

# **Part I Chapter 1 – Understanding Social Security Disability Benefits**



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# Chapter 1 – Understanding Social Security Disability Benefits

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## Learning Objectives

After you have read this chapter and completed the associated lectures and activities during the WIPA Initial Training, you should be able to:

1. Identify the basic eligibility requirements of the three Social Security disability benefit programs.
2. Identify and describe key factors Social Security considers during Substantial Gainful Activity (SGA) determinations.
3. Describe work incentives that can be applied to reduce countable earned income during SGA determinations – Impairment Related Work Expenses (IRWE) and Subsidy/Special Conditions.
4. Describe work incentives that allow beneficiaries to test their ability to work without losing cash payments – Trial Work Period (TWP) and Grace Period.
5. Describe work incentives that allow beneficiaries to get benefits back if work stops – Extended Period of Eligibility (EPE) and Expedited Reinstatement (EXR).

## List of Acronyms

- CDB – Childhood Disability Benefits
- COLA – Cost of Living Adjustment
- CS – Claims Specialist
- CWIC – Community Work Incentives Coordinator
- DAC – Disabled Adult Child Benefits
- DWB – Disabled Widow(ers) Benefits
- EPE – Extended Period of Eligibility
- EXR – Expedited Reinstatement

- FICA – Federal Insurance Contributions Act
- FMAX – Family Maximum
- FO – Field Office
- IRWE – Impairment Related Work Expense
- NH – Number Holder
- OASDI – Old Age, Survivors, and Disability Insurance Program
- PIA – Primary Insurance Amount
- QC – Quarter of Coverage
- SGA – Substantial Gainful Activity
- SSA – Social Security Administration
- SSDI – Social Security Disability Insurance
- SSI – Supplemental Security Income
- TWP – Trial Work Period
- UWA – Unsuccessful Work Attempt

## **Overview of Social Security Disability Benefits**

Title II of the Social Security Act authorizes the Old-Age, Survivors, and Disability Insurance (OASDI) program of the Social Security Administration (SSA). The original Social Security retirement and survivor's benefit program that began in 1935 did not contain provisions for disability insurance. Congress added the "D" in OASDI more than 20 years later, on August 1, 1956. This is the date that President Dwight D. Eisenhower signed into law the 1956 Amendments to the Social Security Act establishing the Social Security Disability Insurance (SSDI) program.

Over the years, the program has grown. Social Security's current disability program provides monthly benefits to the following groups:

1. Former workers with a recent work history (SSDI) (may also include benefits for dependent family members such as minor children);
2. Disabled children (aged 18 or older) of retired, deceased, or disabled workers (Childhood Disability Benefits or CDB); and
3. Disabled widows or widowers aged 50 or older (Disabled Widow(ers) Benefits or DWB).

There is another disability program Social Security administers called Supplemental Security Income or SSI. The SSI program targets eligible persons who have limited income and resources and who are disabled, blind, or aged 65 or older. Blind or disabled children, as well as adults, are also eligible to receive SSI benefits. Monthly SSI benefits assist with the costs of food and shelter. Unlike Social Security OASDI benefits, SSI benefits are not based on prior work. Instead, Congress funded the SSI program from income taxes. This chapter focuses exclusively on the Social Security disability benefits authorized by Title II of the Social Security Act. We cover the SSI program, which was authorized by Title XVI of the Social Security Act, in Chapter 3.

## **Earning Entitlement to Social Security Benefits**

Workers earn Social Security benefits by paying taxes on wages or on the net-profit from a trade or business. You may recognize this tax as a payroll deduction called "FICA" which stands for the Federal Insurance Contributions Act. Social Security calls having enough work to become entitled to benefits "Insured Status". To determine a worker's insured status, Social Security looks at the amount of the worker's earnings on which the worker paid Social Security taxes. Workers earn "credits", also called Quarters of Coverage (QC), for those earnings. Workers can earn a maximum of four QCs per calendar year. The amount of earnings required for a QC adjusts automatically each year in proportion to increases in the average wage level. Social Security determines insured status based on a minimum number of credits during certain periods of a person's working life. The requirements for insured status differ depending on the type of Social Security benefit involved.

You can learn more about **Quarters of Coverage** by referring to Social Security’s website (<https://www.ssa.gov/oact/cola/QC.html>).

## **Fully Insured Status**

Eligibility for most types of Social Security benefits requires that the worker is “fully insured”. Social Security considers someone to be fully insured if they earn one credit for each year between the time the person turned 21 and the date of death, date of disability, or the date the person turns 62. A person can earn these credits any time during their work history. Regardless of age, the person who paid into Social Security or the “Number Holder” (NH) must have earned at least six credits for anyone to receive benefits on that work record. The number of credits required for insured status will never exceed 40, or the cumulative equivalent of ten years of covered earnings.

