately, in the VA system, a report of work doesn't trigger a medical reexamination, and, unlike Social Security, the VA doesn't typically apply

a specific earnings test when re-evaluating disability (with one notable exception described below). When the VA conducts a disability reexamination, they are looking to see if there has been material improvement in the veteran's medical condition. The VA could only reduce a veteran's disability rating if the VA finds medical evidence that the disability has gotten better and that this improvement creates an increased ability to function in life and at work. The VA may consider a veteran's ability to function at work as part of the medical re-examination, but only if there is medical evidence documenting that disability has materially improved. The fact that a veteran had a little improvement isn't enough to cause the VA to reduce a rating. Unless the reexamination report shows material improvement, the VA can't reduce a veteran's rating.

Keep in mind that certain veterans aren't subject to medical re-examinations (see the section in this unit describing Disability Re-Examinations on page 89). The VA protects other veterans from having their disability rating reduced due to a medical re-examination.

How Employment Affects Individual Unemployability

There is one situation in which employment could cause a reduction in the veteran's schedular rating, and that is when VA has determined a veteran to be "individually unemployable." As a review, Individual Unemployability (IU) is a special additional benefit that addresses the truly unique disability picture of a veteran who is unemployable due to service-connected disability, but for whom the application of the rating schedule doesn't fully reflect the veteran's level of impairment. An award of IU allows the veteran to receive compensation at a rate equivalent to that of a 100 percent schedular award. The IU benefit continues only as long as the veteran remains unemployable. The VA monitors the employment status of IU beneficiaries and requires that they submit an annual certification of unemployability.

After the VA makes its initial IU award, veterans must submit a VAF 21-4140, *Employment Questionnaire*, on a yearly basis to certify continuing unemployability. The VA requires the VAF 21-4140 unless the veteran is 70 years of age or older, has been in receipt of IU for a period of 20 or more consecutive years (as provided at 38 CFR 3.951(b)), or has been granted a 100 percent schedular evaluation. The VA sends the form annually and requests that the veteran report any employment for the past 12 months or certify that no employment has occurred during this period. The VAF 21-4140 includes a statement that the veteran must

return the form within 60 days or the VA may reduce the veteran's benefits.

If the veteran returns VAF 21-4140 in a timely manner and shows no employment, then his or her IU benefits will continue uninterrupted. If the veteran returns VAF 21-4140 in a timely manner and shows that he or she has engaged in employment, the VA must determine if the employment is "marginal" or "substantially gainful employment." If the employment is marginal, then IU benefits will continue uninterrupted. If the employment is substantially gainful, then the VA must consider discontinuing the IU benefit.

Marginal Employment

Low levels of employment, which the VA describes as "marginal employment," wouldn't be sufficient to reduce the disability rating. Marginal employment exists when a veteran's earned annual income doesn't exceed the amount the U.S. Department of Commerce, U.S. Census Bureau, established as the poverty threshold for one person. Even when earned annual income does exceed the poverty threshold, it may still not represent substantially gainful employment if the employment occurred in a protected environment, such as a family business, or a sheltered workshop, or when the veteran is receiving supported employment services.

Substantially Gainful Employment

The VA defines substantially gainful employment as employment at which non-disabled individuals earn their livelihood with earnings comparable to the particular occupation in the community where the veteran resides" (M21-1MR Part IV, Subpart ii, Chapter 2, Section f). The VA may not reduce a veteran's total disability rating based on IU solely on the basis of the veteran having secured substantially gainful employment unless the veteran maintains that employment for a period of 12 consecutive months. Temporary interruptions in employment that are of short duration the VA doesn't consider breaks in otherwise continuous employment.

Evaluating Employability

VA regulations at 38 CFR 3.343(c)(1) and (2) provide that the veteran's actual employability must be shown by clear and convincing evidence before the VA can discontinue this benefit. The VA won't consider vocational rehabilitation activities or other therapeutic or rehabilitative

pursuits as evidence of renewed employability unless the veteran's medical condition shows marked improvement. Additionally, if the evidence shows that the veteran actually is engaged in a substantially gainful occupation, the VA can't discontinue IU unless the veteran maintains the gainful occupation for a period of 12 consecutive months.

If the VA conducts a reexamination of disability or employability status and the lower evaluation would result in a reduction or discontinuance of disability payments the VA is currently making to a veteran, the VA prepares a rating proposing the reduction or discontinuance, which sets forth all material facts and reasons. The VA must provide the veteran with due process before the VA discontinues the IU benefit, as stated at 38 CFR 3.105(e) and 3.501(e)(2). The VA notifies the veteran in writing of its planned action and furnishes all of the reasons and details in this correspondence. The VA will give the individual 60 days for the presentation of additional evidence to show that the VA should continue compensation payments at their present level. If the individual doesn't provide additional evidence to the VA within the 60-day period, the VA will take a final rating action and will reduce or discontinue the award effective the last day of the month in which a 60-day period from the date of notice to the beneficiary of the final rating action expires. This process is the same regardless of whether the individual receives VA Disability Compensation or Veterans Pension.

The VA intends determinations of substantially gainful employment to be highly individualized, and they will depend greatly on the unique circumstances of the veteran. VA Ratings Specialists are directed to consider a wide variety of factors and have clear and convincing evidence before pursuing a reduction in disability rating. Due to the somewhat subjective nature of these determinations, it may be impossible to predict exactly when the VA will consider an individual to be in a substantially gainful occupation. Veterans and the CWICs serving them are encouraged to seek a formal determination from the local VA in these cases.

(From Veterans Benefit Administration (VBA) Training Letter 07-01: Instructions to the regional VA offices on procedures for the handling and management of Individual Unemployability (IU) claims, released February 21, 2007)

Interactions between Social Security Disability Benefits and Veterans Disability Benefits

It's possible for certain veterans to receive both a form of disability benefit payment from the VA as well as from the Social Security Administration. Because certain benefits within both of these systems are means-tested (SSI and Veterans Pension), it's possible for receipt of one form of benefit to affect eligibility for or payment amount due from the other system. The rules governing how each of the two systems view benefits from the other can be very complex. A general summary is provided below, but, when in doubt, you should seek a formal determination from the VA or Social Security accordingly.

> **NOTE:** Military service members can receive expedited processing of disability claims from the Social Security Administration. The expedited process is used for military service members who become disabled while on active military service on or after October 1, 2001, regardless of where the disability occurs. For information about Social Security benefits developed specifically to meet the needs of veterans, go to: http://www.ssa.gov/woundedwarriors/. Social Security also has produced several publications on Social Security benefits for wounded warriors. These may be found online at: http://www.ssa.gov/pubs/10030.html, and http://www.ssa.gov/pubs/10131.html

How VA Disability Benefits Affect Social Security Disability Benefits

Social Security disability benefits paid under Title II (SSDI, CDB, DWB): Other forms of public disability benefits (PDB) generally offset these benefits, which means that Social Security reduces the monthly payment when the veteran receives other forms of disability benefits from a public (i.e., governmental) source. While some forms of military disability benefit or a military retirement pension based on disability may be subject to this offset, Social Security doesn't count Veterans Administration (VA) benefits (including Agent Orange payments) paid under Title 38 U.S.C. This exclusion covers payments the veteran received under both the Disability Compensation and Veterans Pension programs described in this unit. These VA disability benefits are specifically excluded from offset by law.

> **NOTE:** Social Security does count military disability benefits including military retirement pensions based on disability as a form of public disability benefit (PDB), which would be subject to offset. These are benefits paid by the Department of Defense (DoD), not the VA. Only disability benefits paid by the VA are exempt from the PDB offset. For more information, see POMS DI 52130.001 - Types of Federal Public Disability Benefit (PDB) Payments and DI 52130.015 - Military Disability Benefits at: https://secure.ssa.gov/apps10/poms.nsf/lnx/0452130001

Supplemental Security Income (SSI): The SSI program is means-tested, and, in most cases, a veteran's receipt of VA disability benefits would affect eligibility for SSI or the SSI payment amount. In general, Social Security would count VA disability payments as a form of unearned income for SSI purposes. VA Disability Compensation benefits would count as unearned income with only the $20 general income exclusion available to reduce the amount of this benefit that SSI would count. However, the SSI program specifically disregards any portion of a VA Disability Compensation payment that is a VA Aid and Attendance Allowance or Housebound Allowance as well as compensation payments resulting from unusual medical expenses. In addition, there are certain special Disability Compensation benefits the VA pays on the basis of a Medal of Honor or a special act of Congress that the SSI program does NOT count as income.

