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UNDERSTANDING

1619(b)



What is 1619(b)?

Section 1619(b) of the Social Security Act provides one of the most powerful work incentive currently available for SSI recipients: continued Medicaid eligibility for working individuals whose earned income is too high to qualify for SSI cash payments, but not high enough to offset the loss of Medicaid.

Section 1619 was added to the Social Security Act in 1987. Part (a) of this section permits eligible SSI recipients to receive a reduced cash payment when earnings exceed the Substantial Gainful Activity amount (SGA). Prior to the passage of this important provision, SSI operated like the other Social Security disability benefit programs in that earnings over SGA caused termination of benefits.

Part (b) of Section 1619 extended these protections, allowing eligible individuals to continue to be considered receiving SSI for the purposes of Title 19 or Medicaid eligibility, even though cash benefits actually ceased due to earned income. Individuals who are utilizing the Section 1619(b) work incentive provision do not receive SSI payments because their income is over the Break-Even Point (BEP) ** after all exclusions and deductions have been applied. In order to continue Medicaid eligibility, Section 1619(b) participants are legally considered to be receiving an SSI payment for Medicaid purposes, although no actual payment is received.

One part of a Benefits Specialists' job is to help people understand when their benefits might end. Calculating the break-even point is a way to do this for SSI recipients. The BEP may be different for each person because it is based on unearned income. For SSI recipients who have no unearned income, the break-even point is determined by reversing the countable income calculations. Thus, instead of subtracting \$20, \$65, and dividing wages by two, you would take the Federal Benefit Rate (FBR), multiply it by two, and add the \$65 and \$20.00 exclusions. For example, in 2005, the FBR is \$579.00 for a self-supporting individual. The break-even point would be \$(579.00 * 2) + \$65 + \$20 or \$1,243.00.

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It is essential to note that the break-even point changes if the person has any unearned income, including deemed income or in-kind support and maintenance. A person would "break-even" at a lower amount in these circumstances.

Example:

Louis receives \$200 in Childhood Disability Benefits. He also receives SSI, and lives on his own. To calculate Louis' BEP, first calculate his benefit not considering his earnings:

- ◆ \$200.00 - \$20.00 general income exclusion = \$180.00 countable unearned income.
- ◆ \$579.00 (FBR in 2005) - \$180.00 (Louis's countable earned income excluding wages) or \$399.00.
- ◆ To calculate Louis' BEP, multiply this total by 2, and add \$65.00. The \$20.00 exclusion was not added because it was used on his unearned income. Thus Louis' BEP would be $(\$399 * 2) + \65.00 , or \$863.00.

How Does Section 1619(b) Work?

When an SSI recipient who is over the break-even point (BEP), yet under certain earned income limits called "threshold amounts", SSI disregards earned income. (Threshold amounts are explained on page 4 of this document.) This earned income is removed from the eligibility determination process thus enabling the person to be considered SSI eligible for the purposes of Medicaid, even though no SSI cash payment is received. Section 1619(b) does not help a working recipient keep more of his/her SSI cash payment - Section 1619(a) does that. Rather, this incentive extends Medicaid coverage beyond the BEP.

Keep in mind that not everyone who loses eligibility for SSI cash benefits will be eligible for 1619(b). This provision is a work incentive intended for eligible individuals who reach the BEP because of earned income. Additionally, although everyone who is eligible for Medicaid the month before their wages reach the BEP is entitled to Medicaid under 1619(b), it is not automatic. A SSI Claims Representative must enter a special code on the SSI record at the same time the SSI payment stops to begin 1619(b). Since it is not automatic, mistakes do happen. Be sure that the people you advise know to request Medicaid under 1619(b) if they use Medicaid.

Who is Eligible for 1619(b) Extended Medicaid Coverage?

To benefit from the 1619(b) provisions, an individual must meet all five of the eligibility criteria described on the following pages:

1. **Eligible individuals must meet the SSA disability requirement.** This means that medical recovery cannot have occurred and the individual must

still meet SSA's definition of blind or disabled. Section 1619(b) does not protect a person from Continuing Disability Reviews (CDRs), nor does it allow someone to keep Medicaid coverage once they have been determined to be no longer disabled/blind. Even after a person has been found initially eligible for 1619(b) extended Medicaid coverage, the disability/blindness requirement remains in effect indefinitely. In addition, this requirement means that a person who receives SSI based on age (65 and older) who is not blind or disabled per SSA's definition, is not eligible for 1619(b) protections. If a disability determination is subsequently conducted and disability/blindness is established for at least one prior month, then 1619(b) eligibility may be established for a recipient 65 or older.