## **Disability Insured Status**

There is another type of insured status required for people to receive disability benefits based on their own work history, called “disability insured” status. Disability insured status means that the individual meets the fully insured status test discussed above, and also meets a test for recent work. For disabilities that began when the claimant was over age 31, the claimant must have at least 20 QCs or credits during the ten-year period immediately before the date the medical evidence indicates the disability began. If the claimant is younger than 31, the number of credits for disability benefits is less than 20, and varies depending on the claimant’s age. However, at least 6 credits are required even if the claimant is younger than age 31.

Social Security provides an explanation of insured status accessible by visiting **The Redbook – A Guide to Employment Supports (Publication No.64-030)** ([www.ssa.gov/redbook](http://www.ssa.gov/redbook)). Since Community Work Incentives Coordinator (CWICs) who provide Work Incentives Planning and Assistance (WIPA) services work exclusively with individuals who are already receiving disability benefits, they do not need to have expertise in insured status. CWICs do need to have a general understanding of the concept since some beneficiaries may establish eligibility for additional types of Social Security benefits after services begin or may ask questions about how they earned the benefit.



# **Types of Social Security Disability Benefits and Eligibility Requirements**

An individual may establish entitlement to a Social Security benefit in many ways, the majority of which have nothing to do with disability. Remember, Social Security benefits authorized by Title II of the Social Security Act include retirement benefits, survivor's benefits and benefits to dependent family members of insured former workers. In this chapter, we focus on the benefits based on disability since eligibility for WIPA services is limited to these individuals. Title II of the Social Security Act authorizes three distinct types of disability benefits:

1. Social Security Disability Insurance (SSDI) is a wage replacement benefit paid to insured former workers who are no longer able to support themselves by working due to disability. To qualify for SSDI, an individual must:
  - a. Be fully insured and meet the requirements for disability insured status;
  - b. Be disabled per Social Security's standards;
  - c. File an application with the Social Security Administration; and
  - d. Serve a waiting period consisting of five full calendar months before SSDI cash payment will begin.

Social Security can pay SSDI cash benefits retroactively – meaning before the date of application. Payments may be paid back to the date of disability onset (the date Social Security determines an individual first met the disability standard), up to a maximum of 12 months before the month the person filed the application.

2. Childhood Disability Benefits (CDB), previously called Disabled Adult Child's benefits (DAC), are payable to the adult child of an insured worker who has died, or who is entitled to a

retirement or disability benefit. To qualify for CDB, an individual must:

- a. Be the child of an insured former worker who is deceased or collecting Social Security benefits based on his or her work;
- b. Have a disabling condition based on Social Security's standards that began prior to the time the child attained age 22;
- c. Be at least 18 years old;
- d. File an application with the Social Security Administration; and
- e. Not be married (with some exceptions).

Individuals who are eligible for CDB do not have to serve a five-month waiting period before monthly payments begin. Social Security does not pay Childhood Disability Benefits before the month the individual turns 18. (**Note:** Prior to age 18, children of a deceased or entitled worker, even if the child has a disability, may receive benefits based on age and relationship, called "child's benefits.")

3. Disabled Widow(er)'s Benefits (DWB) are payable to the widow, widower, or surviving divorced spouse of an insured former worker. To qualify for DWB, an individual must:
  - a. Be at least age 50 years of age;
  - b. Provide proof of the marriage with the deceased worker and meet other requirements regarding the length of time between that worker's death and the disability onset, reaching age 50, and the application for benefits;
  - c. Be unmarried (with some exceptions);
  - d. File an application with the Social Security Administration; and
  - e. Serve a waiting period consisting of five full calendar months before DWB cash payment will begin.

The definition of disability and the disability determination process are the same for all three disability benefit groups. We discuss Social Security's disability standard and the disability determination process at length in Chapter 7.

## **How Social Security Determines Monthly Benefit Payments**

Once Social Security determines that a former worker has sufficient QCs to permit entitlement to benefits, they determine the Primary Insurance Amount (PIA). The PIA is the result of a complex benefit calculation that Social Security performs to determine the amount of monthly payments. Social Security calculates all benefits it pays on the worker's record from the PIA. This includes benefits paid to the worker as well as any benefits paid to dependent family members or survivors. There are many different calculations depending on the type of Social Security benefits available on a worker's record. Social Security chooses the appropriate calculation based on a worker's date of birth and the date the disability began, the date a worker died, or the date a worker became entitled to a retirement benefit. Social Security calculates the PIA and determines monthly benefit payment amounts when someone first applies for benefits. After initial application, the payment amount may change due to annual cost-of-living adjustments (COLAs) or periodic re-computations that occur when an individual has additional earnings that positively affect the benefit.

When more than one person is entitled to a benefit based on a worker's record, Social Security limits the total amount of benefits paid each month based on the "family maximum" (FMAX). The FMAX caps the amount of benefits paid to dependent or surviving family members based on a worker's earnings. If the worker is living, the worker receives his or her full benefit, and the rest of the dependent family members share what is left up to the FMAX. If the former worker is deceased, the entitled family members each receive their full benefit, unless the total exceeds the family maximum. If it does, then family members each split a portion of the remainder of the FMAX after deducting the worker's benefit. Social Security calculates the FMAX by subjecting the PIA to a complex formula.