Veterans Pension payments are considered federally funded income based on need. As such, SSI treats these payments as unearned income to which the $20 general income exclusion doesn't apply. Again, SSI disregards VA pension payments resulting from Aid and Attendance or Housebound Allowances and VA pension payments resulting from unusual medical expenses. All or part of a VA pension payment may be subject to this rule.

The VA often considers the existence of dependents when determining a veteran's or a veteran's surviving spouse's eligibility for pension, compensation, and educational benefits. If dependents are involved, the amount of the benefit payable may be larger than it otherwise would be. Social Security refers to this as "augmented VA benefits." An "augmented benefit" is an increase in benefit payment to a veteran or a veteran's surviving spouse or higher VA income eligibility limits because of a dependent. The VA usually issues an augmented VA benefit as a single payment to the veteran or the veteran's surviving spouse. Only the SSI beneficiary's portion is considered to be VA income attributable to

the beneficiary in the SSI program. The portion of a VA benefit paid by apportionment to a dependent spouse or child is considered to be income attributable to the dependent spouse or child. It isn't a support payment from the designated beneficiary. For more information on how SSI treats augmented VA benefits, see POMS SI 00830.314 Augmented VA Benefits at: https://secure.ssa.gov/poms.nsf/lnx/0500830314.

The SSI program has numerous rules governing the treatment of other VA benefits provided on the basis of disability. The SSI program specifically excludes the following items as income by in addition to the aid and attendance or housebound allowances and VA pension payments resulting from unusual medical expenses:

- **Vocational Rehabilitation:** Payments made as part of a VA program of vocational rehabilitation (VR&E) aren't income. This includes any augmentation for dependents.
- **VA clothing allowance:** Veterans who have unique clothing needs as a result of a service-related disability or injury may receive a supplement to their disability compensation.

For more information about how SSI treats specific forms of VA benefit, refer to POMS SI 00830.300 - Department of Veterans Affairs Payments found online at: https://secure.ssa.gov/poms.nsf/lnx/0500830300.

Finally, the VA provides numerous educational assistance programs including the Active Duty Educational Assistance Program ("Montgomery" GI Bill), the Veterans Educational Assistance Program (VEAP), and the Post-9/11 GI Bill Program. The SSI program excludes from income any payments the VA makes to pay for tuition, books, fees, tutorial services, or any other necessary educational expenses. Any portion of a VA educational payment designated as a stipend for shelter is countable income. For more information on how Social Security treats educational assistance provided by the VA for SSI recipients, go to POMS SI 00830.306 Department of Veterans Affairs (VA) Educational Benefits found online at: https://secure.ssa.gov/poms.nsf/lnx/0500830306.

How Social Security Disability Benefits Affect VA Disability Benefits

The VA Disability Compensation program isn't means-tested, so it isn't affected in any way by receipt of a Social Security benefit of any type.

The VA actively encourages military service members with disabilities to apply for disability benefits available from the Social Security in addition the VA benefits.

The VA Pension program is based on need, and a veteran's receipt of Social Security disability benefits may affect eligibility for these benefits as well as the amount of the monthly payment. The VA will consider retirement, survivors, and disability insurance under title II of the Social Security Act as income for the purposes of Veterans Pension. Remember that the VA reduces pension payments using a dollar-for-dollar approach. Every dollar of Social Security Title II benefit a veteran receives will result in the VA taking a dollar away from the VA Pension payment. However, the VA Pension program doesn't count SSI payments as income. The VA considers SSI to be a benefit the veteran receives under a "noncontributory program" (i.e., a form of welfare) that is subject to the rules applicable to charitable donations.

How Social Security Treats Income from the Compensated Work Therapy Program

Compensated Work Therapy (CWT) is a VA vocational rehabilitation program that endeavors to match and support work ready veterans in competitive jobs, and to consult with business and industry regarding their specific employment needs. The CWT program provides a range of vocational rehabilitation services to support veterans interested in competitive jobs.

There are five basic programs offered under CWT:

1. Incentive Therapy Program
2. Sheltered Workshop Program
3. Transitional Work Program
4. Supported Employment Program
5. Transitional Residence Program

For Social Security purposes, the agency excludes most payments from CWT programs from income entirely since beneficiaries receive them in conjunction with medical services. Local community employers directly pay participants in the CWT Supported Employment (SE) phase of the

program. Social Security considers income from CWT SE as earned income for SSI and Title II disability benefit purposes.

Conclusion

The benefits available to veterans who experience disability are numerous and complex. The DoD and VA benefit systems are as complicated as the Social Security disability system and, in many instances, veterans receive benefits from both of these enormous systems. CWICs must investigate eligibility for the various types of benefits and encourage veterans to apply for all programs for which they are potentially eligible. In addition, CWICs must carefully verify which benefits veterans are receiving from both the DoD/VA and the Social Security systems before offering any specific advice about how employment might affect these benefits.

Conducting Independent Research

Veterans Benefits Administration Website:
http://www.vba.va.gov

Benefits A-Z
https://www.benefits.va.gov/atoz/

Veterans Benefits Explained – Military.com Website:
http://www.military.com/benefits

Veterans' Disability Benefits: VA Should Improve Its Management of Individual Unemployability Benefits by Strengthening Criteria, Guidance, and Procedures, GAO-06-309: Published: May 30, 2006. Publicly released: May 30, 2006. Found online at:
http://www.gao.gov/products/GAO-06-309

Competency Unit 7 – Asset Building and Individual Development Accounts (IDAs)

Introduction

In the past, our best efforts to help American families living in poverty focused almost exclusively on providing income supports such as TANF and SSI monthly cash payments. In recent years, there has been a growing emphasis on moving beyond these methods. While monthly cash payments provide much needed assistance to meet basic living needs, they do very little to help poor families save for their future and become more self-sufficient. Some of the most current thinking in poverty reduction focuses on the accumulation of "wealth," not just on cash flow. This approach encourages people to save money and invest in assets that increase in value over time, based on the theory that asset development has the capability to both move people out of poverty and keep them out over time. Unfortunately, individuals with disabilities have historically been left out of asset building programs for a variety of reasons, including lack of information. This is beginning to change, and the new way of thinking about asset development is gaining a foothold in the disability services community.

Examples of long-term assets include a home, higher education and training, or a business. By owning a home, an individual is somewhat protected from the adverse effect of a landlord selling his or her rental property or hiking up the rent, forcing a move. Better training or higher education generally results in better-paying jobs and more options for job replacement if and when needed.

According to recent research, a quarter of American households are "asset poor," meaning that should they experience income suspension, the individuals and families have insufficient financial resources to support themselves at the poverty level for three months. Even more troubling, asset poverty affects children at a disproportionately greater rate.

Research conducted throughout the last decade on the effects of asset building on low-income, low-asset families indicates that positive results extend beyond tangible assets the families accumulated. Families with assets demonstrate an orientation toward the future, a decrease in

marriage dissolution, and improved housing stability. Families engaging in asset building also tend to experience improved health and wellbeing, increased civic and community involvement, and decreased rates of transfer of poverty to the next generation.
http://www.acf.hhs.gov/programs/ocs/programs/afi

Individual Development Accounts (IDAs)

IDAs are a great example of public policy that supports asset development. As noted above, IDAs are special accounts that allow members of low-income groups (including persons with disabilities) to save for specific goals such as home ownership, small business ownership, or post-secondary education, while also receiving matching funds and financial counseling. An IDA participant identifies a specific asset that he or she would like to acquire and works with the IDA program to develop a savings plan that will make it feasible to reach the goal and ultimately purchase the asset. The individual then begins to deposit a certain amount of earned income on a regular basis, typically monthly, into an IDA account based on his or her plan.