2. **Eligible individuals to receive 1619(b) extended Medicaid coverage, individuals must have been eligible for a regular SSI cash payment for at least one month prior to becoming ineligible for cash payments.** This "pre-requisite month" requirement simply means that 1619(b) is not available to someone who was not previously eligible for SSI due to disability. 1619(b) is NOT a way to get Medicaid coverage for someone who receives other Social Security disability benefits, nor is it a way to get Medicaid coverage for a person who was previously ineligible for SSI because of excess resources or unearned income. Determining "pre-requisite month" can get very complicated under certain circumstances and is NOT a function for Benefits Specialists to perform. Only an SSA employee is authorized to make this determination.
3. **Eligible individuals must continue to meet all other non-disability SSI requirements.** This means that countable resources must remain under the allowable limits of \$2,000 for an individual and \$3,000 for an eligible couple (see the VCU BARC Briefing Paper on resources for more information). In addition, countable unearned income must remain under the current Federal Benefit Rate (FBR). Remember that some things do not count as unearned income for SSI purposes and one \$20 General Income Exclusion (GIE) may also be applied. Finally, individuals must also meet all SSI citizenship and living arrangement requirements. All of these non-disability SSI requirements apply when 1619(b) eligibility is initially established and forever onward. Even though no cash payment is received when a person is in 1619(b) status, SSA still conducts annual re-determinations to ensure that all applicable SSI eligibility requirements are met.
4. **Eligible individuals must need Medicaid benefits in order to continue working.** SSA determines this "need" by applying something called the "Medicaid Use Test". This "test" has three parts, any one of which may be met in order to pass this requirement. An individual depends on Medicaid coverage if he/she:
 - a. Used Medicaid coverage within the past 12 months; or
 - b. Expects to use Medicaid coverage in the next 12 months; or
 - c. Would be unable to pay unexpected medical bills in the next 12 months without Medicaid coverage.

The test is conducted by having the Claims Representative call or meet with the recipient to ask three questions related to the three parts listed above. A “yes” answer to any of the questions indicates that the person does need Medicaid in order to continue working. A “no” response is only accepted when there are sufficient alternate sources available to the individual to pay for his/her medical care (e.g., comprehensive medical coverage through health insurance or membership in a health plan, access to other health programs). The initial Medicaid use determination is made at the time the individual reports earnings that will cause ineligibility for an SSI cash payment. Subsequent Medicaid use determinations are made at each scheduled 1619 re-determination.

5. **Eligible individuals cannot have earnings sufficient to replace SSI cash benefits, Medicaid benefits, and publicly-funded personal or attendant care that would be lost due to his/her earnings.** SSA uses the “threshold” concept to measure whether an individual has sufficient earnings to replace these benefits. SSA only looks at gross income from earnings in making this threshold determination; unearned income is not considered. The initial threshold determination is made at the time the individual reports earnings that would cause ineligibility for SSI cash payments (i.e.: the break-even point). Threshold determinations are made for the 12-month period beginning with the month 1619(b) status begins and are conducted annually during the 1619(b) re-determination. In addition to the annual re-determination required for section 1619(a) and (b) cases, earned income and exclusions from earned income must be verified at least quarterly. Local SSA Field Offices may choose to do this more frequently.



What is the Threshold Amount and How is it Determined?

SSA uses a threshold amount to measure whether individuals earnings are high enough to replace his/her SSI and Medicaid benefits. This threshold is based on the amount of earnings that would cause SSI payments to stop in a person’s home State and average Medicaid expenses in that State. Each state’s threshold is calculated in this manner:

- ◆ Multiply the annual State supplementation rate (if any) by 2
- ◆ Add to this the current SSI break-even point ($FBR \times 2 + \$85$)
- ◆ Add the average per capita Medicaid expenses by State
- ◆ The total amount equals the State Threshold Amount

Threshold amounts for each State are shown in the POMS [SI 02302.200](#). These threshold amounts are revised on an annual basis. The standard threshold amounts are used for most situations, but where special needs exist an individualized calculation is made. If the individual’s gross earned income for the 12-month period being determined is equal to or less than the threshold amount shown on the chart, he/she meets this threshold requirement.