## Effect of Work on Title II Disability Benefits

**NOTE:** The information in this chapter relates to Title II disability beneficiaries who are engaging in wage employment rather than self-employment. Social Security treats self-employment and wage employment very differently. You will need to complete additional training to be able to provide effective WIPA services to disability beneficiaries who are engaging in self-employment or planning to become self-employed. You can find detailed information about the effect of self-employment on Title II disability benefits by reading a resource document entitled **Self-employment and Social Security Disability Benefits** available on the NTDC website (<https://vcu-ntdc.org/resources/viewContent.cfm?contentID=35>).

Congress created Social Security disability benefits to serve as a partial wage replacement program for individuals who are unable to support themselves by working due to disability. Social Security measures a person's ability to support themselves through working by comparing what a person earns or can be expected to earn with a special monthly wage figure they call "Substantial Gainful Activity" or SGA. Social Security makes SGA determinations when individuals first apply for disability benefits and during periodic reviews that continue as long as individuals receive benefits. An individual who Social Security determines is engaging in SGA or is able to engage in SGA is not considered to be "disabled" by definition and thus is not eligible for disability benefits. The concept of SGA is critically important in Social Security's disability benefit program.

### Introduction to Substantial Gainful Activity (SGA)

During an SGA determination, Social Security determines the value of an individual's work activity as compared to a specific dollar figure known as the SGA guideline. The SGA guideline is a monthly earned income figure. Once Social Security applies all work appropriate deductions and work incentives, they compare the "countable" monthly earned income to the applicable monthly SGA guideline for the calendar year — different years have different SGA guideline amounts. If

countable earned income averages above the applicable SGA guideline, the work activity generally represents SGA. If the countable income averages below the applicable SGA guideline, Social Security is unlikely to consider the work activity to be SGA. Beneficiaries who are not working at a substantial level continue to receive full monthly benefit payments. Individuals who work at a substantial level may eventually have benefits suspended or terminated.

Under current regulations, the SGA guidelines can change annually — this is referred to as being “annually indexed.” In addition, one SGA guideline applies to individuals who receive benefits due to blindness and another SGA guideline applies to all other individuals with disabilities. You can find the SGA guidelines for the current year and all past years in Social Security’s Program Operations Manual System (POMS) at **[POMS DI 10501.015 Tables of SGA Earnings Guidelines and Effective Dates Based on Year of Work Activity](https://secure.ssa.gov/apps10/poms.nsf/lnx/0410501015)** (<https://secure.ssa.gov/apps10/poms.nsf/lnx/0410501015>).

Social Security Claims Specialists (CS) within the local Social Security field office (FO) typically make SGA decisions, but other Social Security personnel may make these determinations under certain circumstances. Social Security personnel make SGA determinations when they conduct a work Continuing Disability Review (CDR). A work CDR occurs when a beneficiary reports having earnings from employment or self-employment or when Social Security discovers that a beneficiary has earned income that could affect entitlement or use of work incentives.

## **Earnings Evaluation during SGA Determinations — Important Concepts to Understand**

Many people think that SGA is simply a number — an objective concrete dollar figure that Social Security establishes each year as the upper limit that a beneficiary can earn before eligibility for benefits ends. SGA determinations involve the interpretation of complex regulations as they apply to an individual beneficiary given that person’s unique situation. This flexibility is necessary, but can be challenging to understand.

SGA determinations require that Social Security personnel gather the applicable facts, apply the appropriate rules and procedures, and use

their best judgment to render a decision. Let's look at some important concepts that apply whenever Social Security evaluates an individual's earned income to determine if the work represents SGA.

## **Pay for Work Activity**

Social Security bases SGA determinations on earned income. This means income individuals receive in exchange for work. Social Security does not consider unearned income during SGA determinations. In addition, Social Security makes SGA determinations based on a beneficiary's GROSS earnings – this means earnings before any deductions such as federal or state taxes, FICA deductions or withholding for health insurance premiums. Social Security also considers "in-kind" payments as well as cash. The value of anything beneficiaries receive in exchange for work they perform may count as earned income during an SGA determination. Payments in-kind would include items such as room and board in exchange for performing work.

When determining how much in wages to count during SGA determinations, federal regulations require that Social Security personnel disregard certain types of pay. For example, Social Security only counts wages that represent the beneficiary's actual work effort. Because of this policy, if an individual receives sick or vacation pay in a particular month, Social Security will not consider that pay as countable income for that month. In addition, payments beneficiaries may receive such as reimbursements for travel expenses generally do not count during an SGA determination since this is not pay based on work activity.

You will find detailed information on how Social Security defines wages in the POMS at **RS 01401.000 Wages** (<https://secure.ssa.gov/apps10/poms.nsf/lnx/0301401000>).