What defines the IDA savings account is that participants are eligible to receive matching funds if they use their savings to purchase an eligible asset. The match rate is the amount that the IDA program contributes for each dollar that a participant saves. The rate varies greatly across IDA programs and can range anywhere from $1 to $8 of match for every $1 of earnings saved. For example, if a program has a $2 match rate for every $1 saved, each time a participant deposits $25 in his or her IDA account, the IDA program allocates an additional $50 in matching funds for their savings. Match dollars for IDAs come from many different places, such as government agencies, private companies, churches, or local charities. In most cases, donors can receive a tax deduction for contributions to IDAs. Depending on the program, the IDA program may place matching funds not into the individual's IDA account during the savings period, but instead into in a separate account until the person is ready to purchase his or her asset. When the account holder is ready, he or she uses both the savings and the match to purchase the asset. By leveraging saved dollars against matched dollars, individuals are able to grow their savings more quickly and be successful in purchasing an asset with long-term return potential.

Programs that involve partnerships between local non-profit organizations and financial institutions usually offer IDAs. The IDA program recruits

participants, and provides or arranges with community partner organizations to provide financial education classes for participants. They may also provide or arrange for IDA participants to receive one-on-one counseling and training. After signing up for an IDA program, each participant opens up an account with the partnering bank or credit union. The bank or credit union handles all transactions to and from the IDA, just as they do with other types of savings accounts. Each month, IDA participants receive a report telling them how much money (individual savings + match + interest) is accumulating in their IDA. An IDA program can be as short as one year or as long as five years. The program may disperse money to IDA participants as soon as they have reached their savings goal and as long as they have approval from the IDA program sponsor. Some IDA participants choose one big savings goal, such as a home, but others save for a number of related goals, such as textbooks and college tuition.

Eligibility for Participating in an IDA Program

In general, IDA program eligibility is based on all or some of the following criteria:

- **Income:** Most IDA programs specify a maximum household income level for applicants. Maximum income levels are most often a percentage of the federal poverty guidelines (usually between 100 percent and 200 percent) or the area median income (usually between 65 percent and 85 percent).

- **Earnings:** Many IDA programs also require that all or part of savings come from earned income. A paycheck or the EITC refund is the most common source of earned income. Unemployment checks are also an allowable source in some IDA programs. Most IDA programs don't consider as earnings any money a person receives as a gift.

- **Net Worth:** Some IDA programs also look at the household assets in addition to household income when they determine IDA eligibility.

While not an eligibility requirement for most IDA programs, poor credit history is typically a barrier to enrollment that applicants must address before they are able to establish an IDA. IDA programs will frequently assist individuals to address credit issues, or refer them to a credit counseling center for this assistance prior to enrollment in the IDA program.

Types of IDA Programs

Federal, state, or private funds can support IDA programs. While all of the IDA programs use the same basic mechanism of matched savings accounts to promote asset building, they can differ greatly in terms of who is eligible to participate, the amount or rate of matching funds donors provide, the types of income that individuals may contribute to the account, and asset goals that individuals may save for and purchase. Another key difference is the manner in which other federal means-tested programs, including the SSI program and Medicaid, treat or count IDA contributions and assets. Participation in a federal IDA program is treated more favorably by the SSI program than is participation in a state or privately funded IDA.

IDA programs are currently most widely available through the federal Assets for Independence (AFI) Act or the state-administered TANF programs. However, IDA programs don't have to be part of these federal initiatives, and state funds, other local governmental sources, private funds, or combinations thereof support many IDA programs. For the purposes of this unit, there will be heavy emphasis on information about AFI IDAs, because they will be most relevant to your work with beneficiaries.

AFI IDAs

One federally supported IDA program is the Assets for Independence (AFI) program. The AFI IDA program is a discretionary grant program authorized under the Assets for Independence Act of 1998. The Office of Community Services (OCS), within the Administration for Children and Families, U.S. Department of Health and Human Services, administers the grant program at the federal level. Through this grant program, OCS supports more than 200 agencies and community-based groups across the nation that run AFI Projects and other programs to help low-income families build their economic assets. These AFI grantees include an array of community-based nonprofits and state, local, and tribal government agencies and others, such as community development financial institutions and credit unions. Additionally, there are a growing number of disability agencies and community-based organizations securing AFI funding to establish IDA programs.

The AFI grants provide up to $1,000,000 in federal funds to grantees for five-year awards to support their IDA programs. As a condition of their federal AFI award, grantees must provide non-federal funds in an amount

at least equal to the federal AFI grant. In other words, to secure the federal dollars, at a minimum, AFI grantees must match every AFI grant dollar with a non-federal dollar. Additionally, the AFI program requires that each AFI Project allocate and use the funds in the following manner: At least 85 percent of gross funding must go directly to match individual contributions to IDAs; no more than 13 percent can be used for financial education and project administration; and no more than 2 percent can be used for data collection and evaluation activities.

Each AFI Project establishes a Project Reserve Account to hold the federal grant funds and non-federal funds that are committed to the AFI Project. Additionally, each project partners with one or more financial institutions to host the participant IDA accounts. These accounts are either custodial or trust accounts established by the AFI Project organization, requiring signatures from both the AFI Project coordinator and IDA participant for any withdrawal of funds. As participants make regular savings deposits into these accounts, the AFI Project allocates a portion of the Project Reserve Account for each participant deposit as match.

> **IMPORTANT NOTE:** No funds were appropriated for the Assets for Independence (AFI) program for federal fiscal year 2017. Therefore, the Administration of Children and Families (ACF) will not be making new grant awards for the AFI program.
>
> AFI grants awarded in FY 2016 and before are not affected by the FY 2017 appropriation, as the total award amount was obligated for those grants at the time that they were made. Organizations operating AFI projects with existing grants are responsible for continuing to operate those projects for the funded project period indicated on the notice of grant award.

AFI IDA Program Basics

The whole idea behind the IDA program is to help participants save enough money to purchase assets that may increase their standard of living and help them become more independent. As with many IDA programs, AFI permits participants to use the savings and matching funds for only three types of asset goals. These include buying a first home, accessing higher education or training, and starting or supporting a new or existing small business. Of course, there are rules related to how IDA defines these asset goals and what the IDA funds participants can use to pay for in each instance. The goal of purchasing a home applies to first-

time homebuyers only. In addition, the home must be the participant's main residence, and the sale price of the house must not exceed 120 percent of the average price for a home in that area. Participants can use the IDA to pay for a variety of costs including the down payment, settlement fees, loan fees, inspection fees, other closing costs, and reconstruction of the newly purchased home.

With regard to postsecondary education or training, this goal requires that the participant pay expenses to an eligible educational institution. The educational institution must either be a college or university or a vocational school as defined by the Higher Education Act or by the Carl D. Perkins Vocational and Applied Technology Education Act. The types of expenses that participants can pay with IDA funds include course fees, books and supplies, test fees, the costs of preparation courses for professional licensing examinations, special equipment, including a computer and software, and tuition and fees associated with enrollment or attendance at the school.

The microenterprise or small business goal requires that the IDA participant establish his or her business legally and not be in violation of any law or public policy. The goal also requires that the owner have a business plan that has been reviewed and approved by a financial institution, microenterprise development organization, or nonprofit loan fund. AFI grantees will in almost every instance have relationships with community partners who are able to provide technical support to IDA participants on business plan development and review. The types of expenses that the IDA can pay for under the business plan include capital, plant, equipment, working capital, inventory, and licenses.

Not all AFI Grantees will offer all three of the allowable asset goals. Depending on the type of organization and area of expertise, a grantee may choose to focus on only one or two of the asset classes allowed. For instance, a housing authority with AFI funds may only offer IDAs for home ownership. Fortunately, there are many federal and non-federal IDA programs that beneficiaries can explore and consider to meet their interests and needs!