Individualized Threshold Amounts

If an individual has gross earnings higher than the threshold amount for the State, SSA can figure an individual threshold amount. The object of the individualized threshold calculation is to determine if the individual has earnings sufficient to replace all the benefits that he/she would actually receive in the absence of those earnings.

Calculating a Base Amount

What is included is as part of the individualized threshold calculation will depend on the person's situation. Like with the charted thresholds for each state (see SI 02302.200), the break-even point for SSI plays a part, as does any state supplement. If the state where the person lives has no supplement, the SSA will use the base amount shown in the chart in SI 02302.200.

This base amount is calculated using the following formula:

State supplement (if any)
 + applicable FBR
 multiplied by two
 + \$85 (representing the general and earned income exclusions)
 multiply all that by 12

If the state has a supplement, SSA will use the charted amount if the person would receive the same supplement regardless of their situation. In some states, however, the supplement varies depending on the person's living arrangement, their marital status, their disability, and whether or not they have high medical needs. For those states, the SSA will only use the base rate on the chart if the person receives the same, or a lower state supplement than the one used in the chart. If, because of the living arrangement, blindness, or exceptional medical needs, the person receives a higher supplement, the SSA will use the actual supplement in the calculation. Once the base rate is calculated, the SSA will add all of the following to arrive at the individualized threshold.

1. The higher of the individual's actual Medicaid expenditures for the past 12 months or the average per capita Medicaid expenditure shown in the POMS state threshold chart;
2. Any Impairment Related Work Expenses (IRWE) or Blind Work Expenses (BWE) the person has;
3. Amounts of income excluded under an approved PASS, and
4. The value of publicly-funded personal/attendant care which the individual receives.

NOTE: Because of these additional expenses, the SSA may calculate an individualized threshold even if Medicaid costs aren't exceptionally high, but other costs or deductions would make the individualized threshold higher than the charted threshold.

Attendant Care Services and Individualized Threshold Amounts

SSA recognizes that some SSI recipients may require attendant care services to assist with essential work-related and/or personal functions. For purposes of determining Section 1619(b) eligibility, attendant care (including personal care and other domestic assistance and supportive services) means assistance with:

- ◆ work-related functions; and
- ◆ personal needs such as bathing, communicating, cooking, dressing, homemaking, eating, and transportation, regardless of whether such needs are work-related.

The cost to the governmental entity of providing such services is considered when performing the individualized threshold calculation if:

- ◆ Assistance was/is provided by a person who is paid under a publicly-funded program other than Medicaid; and
- ◆ The SSI individual would no longer qualify for attendant care service due to earnings in an amount that causes ineligibility for SSI benefits.

Attendant care services paid for by Medicaid, that are already included in the state's annual per capita Medicaid average used to determine the standard Threshold amount, may not be counted again as publicly funded attendant/personal care services in individualized threshold calculations. The cost of attendant care may only be counted once. Medicaid expenses and attendant/personal care costs used in making individualized threshold determinations are assessed for the 12-month period preceding the determination.

Example of an Individualized Threshold

The following case study depicts how an individualized threshold determination is made using the **SSA Individualized Threshold Calculation Worksheet**.

John was offered a job as a high school teacher after recently completing graduate school. John was excited about the employment opportunity however, she was concerned that his new income level would have a significant affect on his SSI and Medicaid. John requires attendant care services to meet his personal needs due to an accident that resulted in quadriplegia when he was 17 years old. Currently, John receives attendant care through a state funded program in Texas. He uses his Medicaid for his medical needs and would have a number of impairment related work expenses to be able to take on his new job.

John was offered a starting salary of \$31,000/year, which is higher than the Texas state threshold amount (\$24,792.00 for 2004). An individualized threshold determination was made based on the following calculations:

Name: John Doe SSN: xxx-xx-xxx

Individualized Calculation for Period Beginning -- 08 /10/2003

1. a.	Enter appropriate BASE AMOUNT from the threshold chart (<u>SI 02302.200</u> , 3rd column)	\$ 14,100.00
b.	Recalculate the base amount using the State supplement rate for the individual's actual living arrangement (i.e., FBR + OS x 2 + 85 x 12 months)	Same as above, as TX has no state supplement.
c.	Enter the higher of a or b.	\$ 14,100.00
2. a.	Enter the appropriate TITLE XIX amount from the threshold chart <u>SI 02302.200</u> , 4th column (average per capita Medicaid expenses)	\$ 7,946.00
b.	Enter the individual's estimated Medicaid expenditures for the determination period per <u>SI 02302.050 D.2</u>	\$ 18,000.00
c.	Enter the higher of a. or b.	\$ 18,000.00
3.	Enter the annual amount of IRWE the person has	\$ 6,000.00
4.	Enter the annual amount of BWE the person has	N/A
5.	Enter the annual amount of income excluded under an approved PASS	N/A
6.	Enter the value of any publicly funded attendant care the person receives per <u>SI 02303.050 D.3.</u>	\$ 36,000.00
7.	Total the amounts for lines 1 - 6	\$ 74,100.00
8.	Enter the individual's gross earned income for the computation period	\$ 31,000.00

Compare lines 7 and 8. If the amounts are equal or if 7 is higher, the individual is eligible under the threshold test. If 8 is higher, the individual is not eligible under the threshold test.

In John's case, it is evident that his costs associated with Medicaid usage and the publicly funded attendant care that he receives, are higher than his annual salary of \$31,000. John will continue to be eligible for Medicaid under section 1619 (b).

How are Earnings Counted During Threshold Determination?

Threshold determinations are made prospectively for the 12-month period beginning with the month 1619(b) status begins – meaning when the person first hits the break-even point. The Claims Representative estimates future earnings using the standard procedures described in POMS SI 00820.150 Estimating Future Wages. If the estimated annual earnings are under the current threshold amount, the person is eligible for 1619(b). If estimated

earnings are over the standard state threshold amount, the Claims Representative checks to see if an individualized threshold amount can be established. When estimating future earnings, SSA generally uses the amounts earned in the past few months are often the best guide. However, SSA may consider any indication given by the recipient that a change in earnings is anticipated.

Earnings are reviewed annually during the 1619(b) re-determination, as are all other forms of unearned income, resources and other relevant eligibility information. In addition to the annual re-determination required for Section 1619(a) and (b) cases, earned income and exclusions from earned income must be verified at least quarterly, although local Field Offices (FO) may choose to do this more frequently. Each FO with section 1619 recipients in its service area receives a monthly listing of section 1619 recipients by name, social security number, and the reason for the selection (either "1619(a) payment" or "1619(b) status"). The listing is issued monthly to aid those FO's that verify earnings on a more frequent than quarterly cycle. It is important to reassure recipients that 1619(b) eligibility is not re-determined under the threshold test each quarter; earnings are merely being verified against the original estimate.



What else does the 1619(b) provision do?

As a work incentive, Section 1619(b) is best known for its ability to preserve Medicaid coverage for SSI recipients whose earnings cause total income go over the break-even point. This is an exceptional benefit, but 1619(b) offers more than this. Since 1619(b) keeps the individual on the SSA computer rolls as SSI eligible, simply not cash benefits status. In addition 1619(b):

- ◆ Allows eligible 1619 (b) recipients to get a SSI cash payment at any time income falls below the break-even point.
- ◆ Enables people who are ineligible for continued Medicaid coverage because earnings exceed the threshold amount to get SSI cash payments again if earnings fall below the break-even point within 12 months.
- ◆ Allows people who are ineligible for continued Medicaid coverage because earnings exceed the threshold amount to regain Medicaid eligibility if earnings drop below the threshold amount within 12 months.
- ◆ Enables people whose eligibility (including 1619(b) eligibility) is suspended for less than 12 months to be reinstated to cash benefits or 1619(b) status without a new application or new disability determination.

1619(b) in 209(b) States

There are certain states, referred to as 209 (b) states that have their own eligibility criteria for Medicaid. Many 209(b) States have a more restrictive definition of disability than that of the SSI program. A list of 209(b) states is shown in the POMS SI 01730.060.

Individuals who are eligible for 1619(a) or (b) and reside in 209 (b) states retain their Medicaid eligibility (as long as they meet all 1619 requirements) provided they were eligible for Medicaid in the month prior to becoming eligible for 1619 provisions. The State **must** continue Medicaid coverage so long as the individual continues to be eligible under section 1619.

1619(b) for Eligible Couples

While 1619(b) provisions offer excellent Medicaid coverage for individual SSI recipients who work, it is not a very useful protection for certain SSI eligible couples. An eligible couple for the purposes of SSI exists when two SSI recipients are married to each other.