## **Earned Income Counts in the Month when Earned, Not When Paid**

In the Title II disability program, Social Security evaluates earnings on a calendar month-by-month basis. Social Security generally counts earned income in the month when the beneficiary earned it, not in the month the beneficiary was PAID. This may seem like a minor distinction, but it can have an effect upon SGA determinations. For example, beneficiaries may be concerned about losing entitlement

because they received an extra paycheck in a month. This happens when individuals are paid every week or every other week due to the way pay dates fall within a calendar month. Since Social Security counts wages when they are earned, not when they are paid, the two months each year that involve an extra paycheck should not cause benefit termination. Another example would include teachers who may elect to be paid on a 12-month basis, even though they only teach for 9-10 months out of the year. These teachers would earn the pay over the school year, not the calendar year. In these cases, Social Security would take the annual salary of the teacher and divide it over the number of months the teacher actually worked to determine the monthly earnings during an SGA determination.

Current regulations require that Social Security personnel evaluate any readily available earnings verification sources to determine when the beneficiary earned wages. However, in some cases, it is hard to determine when wages were actually earned. If Social Security personnel have no other readily available evidence to determine when the beneficiary performed the work activity, they will use other sources of earnings verification even if the earnings source only documents when the employer paid the beneficiary.

## **Social Security Disability Program Work Incentives**

Social Security considers many different things when they are evaluating a beneficiary's work to see if that person is engaging in SGA. In addition to the concepts described above, there are work incentives that apply in the Title II program to help ease the transition from dependence on benefits to self-support through employment. Some of these work incentives apply to all Title II disability beneficiaries who work, while others only apply under a set of prescribed circumstances. There are lots of different work incentives, and they can be sorted into three main categories:

1. Work incentives that allow beneficiaries to earn above SGA and not lose benefits right away;
2. Work incentives that reduce how much earned income counts during an SGA determination; and
3. Work incentives that help individuals get benefits back again if needed after Social Security suspends or terminates benefits due to earned income.

Let's take a look at each of these categories and the different work incentive provisions that may apply in the Title II program.

## **Work Incentives that Allow Beneficiaries to Earn Above SGA and Not Lose Benefits Right Away**

### **The Trial Work Period**

By far the most important work incentive in this category is something Social Security calls the Trial Work Period or TWP. The TWP offers beneficiaries a limited period of time to test their ability to work while maintaining full benefit payments, no matter how much the beneficiary earns. As long as a beneficiary remains in their TWP, Social Security will not stop their benefits due to SGA. When an individual has used up all available TWP months, the TWP ends and Social Security will evaluate that person's wages to see if they are able to engage in SGA level work. During SGA determinations that Social Security performs after the TWP ends, Social Security may consider the wages earned during the TWP. SGA level work performed during the TWP may cause benefits to stop AFTER the TWP ends. The TWP does not mean that Social Security ignores all of the work performed during that period of time. The TWP simply protects benefit continuation during the months in which this work incentive applies. Suspension due to SGA cannot occur until after the TWP ends.

Each year, Social Security sets a monthly amount of gross wages as a guideline for determining use of TWP months. When an individual earns more than the applicable TWP guideline in a calendar month, they use up one TWP month. The TWP guidelines change every calendar year.



You can find the **current and past TWP guidelines** in the POMS (<https://secure.ssa.gov/apps10/poms.nsf/lnx/0413010060>).

The TWP ends when a beneficiary performs nine months of work over the TWP guideline within a rolling period of 60 consecutive months. The TWP months within the 60-month period do not have to be consecutive for Social Security to count them. When a beneficiary reports that they are working, Social Security looks at the wages on a month-by-month basis and marks all of the possible months with wages over the applicable TWP guideline. Social Security counts forward until they identify nine TWP months, then counts back 60 consecutive months to see if the beneficiary completed all nine TWP months within that period. If not:

- Social Security disregards the service months that fall before the 60-month period;
- Social Security counts the service months that fall within the 60-month period; and
- The TWP continues.

Each time that a beneficiary uses a TWP month, Social Security uses the same procedure — counting forward until they count nine service months, and then counting back 60 months to see if the nine TWP service months all fall within five years. If at any point in time, nine service months fall within a 60-month period, Social Security determines the TWP is complete. The 60-month timeframe does not mean that a person receives a new TWP every five years. Instead, it means that Social Security may ignore months of TWP level work that happened a long time before the current work effort. If a beneficiary works sporadically, TWP months can be spread out over a long period of time. Some beneficiaries have more than nine months of TWP level work, but the TWP does not end because the months are so spread out they do not have nine months that fall within a 60-month period. It will take some practice for you to be able to count TWP months correctly. Your instructors will provide you with lots of TWP examples during initial training.