In addition to deciding which of the three asset goals they will offer, the AFI grant program also allows each grantee to determine its own match rate. While many of the programs match at 2 to 1 rate, or $2 in match for every $1 the participant saved, some AFI grantees provide up to as much as an $8 match for every $1 saved. Within the parameters established by the AFI legislation and rules, grantees also have the ability to design the structure or rules around participant savings that are

contributed to the account. As a result, there is much variation between AFI IDA programs related to the following:

- The maximum amount of savings that an AFI Project will match. AFI limits the amount of federal funds from one AFI Project that may be allocated to each client's account: $2,000 for an individual and $4,000 per household (where multiple household members hold IDAs).

- The required schedule of contributions to the account or, in other words, whether the AFI Project will require participants to save monthly, quarterly, or over some other period.

- The minimum dollar amount that participants can deposit each period. The minimum savings target ensures that participants have the maximum opportunity to earn the full match allowed under the program so that they have the funds necessary to purchase their asset at the end of the savings period.

- The maximum amount of earnings that the participant can contribute each savings period.

- The time periods over which the AFI Project allows participants to save. Generally, this time period will range from one to no more than four years.

Allowable Emergency Withdrawals

In terms of withdrawals from the AFI account, the program rules require that participants must be enrolled in a project for at least six months before they may withdraw funds from their IDAs. Aside from withdrawing the funds from their account to purchase the particular asset they have saved for, participants may only access their account funds for certain emergency needs that arise while they are participating in the IDA. The AFI Program permits these emergency withdrawals only when participants need the funds for medical expenses, to pay rent or mortgage to prevent eviction or foreclosure, or to pay for vital living expenses (e.g., food, clothing, shelter, utilities, and heat) following a job loss. A participant may withdraw funds for these expenses if they are incurred for the participant, a spouse, or a dependent, but the participant may only withdraw amounts he or she has deposited; participants can't withdraw the matching funds. After the participant has made an emergency withdrawal, he or she must reimburse her or his account for the full amount of funds withdrawn within 12 months.

If the participant doesn't replenish these funds as required, he or she may not continue in the project. In instances when this occurs, any remaining IDA savings return to the participant, and all matching IDA funds return to the Reserve Account for use by another account holder.

> **Example of an IDA saver:**
> Bill is interested in starting a new landscaping business. Bill contacts the local AFI grantee, AAA Credit Union, for assistance. After meeting with the IDA case manager, the two decide that Bill will benefit from participating in both the general financial education classes the credit union provides and debt management. Bill participates in these activities, and the IDA program then refers him to a community partner that provides training in small business management and support in developing a business plan.
>
> Once Bill completes all of these steps, the IDA case manager assists him with opening his IDA account. Bill's IDA will allow him to save the $5,000 in capital that he needs for his new business over the next two years. Bill signs his savings plan agreement and begins depositing $42 a month in his IDA account. Each time Bill makes his $42 deposit, the IDA program allocates $168 of its Project Reserve Account as match to Bill's savings. At the end of the two-year savings period, Bill has saved $1,000 in his IDA account. AFI matches his savings by $4,000 for a total of $5,000. Bill has met his goal and is able to use the $5,000 from his IDA participation as capital for his landscaping business. This example illustrates how effective IDAs can be in assisting low-income individuals to access the supports they need and save successfully for their life goals.

AFI IDA Participant Eligibility

All IDA programs have income and net worth requirements that participants must meet. IDA programs tie eligibility to household income and net worth, meaning that the IDA program will consider the income of all individuals in the family. To be eligible to participate in an AFI IDA program, participants must qualify under one of the following two requirements: They must either be eligible for TANF at the time of application or, if they aren't TANF-eligible at the time of application, they must have annual household income that is either within the allowable limits for the Federal Earned Income Tax Credit (EITC) or is less than twice the federal poverty level.

In addition to meeting the income requirements, individuals who qualify under the EITC or the 200 percent of federal poverty rules must also have household net worth that is less than $10,000. Household net worth is the amount of assets all household members own minus their debts. In making this determination, the AFI grantee will consider the household net worth at the end of the calendar year that preceded the time of the individual's application. The AFI grantee disregards the value of a household's home and one car during the net worth determination.

It's important to recognize that within these broad federal parameters, IDA projects have some flexibility to establish rules for defining and counting income and resources. Income that IDA doesn't usually count in IDA eligibility determinations includes income from means-tested and other assistance programs, such as SSI, TANF, Social Security, Unemployment Insurance, and Workers' Compensation, to name a few. But, this may not be the case with all programs. The best approach, given this variation, is to connect directly with your local AFI grantee for information on how it defines and handles eligibility determinations.

Effect of AFI IDA Participation on Social Security Disability Benefits (SSDI, CDB, DWB)

As described in Module 3, Title II disability benefit is an insurance program that an individual is entitled to based on past work in Social Security covered employment. A person may establish eligibility for benefits based on his or her own work record and insured status, or on the work record of a family member who has insured status and is disabled, retired, or deceased.

Eligibility for Title II disability benefits isn't based on economic need and doesn't have any restrictions on savings, investment, or asset accumulation. As a result, participating in an IDA won't adversely affect an individual's application or eligibility for Title II disability benefits. In addition to this, once a person has established eligibility for a Title II benefit, his or her earnings contributions to an IDA, matching funds, or interest earned won't have any effect on the cash benefit amount. Social Security doesn't penalize individuals receiving a Title II benefit for having cash savings, IDAs, pension funds, retirement accounts, real property, or other investments to rely upon in addition to their Social Security disability payment and Medicare coverage. Given this, IDAs are a perfect asset-building vehicle for these beneficiaries.

Effect of AFI IDA Participation on SSI Benefits

Because SSI is a means-tested program, many beneficiaries may be concerned that participating in an AFI IDA program will cause ineligibility for SSI and Medicaid. However, this is definitely not the case! While asset accumulation is severely limited in the SSI program, the good news is that funds set aside in a federally funded IDA program, meaning the programs authorized by AFI, BFRIDA, and TANF, don't count toward the SSI resource limits, matching deposits don't count as income, and the account owner's deposits can actually cause the SSI benefit amount to go up. Since January 1, 2001, when Social Security expanded its exemptions for funds held in TANF and AFI IDAs, there is no negative effect on an individual's SSI benefit for participating in a federally funded IDA. See below for a description of each of the exemptions.

How SSI Treats Contributions to an AFI IDA

The SSI program rules specify that Social Security deducts income an individual contributes to an AFI or TANF Demonstration Project IDA from wages when determining countable earned income. Social Security subtracts the dollar amount of earnings contributed to the IDA each month from the beneficiary's gross monthly wages or net earnings from self-employment, generally reducing his or her countable earnings by half the amount that he or she deposits. By reducing the amount of countable earnings and overall total countable income, the individual may establish eligibility for SSI when he or she otherwise may have had income in excess of the allowable levels. Additionally, once eligible for SSI, Social Security subtracts the beneficiary's contribution from his or her gross monthly wages or net earnings from self-employment in determining his or her monthly SSI payment.

Social Security also applies the IDA income deduction for beneficiaries to the parent's IDA contributions in the deeming process. Thus, if a parent establishes his or her own IDA, Social Security deducts the earnings that he or she contributes to his or her IDA from his or her gross income in the deeming process. Because Social Security considers the parent to have less countable income, it results in a smaller amount of income being deemed to the child. As a result, the child may be able to establish eligibility for SSI.