If both members of the eligible couple have earned income, then all of that income is disregarded when considering 1619(b) eligibility for both members of the couple. It does not matter how much either person is contributing; one person may even be contributing less than the \$65 earned income exclusion. If both members have earned income at some level, then both get 1619(b). Unfortunately, if only one member's 1619(b) status is being considered, then the earned income is only disregarded for that one person, not the spouse. Since 1619(b) is considered a work incentive, it is only available to persons who are working. This means that the working spouse will receive 1619(b), but the other spouse will be terminated from Medicaid coverage (unless found eligible under another category).

Note: SSA's Office of Employment Support Programs (OESP) has submitted a legislative proposal to change the way 1619(b) eligibility applies to eligible couples. Until such time as this change is made, the rules described above apply.

Keep in mind that an SSI recipient who marries an ineligible spouse will be subject to all applicable income and resource deeming rules. The addition of deeming to the equation may cause ineligibility for both SSI cash benefits and Medicaid. See the VCU BARC Briefing Paper on Spouse-to-Spouse deeming for more information on this complex topic.

Frequently Asked Questions

Does a person's living arrangement affect 1619(b) eligibility?

Yes, in some cases a change in living arrangement may cause a person's 1619(b) eligibility to change. Living arrangements involving in-kind support and maintenance may add unearned income into the equation, or may lower the person's break-even point. Moving in to a hospital or institution may also cause ineligibility, although some exceptions are made for temporary institutionalization. Living arrangement determinations can get complex. Assistance from SSA personnel may be required.

Does someone have to keep reporting income when they are on 1619(b)?

It is essential that people who are on 1619(b) let the SSA know about any fluctuations in income as soon as possible. If there is a drop in income, the individual may be due an SSI payment, instead of just Medicaid. Even if 1619(b) is stopped because of excess earnings or unearned income, a drop in income within 12-months may permit the person to become eligible again for SSI or 1619(b). To minimize error, it is recommended that all wage reporting be done in writing and sent directly to the Claims Representative who handles the person's SSI case. Recipients should keep a copy of all correspondence sent to SSA.

How does 1619(b) work for someone who received in-kind maintenance and support?

A person receiving partial in-kind support and maintenance (in PMV status) merely has a specific form of unearned income to take into an account. This means that the person will have a lower break-even point. As long as earned income is involved in the equation, and the person would otherwise be SSI eligible if the earned income were disregarded, the recipient will be entitled to 1619(b). When recipients receive full in-kind support and maintenance (in VTR status) meaning that they contribute nothing to the cost of their food, clothing or shelter, they have a base SSI rate which is reduced by one third. Once again, this would lower the person's BEP, but would not preclude 1619 (b) eligibility.

How do you know what your costs are when trying to establish an individualized threshold?

It is the SSA's responsibility to contact the state Medicaid agency to get the person's total Medicaid costs for the period in question. The SSA should also have on record any information relating to income excluded in a PASS, or IRWE that apply. If the person has other costs that may be included, for example attendant care not paid by Medicaid, the Claims Representative should discover this. It may be helpful for people requesting individual thresholds, however, to be informed ahead of time about what could go into the calculation. That way, they may take any necessary documentation to the SSA and make sure that all costs are considered. Is 1619(b) automatic?

What happens if the State Medicaid Agency stops coverage, even though an individual is eligible for 1619(b)?

SSA is responsible for making 1619(b) eligibility determinations and communicates this information to the state Medicaid agency by making a notation in the State Data Exchange (SDX) computer system. If an eligible individual fails to receive extended Medicaid coverage after BEP, resolution to this problem begins with the local SSA Field Office. The first step is to ensure that 1619(b) eligibility was established by the SSA; the next step is ensuring that it was so noted in the SDX, and the final step is to make sure the Medicaid worker has issued the

Are there any differences in 1619(b) for persons who are blind?

Yes, there are a few differences. First, blind SSI recipients have the ability to claim Blind Work Expenses (BWEs) to both lower countable earned income and to establish an individualized threshold amount. Secondly, some states have different state threshold amounts for blind persons (California, Nevada, Oregon, Iowa, and Massachusetts). See POMS SI 02302.200 - Charted Threshold Amounts.

References

SI 01715.015 **Special Groups of Former SSI Recipients**

SI 02302.000 **Continuing Benefits and Recipient Status Under Sections 1619 (A) and 1619 (B) for Individuals Who Work**

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EXHIBITS

SI 02302.300	Individualized Threshold Calculation Worksheet - Exhibit
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