Once the TWP ends, the TWP protections end. Beneficiaries have only one TWP during a period of entitlement. The person does not get another TWP based on the same Social Security record unless Social Security terminates the person's benefits, and the person subsequently

becomes entitled again. Let's look more closely at several key aspects of the TWP:

- TWP months are only used if an individual earns pre-tax (gross) wages of more than the current monthly TWP guideline. If the gross monthly wages are under the TWP guideline, Social Security will not count that as a TWP month.
- Unlike the SGA guideline, there is no special TWP guideline for individuals who receive benefits based on blindness. The same TWP guideline applies to all Title II disability beneficiaries regardless of disability across all three of the Social Security disability benefit programs (SSDI, CDB and DWB).
- During the TWP, Social Security is only concerned with income paid for work usually performed for pay or profit that exceeds the applicable TWP amount. This may include sheltered workshop earnings, vocational rehabilitation (VR) program earnings, and income generated by paid internship programs or work therapy programs. Work activity performed without pay (e.g., therapy, training, or self-care) will not use a TWP month.
- To use a TWP, a beneficiary must continue to have a disability. The TWP only protects beneficiaries from losing benefits due to work. It does not prevent Social Security from reviewing a person's medical condition.
- The first possible TWP month usually occurs the first time after entitlement to Title II disability benefits that a beneficiary begins to work and has earnings over the applicable TWP guideline. The TWP may not begin before the date a person applies for disability benefits. The TWP may not occur before the first month a beneficiary becomes entitled, or re-entitled, to benefit payments.
- There are no deductions that apply to gross wages during the TWP. Social Security will determine the gross wages a beneficiary earned in a month and compare those monthly wages to the current TWP guideline. If the gross wages are

over the current TWP guideline, the beneficiary will have used a TWP month.

## **Cessation Month and Grace Period**

As long as the beneficiary continues to have a disability, the first time that SGA-level work could affect payment of benefits is after the TWP ends. When a beneficiary demonstrates the ability to perform SGA level work after the TWP, Social Security considers the disability has “ceased”. Social Security allows beneficiaries to receive a payment in this month, called the cessation month, and the two succeeding months, called the “Grace Period”. This results in a three-month period during which benefit payments continue even though Social Security has determined the beneficiary engaged in SGA. Even though we refer to cessation month and grace period separately, Social Security always applies them together as one three-month block. Benefits do not stop until after the grace period. Social Security calls the first time a person performs SGA after the TWP “cessation” because when a person is able to engage in SGA level work, they are no longer considered to be disabled per the agency’s standards. You will learn more about Social Security’s disability standard and how SGA is considered during disability determinations in Chapter 7.

The cessation and grace months, like the TWP, are only available once during a period of disability. Social Security gives beneficiaries another Cessation Month/Grace Period only if they become re-entitled to benefits. The Grace Period remains available to protect a beneficiary’s cash payments for three months if or when the beneficiary ever engages in SGA after the TWP ends. The Grace Period may fall immediately after the TWP ends, at some other point in the future if the beneficiary engages in SGA later than the end of the Trial Work Period. If the beneficiary never performs SGA, Cessation may not occur at all, even if the TWP ends.

## **Income Averaging**

Title II disability beneficiaries often fear that a single month in which their earnings exceed the current SGA guideline will result in benefit termination. Fortunately, this is seldom the case due to two very important tools Social Security applies during SGA determinations: Income Averaging and Unsuccessful Work Attempts (UWA).

Fluctuations in wages may occur for beneficiaries who earn an hourly wage and whose work hours vary each month. Individuals employed in the service industry (restaurants, hotels, or retail stores) often experience this type of earnings variance. Averaging helps Social Security personnel identify a pattern of SGA-level work in a more accurate way than looking at month-by-month wage data. The rules governing when Social Security can apply averaging and which months of wages can be averaged together are complex. The important thing to remember is that in most cases, beneficiaries who have increased earnings in a single month are unlikely to lose entitlement to their benefits due to SGA level work. You can learn more about **income averaging** by completing a short archived training session available on the NTDC website (<https://vcu-ntdc.org/resources/viewContent.cfm?contentID=200>).

## **Unsuccessful Work Attempts**

Social Security recognizes that in some cases a beneficiary may try to return to work but may only be successful for a short period of time. Social Security does not want to needlessly stop payments to a beneficiary who tries to perform substantial work, only to find that they cannot sustain that effort over time because of the disability. Because SGA is really a pattern of work behavior, it makes sense that Social Security would excuse a work effort of short duration under certain circumstances. Social Security refers to this as an Unsuccessful Work Attempt or UWA.

Just as with averaging, there are only certain circumstances in which Social Security can apply the UWA provisions when evaluating a beneficiary's work. When UWA applies, Social Security will consider SGA level work of six months or less to be an UWA if the beneficiary stopped working or reduced work and earnings below the SGA earnings level because of an impairment or because of the removal of special conditions that accommodated the beneficiary's impairment and permitted the beneficiary to work. Social Security cannot disregard SGA-level work lasting more than six months as UWA regardless of why it ended or why wages were reduced to the non-SGA level. There must be a significant break in the continuity of a person's work before Social Security can consider the beneficiary to have begun a work attempt that later proved unsuccessful.

You can learn more about UWA by reading a resource document entitled **Understanding Unsuccessful Work Attempts** available on the NTDC website (<https://vcu-ntdc.org/resources/viewContent.cfm?contentID=250>). You can learn more about how Social Security decides **when a period of SGA level work is unsuccessful** by completing a short online archived training session available on the NTDC website (<https://vcu-ntdc.org/resources/viewContent.cfm?contentID=198>).