Example of How IDA Participation Affects SSI:
Soraya is a concurrent beneficiary who has been approved for an AFI - IDA from her local non-profit agency, Helping Hands, in cooperation with the Community Credit Union. Her goal is to save

enough to attend the state university and study for a bachelor's degree in elementary education. Sheva is working part-time at an art supply shop. Her gross monthly earnings are $700.00. Sheva decides to contribute $100.00 a month into her IDA Account. Here is how the SSI formula works for Sheva:

Step One:

Item	Amount
Adjusted SSDI amount	$220.00
Workers' Compensation Benefit	– $20.00
Total Monthly Income	$200.00

Step Two:

Item	Amount
Gross monthly earnings	$700.00
IDA earnings contribution	– $100.00
Remainder	$600.00
Earned income exclusion	– $65.00
Remainder	$515.00
One-half remainder exclusion	÷ 2
Countable earned income	$267.50

Step Three:

Item	Amount
Countable earned income	$200.00
Countable earned income	+ $267.50
Total Countable Income	$467.50

Step Four:

Item	Amount
Federal Benefit Rate (2017)	$750.00
Total Countable Income	– $467.50
SSI Payment Due	$282.50

This example illustrates how the SSI program rules promote and enhance the ability of beneficiaries to save for asset goals and their futures. Prior to beginning the IDA earnings contribution of $100 a month, Sheva received $220 in SSDI, had $700 in gross earnings, and was due an SSI payment of $232.50. By continuing to earn $700 a month and contributing $100 of these earnings to an IDA, the SSI payment due increased to $282.50. This is an increase in the monthly SSI payment of $50!

How SSI Treats Matching Funds that Donors Contribute to an AFI IDA Account

In addition to excluding IDA contributions, the SSI program excludes from income any matching funds that are deposited in a TANF or AFI Demonstration Project IDA. It also excludes from income any interest earned on the individual's own contributions and on the matching funds that are deposited in a TANF or AFI Demonstration Project IDA. In addition, the SSI program excludes from income any disbursements from an AFI or TANF Demonstration Project IDA used for a qualified purpose, meaning education, business capitalization, or a first home purchase. If a parent is participating in an IDA for home ownership, and gives or transfers ownership of the home to his or her child on SSI, it will only count as income in the month the child receives it. If it's the child's principal place of residence, the SSI program will value the income at the 1/3 in-kind support rate for the first month, and then exclude it as a resource at the beginning of the following month. Finally, the SSI program doesn't count emergency withdrawals made by a beneficiary from an AFI or TANF IDA as income for SSI purposes.

How SSI Treats AFI IDA Funds During Resource Determinations

Both the AFI 2000 Amendments and TANF statute include a requirement that all federal means-tested programs disregard any assets that accumulate in an AFI or TANF IDA when they are determining eligibility or

benefit levels. To this end, the Social Security Administration established SSI program rules that provide for several disregards. First, the SSI program excludes from resources an individual's contributions that are deposited in an AFI or TANF Demonstration Project IDA in determining both initial and ongoing eligibility for SSI. Second, the SSI program excludes from resources any matching funds that are deposited in an AFI or TANF Demonstration Project IDA. Lastly, it excludes any interest earned on the individual's own contributions and on the matching funds.

The SSI resource tests also exclude the savings goals that AFI or TANF accounts fund including home ownership, self-employment, and postsecondary education. The SSI program completely excludes from consideration the primary residence of an SSI beneficiary as a resource, no matter what it is worth. It is important to note that the phrase "primary residence" means the applicant must live in the home for it to be excluded. The parcel of land on which a home is located is also excluded, regardless of its size or value. Homeownership is and always has been an excellent way for concurrent beneficiaries to build wealth; participating in an AFI IDA makes this goal all the more attainable.

SSI also permits ownership of a business through a specific resource exclusion known as "property essential for self-support" (PESS) under certain prescribed circumstances. This important self-employment incentive allows SSI beneficiaries to accumulate unlimited assets through small business ownership — another way to build wealth. Finally, the SSI program offers a variety of income and resource exclusions specifically designed to encourage saving for postsecondary education. Specifically, SSI program rules provide that any portion of a grant, scholarship, fellowship, or gift a beneficiary uses or intends to use to pay the cost of tuition, fees, or other necessary educational expenses at any educational institution, including vocational and technical education, be excluded from resources for nine months beginning the month after the month the beneficiary received it. Such funds aren't income when the beneficiary receives the funds, and the SSI program excludes them from resources for the following nine months.

> **IMPORTANT NOTE:** If the beneficiary reclaims unused cash when an IDA ends that is disbursed as cash, the SSI program will count it as income in the month that the beneficiary receives it. Any amount remaining at the beginning of the second month will count as a resource. Options are available to prevent the SSI program from counting these funds as income and resources that could adversely affect SSI eligibility and

payment amount. The IDA program may roll over the funds into a new IDA account if appropriate. Beneficiaries may also consider setting the funds aside in a Plan to Achieve Self-Support, or using the funds for other items or services the SSI program doesn't consider as countable income or resources.

The Interaction between IDAs and PASS Plans

Using an IDA in combination with a Plan to Achieve Self-Support (PASS) may help a beneficiary reach his or her goals more efficiently and effectively. First, it's important to keep in mind that while IDAs focus on promoting financial stability through acquiring assets that grow in value over time, PASS promotes the financial stability of beneficiaries by providing important employment supports. In some cases, this means helping beneficiaries save for and purchase assets they need for their job or self-employment. In other cases, it means helping people to use their income to pay for certain services or supports that they need to work.

PASS permits individuals to deduct countable income, or exclude resources that would otherwise reduce or eliminate the SSI payment. PASS is an agreement between the Social Security Administration and the beneficiary. The beneficiary agrees to take outlined incremental steps to achieve a specific employment goal. The plan allows the beneficiary to use "countable income" or resources to pay for goods or services needed in order to reach the goal. In turn, Social Security replaces the PASS expenditures by increasing the individual's SSI benefit payment. This program offers tremendous flexibility. Beneficiaries have used it to start small businesses, pay for education and training, purchase vehicles and necessary equipment, pay for short-term job coaching services, pay for child care, and pay for other goods or services too numerous to name here. Unlike an IDA, however, beneficiaries can't use a PASS to support homeownership.

PASS helps beneficiaries acquire the services and items they need to initially start work. It isn't a mechanism for making income or resources available to cover ongoing work costs. In addition, PASS isn't only to help a beneficiary become employed, but to become employed in a job or business that will ultimately result in increased earnings and reduce the beneficiary's reliance on government benefits. Consequently, for Social Security to approve a PASS, there must be a reasonable chance that an

individual will be able to achieve his or her stated work goal, and there must be a clear connection between the work goal and increased earning capacity.

While PASS is generally described as an SSI work incentive, beneficiaries of the Social Security Title II disability program can actually use it to establish SSI eligibility. If an SSDI beneficiary receives a monthly cash benefit that is above the allowable unearned income limit, then Social Security precludes SSI eligibility. However, if the SSDI payment is set aside under an approved PASS and the individual meets all other SSI eligibility criteria, Social Security may establish eligibility for SSI. The SSI payment supports the basic costs of food and shelter, while the SSDI payment funds the items or services the person is saving for and purchasing under the PASS. This is an important consideration when you are looking at the interaction between PASS and IDA for Title II beneficiaries as well.

While PASS and AFI IDAs differ slightly in their intended outcomes, both are valuable tools with the potential to assist people to acquire assets and enhance their ability to be more financially independent. When considering PASS opportunities for IDA participants, it's critical to keep in mind that acquiring assets through use of a PASS always needs to be tied to an employment outcome. If an IDA participant has no interest in pursuing an employment goal, then PASS isn't a viable option to support his or her asset development goals. If, on the other hand, an IDA participant with a disability is interested in pursuing both employment and asset development goals, then a PASS may be just the ticket to help him or her move more strategically and efficiently forward with his or her plans.

In some specific situations, a PASS may complement IDA participation for select beneficiaries. One challenge to individuals participating in an IDA relates to having the earned income necessary for the contribution. In cases such as this, PASS may be a first step towards meeting their long-term asset development goals. An individual may opt to use a PASS alone or in combination with accessing other employment services available in the community to assist him or her in securing employment. The employment and earnings outcome a PASS supports will make IDA participation a possibility.