## **Work Incentives that Reduce How Much Earned Income Counts during an SGA Determination**

### **Impairment Related Work Expenses (IRWE)**

Social Security recognizes that some beneficiaries incur additional expenses when they work because they are disabled that a non-disabled person would not have to pay. Because of this, Social Security allows disability beneficiaries to subtract the cost of certain disability related items and services they need to work when determining how much of the person's earned income is "countable" during SGA determinations. Social Security calls these special costs Impairment Related Work Expenses or IRWEs. The purpose of the IRWE work incentive is to take work costs associated with a disability into account when assessing the value of a beneficiary's earnings.

For Social Security to approve an IRWE deduction, the expense must meet five criteria:

1. The expense must directly relate to enabling the beneficiary to work. This means that items the person needs simply to live more independently would generally not qualify as IRWEs. However, some items like out-of-pocket costs for prescription medications do qualify as IRWEs even though the individual would be taking the medication whether or not they worked. The person may deduct the non-reimbursed cost of the prescription because the medication helps the individual

manage his or her impairment, and such management is necessary for the person to work.

2. The expense has to relate to a medically determinable impairment for which the beneficiary is receiving treatment from a health care provider, rather than being a cost that anyone would incur by working. This means that Social Security will not count things like FICA deductions or health insurance premiums as IRWEs.
3. The individual must pay the expense out of pocket and not be reimbursed from another source. Social Security requires beneficiaries to submit documentation to prove payment of IRWEs.
4. In most cases, the individual must pay for the expense in a month during which the individual was working. Under some circumstances, Social Security may deduct as an IRWE any costly durable goods purchased during the 11-month period preceding the month work started. In some cases, beneficiaries may also subtract expenses they incurred in a month of work, but paid for after work stopped.
5. The expense must be "reasonable." An expense is within reasonable limits if it is no more than the prevailing charge for the item or service in the local area. Prevailing charges fall within a range most frequently and widely used in a community for a particular item or service. The top of this range establishes the standard or normal cost that can be accepted as within reasonable limits for a given item or service.

The range of allowable costs under IRWE is extensive and includes costs of adaptive equipment or specialized devices, attendant care, counseling services, special transportation costs, costs for the care of service animals, the cost of job coach services if paid by the beneficiary, and anything else Social Security thinks is necessary and reasonable, considering the person's impairment(s) and circumstances. There is no definitive all-inclusive list of acceptable IRWEs, but to find a list of common IRWEs, read **The Redbook – A Guide to Employment Supports (Publication No.64-030)** ([www.ssa.gov/redbook](http://www.ssa.gov/redbook)).

There are no time limits on how long individuals can use IRWEs to pay for particular services or items. This is beneficial for individuals who have ongoing impairment-related work expenses such as transportation assistance or job coach follow-along services. It is not necessary that an IRWE be a monthly recurring expense. In some instances, individuals may have a one-time expense, such as the purchase of a piece of medical equipment. In this case, Social Security may deduct the expense as an IRWE all in one month or pro-rate the expense over a period of 12 months, depending on which is better for the beneficiary.

The IRWE work incentive includes many complex rules about what expenses Social Security may count and how they may apply the deduction for various expenses. You can learn more about IRWEs by completing an online archived training entitled **Understanding Impairment Related Work Expenses** available on the NTDC website (<https://vcu-ntdc.org/training/supplemental/archives.cfm>). You can also read detailed information about **IRWEs in the POMS** at (<https://secure.ssa.gov/apps10/poms.nsf/lnx/0410520000>).

## **Subsidy and Special Conditions**

When Social Security conducts SGA determinations, they are interested in the “value” of an individual’s work. Social Security rules recognize that what a person actually receives in pay may or may not be the same as the value of that person’s work when compared to a non-disabled peer. Social Security considers the value of work because it is a better indicator of an individual’s ability to support themselves by working over time.

Social Security uses a work incentive called Subsidy/Special Conditions when there is evidence a person is being paid more than the value of the work performed as compared to non-disabled peers. Subsidy is support a beneficiary receives on the job that could result in a beneficiary receiving more pay than the value of the person’s work. Social Security recognizes that sometimes a person’s disability results in the need for extra assistance, a reduced production rate, frequent breaks, fewer job duties than co-workers in a similar job, or other special treatment. When that happens, the individual’s wages represent not only pay for their own work product or effort, but also direct help from someone else, like a supervisor, a co-worker, or a job coach. Subsidy could also occur when an employer pays the same wage to a worker with a disability who may work more slowly or produce lower

quality work than other employees. In simplest terms, Subsidy means that in some cases, a beneficiary may receive more pay than the reasonable value of their work when compared to other non-disabled employees performing the same tasks.

When performing SGA determinations, Social Security is only interested in evaluating earnings that they can attribute to the beneficiary. Social Security adjusts the value of the pay a beneficiary receives by deducting the value of extra help or special accommodations that a beneficiary gets. Applying "subsidy" during SGA determinations is the process of performing this adjustment.