In addition to using a PASS as a conduit to IDA participation, there are other circumstances when using a PASS and IDA together may be helpful to a beneficiary. The following are examples of how a PASS may complement IDA participation for select beneficiaries.

Example 1: A person is contributing earnings to an IDA, and has additional unearned income, such as an SSDI benefit. While the participant can't use unearned income as contribution to the IDA, the participant can use in a PASS. If the IDA participant is saving for education or self-employment, he or she can set aside his or her unearned income in a PASS to help him or her save toward his or her employment outcome.

> **Without a PASS:** After an exclusion of $20, unearned income in the SSI program results in Social Security reducing the SSI check dollar for dollar. For example, if an individual has SSDI of $220 a month, this unearned income causes a reduction in their monthly SSI of $200.
>
> **With a PASS:** By using unearned income in a PASS to save or pay for post-secondary education or self-employment expenses, participants can leverage additional SSI dollars to be used toward their IDA savings goal, making it possible to reach their goal more quickly. For example, if a beneficiary, in addition to his or her monthly IDA earnings contribution of $100, sets aside his or her $200 of SSDI in a PASS for his or her self-employment goal, Social Security will exclude the $200 SSDI PASS contribution from countable income in determining the beneficiary's SSI payment. The IDA participant would essentially be saving $300 a month toward his or her self-employment goal ($100 earnings contribution to IDA and $200 of SSDI set aside in PASS), and would have the potential to recover up to $250 of his or her savings in his or her SSI payment.

Example 2: A person has other items or services he or she needs in order to meet his or her work goal that aren't permissible AFI IDA savings goals (e.g., assistive technology, personal assistance services, transportation).

> While a beneficiary could establish a PASS to set aside funds for these additional employment expenses, it would require that the IDA participant have additional income to use for these expenses beyond the earnings contributed to the IDA. For example, an IDA participant has $200 in earnings and is currently contributing $50 a month to his or her IDA for post-secondary education. A beneficiary can establish a PASS to exclude an additional $50 of earnings towards job development or job placement services that he or she will need to secure employment he or she has completed

the education program. In total, the beneficiary will be saving $100 a month toward his or her goal, including the $50 earnings contribution to the IDA and $50 earnings set aside in the PASS.

Example 3: A person is participating in a non-federal IDA for post-secondary education or starting a business and needs to set up a PASS to exclude his or her IDA funds (contributions, match, interest earned) as income and resources.

Establishing a PASS is most necessary and advantageous for participants in IDA programs that aren't federally funded (i.e., AFI or TANF IDAs). This is due to the fact that current SSI program exclusions for IDAs don't extend to non-federal IDAs. Depending on how the state or local IDA is set up or structured, funds contributed to and accumulated in an IDA may count as income or resources for the SSI program. In these instances, a beneficiary may want to establish a PASS to exclude IDA self-employment or post-secondary education funds supporting an employment goal.

IMPORTANT – Social Security Policy Clarification: In instances in which a person is contributing earnings to a federal AFI or TANF IDA, it isn't permissible under SSI rules for Social Security to simultaneously exclude under a PASS the earnings contributions to the IDA. Instead, if a person is contributing earnings to a federal IDA, Social Security must exclude his or her earnings contribution from gross earned income first in the SSI calculation as required by POMS citation SI 00820.500A2 Earned Income Exclusions - General found online at:
https://secure.ssa.gov/apps10/poms.nsf/lnx/0500820500.

The SSI program rules pertaining to earned income exclusions require that, first, income is excluded as authorized by other federal laws. Because both the AFI and TANF statues require that other federal means- tested programs exclude IDA contributions, the requirement to exclude earnings contributions first from earned income in the SSI formula applies. Therefore, it isn't possible to exclude the IDA earnings contributions in a PASS. Please note that this rule applies only to earnings contributions made to a federal IDA (AFI and TANF). It doesn't apply to contributions made to non-federal IDAs. As a result, it is still possible for individuals to simultaneously exclude earnings contributions to a non-federal IDA in a PASS.

Example 4: A participant's IDA account will be closed and there are unused earnings contributions that will be returned to him or her.

If the participant reclaims cash when his or her IDA ends, the SSI program will count it as income in the month that he or she received it. Any amount remaining at the beginning of the second month will count as a resource. There are, however, options available to prevent the SSI program from counting these funds as income and resources, and adversely affecting SSI eligibility and payment amount. The IDA program may roll over these funds into a new IDA account if appropriate. Beneficiaries may also consider setting the funds aside in a PASS in support of an employment goal, or they may use the funds for other items or services the SSI program doesn't consider as countable income or resources.

PASS Considerations for IDA Participants

The flexibility and potential to assist individuals to plan for and secure the items and services they need to work clearly sets PASS apart as one of the most valuable Social Security work incentives. Given the obvious parallels between IDAs and PASS in supporting asset development and self-sufficiency, it's easy to understand the growing interest in this program on the part of AFI grantees. However, in spite of the potential PASS offers to assist IDA participants to more strategically and quickly meet their asset development and financial stability goals, it's important to recognize that PASS isn't for everyone.

The following are important questions that CWICs should address with IDA participants who are considering use of a PASS:

- **Does a PASS make sense given the person's employment goals and needs?**

  Regardless of the asset goal the beneficiary is pursuing through an AFI IDA, PASS isn't a good option if an individual isn't interested in pursuing employment or self-employment and isn't willing to reduce his or her reliance on benefits supports in the long-term. In addition, the person must have a need for additional items or services he or she is saving to purchase under the PASS. If the beneficiary can attain the employment goal without the benefit of additional supports, then there's no need for a PASS.

- **Does establishing a PASS make good financial sense? Are additional funds necessary and available for a PASS?**

  In instances in which a beneficiary is participating in a non-federal IDA, using an IDA and a PASS simultaneously won't necessarily require additional funds. This is the case if an individual is contributing earnings to the non-federal IDA for post-secondary education or self- employment, and is simply excluding his or her IDA contribution in a PASS.

- **In other cases, such as when a person is setting aside funds for items or services that aren't permissible IDA asset goals, additional funds outside of the earnings he or she is contributing to the IDA will be required.**

  These PASS funds may be either earned or unearned income, or other resources that the person has.

- **Is the individual in a position to recover the funds set aside in a PASS through an increase in SSI payment?**

  PASS won't always result in a beneficiary recovering 100 percent of the funds he or she used under the plan through an increase in SSI payment. How much of the PASS expense beneficiaries actually recover varies significantly across beneficiaries and is limited by the Federal Benefit Rate (FBR), which is the maximum monthly federal SSI payment. The current FBR in 2018 is $750. An individual currently receiving a $500 SSI payment can only increase his or her monthly federal payment to a maximum of $250, in spite of the fact that he or she began contributing $300 to a PASS. Given that the financial outcome of using a PASS will vary across individuals, it's essential that CWICs thoroughly explain this effect in a way that the participant can understand.

- **Does the individual have the ability to meet his or her daily living expenses (food and shelter)?**

  Social Security will look closely at the individual's living expenses to make sure he or she can afford to set aside the income in a PASS and live on the SSI payment. In most cases, Social Security will require the individual to submit a PASS Monthly Expense Form showing all the living expenses that he or she has to pay each month. If an individual can't prove that he or she can live off of the available income, Social Security isn't likely to approve the PASS.

- **Is the IDA participant willing to commit the time and effort to developing a feasible plan for employment and completing the PASS application and approval process?**

  Social Security requires individuals interested in a PASS to submit their plan in writing using a standardized form, SSA-545-BK. Additionally, individuals submitting a PASS for approval who aren't currently receiving SSI will need to simultaneously complete the initial eligibility and application process for SSI. For those individuals already receiving SSI, they have already met initial eligibility for SSI and this step isn't necessary. The PASS form requests detailed information in multiple areas, including work goal, medical, vocational, and educational backgrounds, employment plan activities and expenses, and funding for the work goal. Gathering the required information requires significant planning and effort, as does developing a viable plan, completing the application, and working with Social Security personnel throughout the review and approval process.

Need for Separate IDA and PASS Plans and Accounts

Both IDA and PASS require that beneficiaries set aside funds in special accounts. AFI Project participants' IDAs are either custodial or trust accounts established by the AFI Project organization. PASS plans, on the other hand, must show how beneficiaries will clearly keep and easily identify income or resources they set aside. Beneficiaries usually use separate bank accounts for PASS savings to provide for verification of PASS savings and expenditures. A legitimate concern of individuals considering use of IDA and PASS simultaneously is the need to maintain separate accounts. If a beneficiary is establishing PASS strictly to exclude his or her earnings contributed to a non-federal IDA, then it's possible that the IDA account can also serve as the PASS account. However, if the PASS involves excluding funds in addition to the IDA contribution that the beneficiary will need to access and use periodically for purposes other than the specific IDA savings goal, he or she will need to establish and manage two separate accounts.

Need for Additional Case Management and Monitoring Supports

PASS is one of the most valuable work incentives, but it's also one of the more complex, time-and effort-intensive Social Security work incentives. PASS development and approval is just the first step in the process. Successful implementation of the plan requires the beneficiary's ongoing management and monitoring, including establishing and managing the PASS account, implementing savings or spending plans, maintaining records, tracking progress on key milestones identified in the employment plan, and communicating with Social Security personnel. While some individuals will be very effective in managing PASS efforts on their own, others will require additional supports. CWICs and other disability agencies and organizations are key partners to consider for these types of supports.

The CWIC's Role in Supporting Beneficiary Participation in AFI IDAs

Working with members of the asset development community may be new to many CWICs, and it may be even a bit daunting, as it's somewhat out of the realm of normal, everyday dealings with agencies and organizations in the disability community. While these feelings are certainly understandable, CWICs shouldn't be reluctant to move forward in establishing partnerships with these community organizations. After all, CWICs and AFI Grantees share very similar commitments and goals related to assisting and supporting individuals who are low-income and disadvantaged to move toward greater personal independence and self-sufficiency. Remember, two of three asset goals that AFI IDAs support are all about supporting the employment of people through education and small business capitalization.

As CWICs move forward with efforts to build relationships with AFI grantees, it's also important to know that the staff members of these programs are likely to share some of the same concerns about expanding into new territory. Most AFI grantees aren't familiar with WIPA projects or the larger disability community and are concerned about the ability of those programs to support IDA participants with disabilities. Many have expressed being overwhelmed by the large number of agencies and organizations serving people with disabilities and readily admit to not knowing where to go for help or for answers to their questions.

Finally, it's also likely that CWICs will encounter AFI programs that have misconceptions about the effect of IDA participation on Social Security disability benefits. The AFI grantees may have heard stories about the complexity of the Social Security disability benefit programs, and may even have been told by agency personnel that IDA participation for SSDI and SSI beneficiaries isn't possible or beneficial. Possible concerns or misconceptions may include that people with disabilities who receive these benefits aren't able to work and thus can't contribute earned income to an IDA, that they are prohibited by Social Security program rules from acquiring assets, and that they will lose their benefits if they participate in an IDA. In an effort to do no harm to beneficiaries, AFI providers may discourage participation in an IDA by people with disabilities.

The reality is that Social Security disability beneficiaries are wonderful candidates for AFI IDAs. The Social Security Disability program rules actually favor AFI and TANF IDA participation and provide numerous opportunities for beneficiaries to build assets for their future without jeopardizing essential benefit supports.

Additionally, these disability benefit programs provide an array of incentives and supports to work. The SSI program, in particular, is very work friendly. Many beneficiaries of these programs can and do work, and thus can contribute to an IDA. Although the program rules are very IDA friendly, they aren't well known or understood by the asset development community. Consequently, assisting AFI grantees to understand the basics of these Social Security rules pertaining to work, earnings, and IDAs is an important step towards encouraging and supporting the participation of Social Security beneficiaries.

Getting to Know your Local AFI Grantees

As mentioned earlier, The Office of Community Services supports more than 200 agencies and community-based groups across the nation that run AFI Projects and other programs to help low-income families build their economic assets. AFI grantees are in virtually all states, and new ones are being funded each year. The first step in supporting beneficiaries to participate in IDAs is finding out who the AFI grantees are in the state and local community. The Office of Community Services makes this a fairly simple task by providing a directory of the projects on its website. You can find the link to the "AFI Project Locator" under "Conducting Independent Research" at the end of this unit. Some of you may be surprised to see the large number of AFI grantees operating in your state.

CWICs should be aware that the grantee organizations listed on the AFI website are likely to be working with a network of community partners to deliver IDAs and services to participants. Many AFI grantees have found that developing partnerships with other organizations to serve as IDA service sites makes it possible to offer IDAs across a wider geographic region. These partners function as a "store front" of sorts for the AFI grantee, offering individual development accounts as an additional service option to their current constituents or new referrals from the community.

Frequently, these partner organizations are referred to as IDA collaborative members or intermediaries. The AFI grantee typically allocates the partners a certain number of IDA slots, and the partners manage the local recruitment, initial screening, assistance with eligibility, and case management support throughout an individual's IDA participation. This is particularly helpful to the AFI grantees that are faced with limited resources for providing direct case management supports. So, when meeting or talking with the AFI grantee, it's important to inquire about its AFI network partners. It will also be important to find out to which agency or organizations you should refer interested beneficiaries and the process for doing so. Other program requirements and characteristics that CWICs will want to become familiar with include eligibility definition and determination, the asset goals that the program offers, IDA match rate, and the requirements set by the program for participant contributions and savings period.

What Participants Can Expect from AFI Grantees

It's also important to learn about the IDA services and supports that participants can expect from the AFI grantee and their partner organizations. While all IDA programs are unique, there are some basic services and supports.

To start with, participants can expect that once they are accepted into the program, an IDA case manager will meet with them to develop their individualized savings plan. All IDA programs require participants to have Participant Savings Plans, and these plans frequently serve as a contract between the individual and the program, spelling out expectations of both parties. The savings plans typically detail the asset the individual will purchase, the amount the individual will save and the schedule of deposits, the match rate the AFI IDA project will provide, the financial education classes and asset specific training that the individual agrees to participate in, and information on other counseling or supportive services that the IDA program will provide.

Once the individual has established her or her savings plan, the AFI grantee will assist the individual with opening his or her IDA account and provide the individual with assistance as needed throughout the period of time that he or she is saving. This includes monitoring his or her IDA deposits and being available to problem solve when issues arise. IDA participants can also expect that the AFI grantee will allocate matching funds as they make their regular earnings contributions, and also provide or arrange for the financial education and asset-specific training the participants need to be successful. Finally, once the participant has met the savings goal and has completed all training and other requirements, the AFI grantee will assist with the actual asset purchase.

Strategies for Collaborating with AFI grantees

WIPA programs have an opportunity to play an important role in collaborating with AFI grantees to support asset development for Social Security disability beneficiaries. There are several key activities that CWICs may want to discuss and pursue when developing relationships with these organizations.

To start with, CWICs possess a wealth of information related to the disability benefit programs and the effects of work, earnings, and IDA participation. This is information that AFI IDA projects have a tremendous need for! It's very likely that local AFI grantees will be receptive to offers to conduct workshops for their staff and partners on this topic. While every WIPA project may not be in a position to offer formal training programs, it may be possible to serve as a source of information, answering questions related to disability benefits for AFI grantees as they arise. Just as a reminder, the VCU NTDC can assist with presentation materials on disability benefits and IDAs to support these efforts.

A second collaborative activity is identifying and referring individuals between WIPA projects and AFI grantee organizations. As you support beneficiaries who work or are actively pursuing work, it's likely you will encounter individuals who can benefit from participation in an IDA. Similarly, it's very likely that AFI grantees will meet beneficiaries who are working and pursuing an IDA, but haven't yet connected with a WIPA program for planning and assistance with their benefits and work incentives. It may be helpful to work out a formal process of referring beneficiaries between the two organizations to ensure that beneficiaries have access to all of the supports they need to be successful.