A subsidy can occur in various ways. Employer subsidies happen when the beneficiary's employer provides extra accommodations, supervision, or other special assistance because of the beneficiary's disability. Specific subsidies are those in which employers can designate a specific dollar amount of subsidy after calculating the reasonable value of the worker's services. An example of this would be if an employer hired a reader to assist an employee who was blind. The actual cost of the readers' salary would be a specific subsidy. Employers also provide non-specific subsidies that are a little bit more difficult to quantify in terms of value. Non-specific subsidy would include things like providing a disabled employee more time to complete a task, or changing someone's job duties to accommodate a disability. To determine the value of a non-specific employer subsidy, the employer must estimate the proportional value of the work according to the prevailing wage for such work paid to a non-disabled employee.

Another type of subsidy is called "special conditions." Special conditions exist when a beneficiary receives supports or services from someone other than the employer, potentially subsidizing the worker's ability to perform SGA. Any third party may provide special conditions. Most often a State Vocational Rehabilitation (VR) agency, a community rehabilitation agency, or another service provider provides them. Strong indicators of subsidized work include employment in a sheltered workshop or job coach services provided to workers. Social Security determines the value of a special condition subsidy by comparing the time, energies, skills, and responsibilities of the beneficiary to workers without disabilities performing similar work and then estimating the proportionate value of such services according to the beneficiary's pay scale for his or her work.



Social Security will investigate the possibility of subsidy or special conditions if the beneficiary reports getting extra help, having lower productivity, missing more work, or being hired under a special program or by a friend or relative. To make the decision that a subsidy exists, Social Security gathers information from the beneficiary, from their employer, and possibly from any disability services agencies involved in providing job supports. Beneficiaries provide this information by completing a special form called a Work Activity Report (form SSA-821). This form asks a series of questions about the beneficiary's work performance and special accommodations the beneficiary receives to be successful at work. You can view a copy of the **Work Activity Report** by going to Social Security's website (<https://www.ssa.gov/forms/ssa-821.pdf>).

If Social Security finds a subsidy, they will determine the value of the subsidy and subtract this amount from monthly gross wages to determine the actual value of the countable earned income. Social Security will consider the countable earned income rather than the actual dollar amount the individual received in wages when making the SGA determination.

You can find detailed information about **subsidy in Social Security's POMS** (<https://secure.ssa.gov/apps10/poms.nsf/lrx/0410505010>). You can also learn more by completing an archived training session on Subsidy and Special Conditions entitled **Title II Disability Benefits Work Incentives Series: Subsidy/Special Conditions** found on the NTDC website (<https://vcu-ntdc.org/resources/viewContent.cfm?contentID=199>).

## **Work Incentives that Help Individuals get Benefits Back Again if Needed After Benefits Are Suspended or Terminated Due to Earned Income**

### **Extended Period of Eligibility (EPE)**

The 1980 amendments to the Social Security Act created a special reinstatement period called the Extended Period of Eligibility (EPE) for Title II disability beneficiaries who complete the Trial Work Period and continue to have a disabling impairment. This provision allows a

beneficiary whose benefit payments stopped due to SGA to be re-entitled to benefits any time during a 36-month, re-entitlement period, if their countable income falls below the SGA level.

An important benefit of the EPE is that entitlement to benefits does not terminate due to work during the re-entitlement period. Instead, Social Security suspends payments. Beneficiaries who become unemployed or whose monthly wages fall below SGA during the EPE can return to cash payment status by simply contacting Social Security. Beneficiaries with benefits suspended during the EPE do not need to re-apply for benefits to get them back if they are again unable to perform SGA. The EPE reinstatement period begins with the month immediately following the last month of the TWP and ends 36 consecutive months later. Here are some important things to know about the EPE:

- The EPE is a work incentive protection. A beneficiary must continue to have a disabling impairment to benefit from the EPE.
- The EPE always begins the month after the TWP ends, regardless of whether or not the beneficiary continues to work beyond the TWP. Once the EPE begins, it does not stop until 36 months have passed.
- If the beneficiary performs SGA at any time during the EPE, Social Security suspends rather than terminates benefits. The earliest benefit termination may occur due to work is the first month of SGA after the 36-month EPE re-entitlement period ends. If the beneficiary did not perform SGA during the EPE, but later performs SGA, the individual is due benefits for the cessation and grace months, and then Social Security terminates benefits. Suspension means that Social Security easily can reactivate the payments without a new application. Termination means that the period of entitlement has officially ended.
- If Social Security reinstates benefits during the EPE, the benefit will continue indefinitely until the person again performs SGA, or Social Security determines that the disabling impairment has medically improved. If a beneficiary is not

performing SGA at the time the 36-month re-entitlement period ends, benefits may continue indefinitely.