A third collaborative activity involves providing ongoing benefit and work incentive support to beneficiaries participating in IDAs. There are a number of instances when this might be needed, including the point in time that IDA participation begins. SSI recipients in particular are likely to need assistance in assessing the effects of their IDA participation on cash payments and may also need support in ensuring that Social Security deducts their IDA contributions from earnings in calculating their payment amount. Beneficiaries will also need ongoing assistance in planning and implementing Social Security and other work incentives in combination with their IDA. This is particularly true for beneficiaries using a PASS in combination with IDA. In addition, beneficiaries are likely to need supports when they access IDA emergency withdrawals or when they don't successfully complete their IDA, and the IDA program returns their earnings contributions. And, finally, as an integral part of the employment support team, CWICs are well positioned to link AFI grantees with other disability agencies and organizations in the community for other types of information and resources.

Benefits literacy includes education on a number of key factors including understanding of the eligibility requirements of the various programs, the effect of earned income upon the benefits, understanding what information beneficiaries need to report to the various governmental agencies, and training on common benefits problem areas and how to resolve benefits issues if and when they occur. Yet, in spite of its importance, most financial literacy programs provided by AFI grantees don't include a benefits literacy component. CWICs may want to explore opportunities and strategies with their IDA partners to address this need as they move forward in developing partnerships to support beneficiaries. IDAs provide a wonderful opportunity for beneficiaries to build wealth and financial independence. Critical to their success are the support and involvement of CWICs in helping beneficiaries to understand the IDA benefit effects and work incentive opportunities.

Achieving a Better Life Experience (ABLE) Act

A new asset-building opportunity for beneficiaries is the Achieving a Better Life Experience (ABLE Act). This Act, signed into law in December 2014, provides an opportunity for certain individuals with disabilities to establish tax-free savings accounts to pay for disability-related expenses that will help maintain or improve health, independence, and quality of life. The United States Treasury Department anticipates publishing the final regulations by 2018.

Purpose of the ABLE Act

Many individuals with disabilities and their families depend on public benefits for income, health care, and food and housing assistance. Programs such as SSI, Medicaid, and SNAP are means-tested with resource limits, and individuals who depend on these programs are discouraged from saving for expenses related to their disability. The ABLE Act addresses the significant costs that individuals with disabilities have in living or working in the community, including accessible housing and transportation, personal assistance services, assistive technology, or healthcare needs not covered by Medicaid, Medicare, or private insurance. The Act allows individuals who qualify to establish and designate a tax-advantaged savings account that won't affect the beneficiary's eligibility for SSI, Medicaid, or other public benefits.

Eligibility for ABLE Accounts

The final version of the ABLE Act limits eligibility to individuals with significant disabilities with an age of disability onset before their 26th birthday. An individual with a disability need not be under the age of 26 to be eligible for an ABLE account, but could be over the age of 26, and have documentation of a disability that indicates the onset of the disability occurred before the age of 26. Individuals who are already receiving SSI or SSDI benefits who meet the requirement of disability onset before age 26 are automatically eligible to establish an ABLE account.

An individual may only have one ABLE account at any given time. When an individual (or someone on behalf of the individual) establishes an account, the individual is the owner of the account, also known as the designated beneficiary.

How Beneficiaries May Use ABLE Account Funds

The Act permits designated beneficiaries to use the savings for qualified disability expenses, broadly defined as any expense the beneficiary has as a result of the disability. These expenses may include transportation, vehicle modifications, education expenses, home improvement and modification, medical and dental care, health and wellness, rehabilitation services, durable medical equipment, respite care, personal assistance, assistive technology, employment training and support, financial management, funeral or burial expenses, or other community supports.

Flexible Savings

The proposed regulations specify that an individual may make annual tax-free contributions allowable up to the annual gift tax exclusion amount to an ABLE Account. As of January 1, 2018 that amount is $15,000. Prior to this date, the maximum annual contribution was $14,000. An individual may make contributions to his or her own account, or someone else, such as a parent, corporation, trust, or other entity can contribute to the individual's account. The advantage of the ABLE account is the ability to accumulate interest income, which is also tax exempt. Beneficiaries will also have an opportunity to direct the investment of their contributions. Savings and income accumulated in ABLE accounts aren't counted in determining the designated beneficiary's eligibility for federal means-tested programs, or determining the amount of any benefit assistance under those programs. Additionally, the SSI program exempts the first $100,000 accumulated in ABLE accounts from the SSI program $2,000 resource limit. If resources exceed $100,000, the program would suspend the SSI; however Medicaid eligibility continues.

The proposed regulations further state that distributions for qualified disability expenses are tax-free. Withdrawals for disability-related expenses can occur at any time throughout the year. The ABLE Act allows flexibility to roll over an account to another individual who is eligible for the ABLE program such as a sibling or successor prior to the death of a designated beneficiary. Once a beneficiary is deceased, the state may file a claim on the beneficiary's estate to recoup the amount of medical assistance paid for the beneficiary under the state's Medicaid plan. However, the state calculates the amount of any such Medicaid payback based on the amounts that Medicaid paid after the beneficiary created an ABLE account.

Implementation of the ABLE Act in States

Under a new section of the Internal Revenue Code (Section 529A), the ABLE Act provides states with options to develop qualified ABLE programs. The majority of states have passed similar ABLE legislation; however, once the federal regulations are published, the IRS will allow states to transition to the federal guidance to comply with the IRS regulations.

The CWIC's Role in Advising on ABLE Accounts

When the Treasury Department releases its final guidance, CWICs should learn more about the regulations and be prepared to educate beneficiaries who are eligible to participate in ABLE programs about the opportunities it provides to save and pay for disability-related expenses. The CWIC's role isn't to be a financial advisor. However, CWICs should be aware which beneficiaries are eligible for ABLE accounts and should learn where to refer individuals to the program that operates ABLE accounts in their state.

Conclusion

IDAs present Social Security disability beneficiaries with a unique opportunity to accumulate wealth and save for long-term goals such as home ownership, education, and self-employment. CWICs are in an optimal position to assist beneficiaries to take advantage of IDAs educating them about the effect of IDAs on Social Security disability benefits and other publicly funded benefits, and the interaction between IDAs and Social Security work incentives, such as PASS.

CWICs also have a role to play in connecting with IDA grantees. Collaborative efforts include such activities as educating grantees about Social Security work incentives and regulations that favor the use of IDAs for beneficiaries, and providing appropriate referrals for IDA applicants. IDA grantees can serve as an important source for beneficiaries in need of services as well. By developing partnerships with IDA grantees, CWICs can promote asset building, financial literacy and, ultimately, greater financial independence for Social Security Disability beneficiaries and their families.

Conducting Independent Research

Office of Community Services – Assets for Independence:
http://www.acf.hhs.gov/programs/ocs/programs/afi

Community Opportunities, Accountability, and Training Educational Services Act of 1998, Title IV – Assets for Independence Act:
http://www.acf.hhs.gov/programs/ocs/afi/afialaw2000.html

AFI Project Locator:
https://www.acf.hhs.gov/ocs/afi-project-locator

Corporation for Enterprise Development (CFED):
https://community-wealth.org/content/corporation-enterprise-development

Center for Social Development:
http://csd.wustl.edu/Pages/default.asp

National Disability Institute: http://www.realeconomicimpact.org

Social Security POMS Regulation Links:

a. **SI 00830.670 Exclusion from income and resources of Demonstration Project IDAs (AFI IDAs):**
https://secure.ssa.gov/apps10/poms.nsf/lnx/0500830670

b. **SI 00830.665 Exclusion from income of TANF-funded IDAs:**
https://secure.ssa.gov/apps10/poms.nsf/lnx/0500830665

c. **SI 01130.678 Exclusion from resources of TANF-funded IDAs:**
https://secure.ssa.gov/apps10/poms.nsf/lnx/0501130678

ABLE National Resource Center
https://community-wealth.org/content/corporation-enterprise-development