- Cessation and Grace months may, or may not, occur during the EPE. Cessation happens the first time after the TWP that a person performs SGA. That could be the first month after the TWP, it could be years later, or it might never happen. The Cessation Month/Grace Period is a completely separate work incentive from the EPE.
- The beneficiary will need to supply evidence that work has ended or that countable earnings have decreased below the SGA guideline for benefits to start again after cessation during the EPE.

You can read detailed information about the EPE by going to POMS citation **DI 28055.000 Extended Period of Eligibility (EPE) Cases** (<https://secure.ssa.gov/apps10/poms.nsf/lnx/0428055000>).

## **Expedited Reinstatement (EXR)**

The Ticket to Work and Work Incentives Improvement Act (TWWIIA) of 1999 created an important work incentive for disability beneficiaries called Expedited Reinstatement (EXR). Expedited Reinstatement gives eligible individuals a quick way to re-establish entitlement for Social Security disability benefits after the agency terminated those benefits due to SGA. An important advantage of EXR is that it allows an individual to receive up to six months of provisional cash benefits while Social Security conducts a medical review to determine whether the agency can reinstate the individual to benefits. The individual may also be eligible for Medicare or Medicaid coverage during the provisional benefit period.

EXR is available to former Social Security disability beneficiaries (SSDI, CDB, DWB) who meet the following requirements:

- The individual must not be able to perform SGA in the month of the EXR request.
- To request EXR, a beneficiary needs to have fully terminated from benefits. Beneficiaries who are still in their EPE do not need to request EXR, since benefits are only suspended.
- Social Security must have terminated the individual's prior entitlement due to SGA, NOT medical recovery or any other reason.
- The individual must be unable to perform SGA due to the same disability (or a related disability) that entitled the beneficiary to payments previously.
- To receive EXR benefits the beneficiary must request reinstatement within 60 months of when Social Security terminated the prior benefit, unless Social Security can establish good cause. If a person's disability causes the reduction or cessation of work more than five years after Social Security terminates the record, EXR will not be available, and the beneficiary must file a new application for benefits.

Social Security will pay provisional benefits and reinstate Medicare (if applicable) beginning with the month the individual files the request for reinstatement if the individual does not perform SGA in that month. If the individual's wages are above the SGA guideline that month, provisional benefits will begin the following month. Social Security bases the provisional payment amount on the applicable percentage of the worker's Primary Insurance Amount (the worker's highest benefit), and the payment is often similar to what the person was receiving before termination. For people who receive benefits based on their own work (SSDI), Social Security may re-compute the benefits to a higher amount if earnings of the prior termination are higher than the earnings used to calculate the initial benefit. A person may receive up to six months of provisional payments while Social Security reviews the applicant's medical records to see if the person still meets the disability standard. If Social Security determines that the beneficiary has medically improved and denies reinstatement, Social Security normally doesn't reclaim provisional payments, meaning there is usually no overpayment.

An important aspect of EXR is that it allows individuals to get another TWP and EPE, but not immediately. Individuals must receive 24 months of EXR payments before Social Security entitles them to another TWP. These 24 months don't have to be consecutive. If someone who requests EXR goes back to work above the SGA level, the 24-month clock stops ticking until they stop performing SGA and Social Security entitles them to another EXR payment. Once the individual has received 24 months of EXR payments, they receive a new TWP and EPE, and all of the other work incentives Social Security gives initial disability applicants.

Social Security regulations prohibit individuals from requesting EXR and reapplying for disability benefits under a new period of entitlement at the same time. There are certain advantages and disadvantages to either option, but in most cases, requesting EXR will offer the best pathway to getting benefits back. You can learn more about this issue and other details about EXR provisions by reading a resource document entitled **Understanding Expedited Reinstatement** available on the NTDC website (<https://vcu-ntdc.org/resources/viewContent.cfm?contentID=39>).

## Next Steps

We covered a great deal of complex information in this chapter – especially about how work affects Title II disability benefits. The information we provided on this topic is enough to give you a basic understanding about how Social Security makes SGA determinations and applies work incentives, but there is still much you will not master without additional training and technical support. Here are some things you can do to develop more competency while you work to achieve full CWIC certification:

1. Start by reviewing the **NTDC resource documents** that cover various topics related to how work affects Title II disability benefits. You will find all of those documents posted on the NTDC website ([https://vcu-ntdc.org/resources/resourceDetail\\_search.cfm?id=2](https://vcu-ntdc.org/resources/resourceDetail_search.cfm?id=2)).
2. There are several helpful **supplemental training sessions about work and the Title II disability benefits** archived on the NTDC website ([https://vcu-ntdc.org/resources/resourceDetail\\_search.cfm?id=2](https://vcu-ntdc.org/resources/resourceDetail_search.cfm?id=2)).

[ntdc.org/training/supplemental/archives.cfm](http://ntdc.org/training/supplemental/archives.cfm)). The best sessions to start with are the ones marked as the Social Security Disability Benefits Work Incentives series.

3. As you work with beneficiaries who are going through an SGA determination, rely on your assigned NTDC Technical Assistance (TA) Liaison for help. Your TA Liaison can answer any questions you have about how Social Security applies work incentives in the Title II disability program.