



SOCIAL SECURITY DISABILITY: PROGRAMMATIC DIFFERENCES FOR INDIVIDUALS WHO ARE BLIND

The Social Security Disability Insurance (SSDI) program has special provisions for individuals who meet the statutory definition of blindness. The intent of this briefing paper is to outline these provisions for Benefits Specialists. Rules for blind individuals under SSI differ as well. For more information please see the companion VCU Briefing Paper titled: [Supplemental Security Income: Programmatic Differences For Individuals Who Are Blind](#).

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Social Security Disability Insurance (SSDI) Benefits

Under the SSDI program, disability benefits may be paid to individuals who belong to one of three groups:

- ◆ **Disability Insurance Benefits (DIB)**, are payable to a worker insured under the Act. To be insured, the worker must have sufficient work in covered employment or self-employment.
- ◆ **Disabled Adult Child's Benefits -- called Childhood Disability Benefits (CDB)** are payable to a disabled adult child of an insured worker who has retired or become disabled, or has died. The child must have a disabling condition that began prior to the time the child attained age 22.
- ◆ **Disabled Widow(er)s Benefits (DWB)** are payable to the widow, widower, or surviving divorced spouse of an insured worker. The widow, widower, or surviving divorced spouse must be at least age 50, and must meet other requirements regarding relationship to the worker and the length of time between the worker's death and the application.

The definition of disability is the same for all three groups, but entitlement requirements and the events that terminate cash payments differ. Unless there is a material difference, the following discussion applies to all three groups.



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Blindness

The Social Security Act gives the following definition of statutory blindness:

“Statutory blindness is defined in the law as central visual acuity of 20/200 or less in the better eye with the use of correcting lens. An eye which has a limitation in the field of vision so that the widest diameter of the visual field subtends an angle no greater than 20 degrees is considered to have a central visual acuity of 20/200 or less.”

20CFR 404.1581

Individuals who meet the definition of blindness may have sufficient vision to walk without a cane or dog, may be able to read print, and in rare circumstances that depend on special equipment and state law, may be able to drive. If you work with individuals who do not see well, even if they do not consider themselves as blind, there is a possibility that special work incentives may apply.

Establishing Blindness

The special provisions for blind individuals under Title II of the Social Security Act are not applicable unless SSA has documentation that the person is blind. Many individuals have acquired blindness after applying, or have claims folders that otherwise do not show blindness as the disability of record. In these circumstances, a beneficiary can request that a review be undertaken to establish blindness. Once this is complete and the date of the onset of blindness is documented in the record, SSA should apply the appropriate work incentives retroactively if the use of these incentives is material to the individual's entitlement.

Work Incentives

Once an individual has established entitlement, they may access work incentives to moderate the impact of work. Most of the work incentives under Title II of the Social Security Act are applied exactly the same for people with other disabilities and for people who are blind. Here is a brief discussion of each, and a description of possible variations for people who meet the statutory definition of blindness.

Trial Work Period (TWP)

There is no difference in the way a Trial Work Period (TWP) works for individuals who are blind and individuals with other disabilities. Social Security Disability beneficiaries are usually entitled to a TWP unless there is evidence that the disability has medically improved. A TWP consists of nine service months that are used whenever an SSD beneficiary has gross wages that exceed the applicable TWP amount.

Since 2001, the amount of gross wages determined by SSA to trigger a TWP month increases every year. The months do not have to be consecutive. There are never any deductions, it is based on gross wages. If an individual is self-employed, a TWP service month is used if the individual spends more than 80 hours in the business, or has a monthly Net Earnings from Self-Employment that exceeds the TWP service month figure.

The TWP service month figure is the same for blind individuals and for individuals with other disabilities. When a beneficiary has accumulated nine months within a sixty-month period, the person has used the TWP. A section later in this briefing paper will discuss a provision that may preclude blind DIB and CDB beneficiaries who are over age 55 from being eligible for a Trial Work Period.

Extended Period of Eligibility

The Extended Period of Eligibility (EPE) is the same for non-blind disability beneficiaries as it is for individuals who are blind. The EPE begins the month after the end of the TWP and can be considered a safety net. If an individual's work is sufficiently high for the benefits to be stopped, that individual may return to the benefit roles without a new application. This happens if earnings drop below a substantial level during the 36-consecutive month Extended Period of Eligibility.

Substantial Gainful Activity (SGA)

Substantial Gainful Activity (SGA) is a standard that the SSA uses to determine if an individual is eligible for benefits. The disability must be so severe that an individual would be unable to perform SGA for a continuous period of at least 12-months, unless the disabling condition results in death before then.

SGA is a decision, not an amount. That means that a Social Security Claims Representative (CR) determines if the work effort demonstrates the ability to do work activity that is valued above a monthly monetary limit. There are tools that the CR uses to make this determination. These tools will be discussed in detail later in this briefing paper.

The SGA guideline is different for people who are blind. Since 1978, the amount has been much higher for blind individuals than for beneficiaries with other disabilities. Both the blind and non-blind SGA guideline amounts are annually increased.

Recent SGA Levels -- SGA is a decision. Work is generally considered to be SGA if average countable income (what's left after applying work incentives) exceeds the SGA level in effect for the time the work in employment or self-employment was performed. (Amounts from: DI 26005.001 - Title II)

Year	Blind	Non-Blind
2001	\$1240	\$740
2002	\$1300	\$780
2003	\$1330	\$800
2004	\$1350	\$810
2005	\$1380	TBA
2006	\$1450	

The "Tools" Used In SGA Determinations

If an SSDI beneficiary is working, and the gross wages fall below the SGA guideline, the work is usually not considered to be SGA. If the gross wages are higher than the guideline, the work may still not be SGA once the value of income gained due to special supports is deducted from the gross wage. A CR evaluates the evidence, subtracts the value of supports, and makes a decision if work is substantial.

Countable Income

There are several tools that a CR may use when evaluating work. SSA uses these tools to determine "countable income", or the remainder after deductions for work incentives. Work incentives are deducted from earnings, not what is

paid, in a month. Earnings for employees can be estimated by multiplying hours worked in a calendar month by the hourly wage the person is due. The earnings for that month are tied to work effort, not when the pay was received. Once the tools have been applied, the CR compares the resulting countable income amounts to the SGA level applicable. As noted above, the SGA level will be higher for individuals who are blind. The following section discusses the tools available when evaluating the work of employees.

Impairment Related Work Expenses (IRWE)

The cost of goods or services that are necessary for an individual to work may be deducted from gross earnings when SSA is determining a beneficiary's countable income.

These goods or services must be related to:

- ◆ The disability of record, or
- ◆ An impairment that is being treated by a health care provider.

In addition, the goods or services must also meet the following criteria.

- ◆ The goods or services must be necessary for work.
- ◆ The cost for these goods or services must be paid by the Social Security Disability beneficiary and not reimbursed by any source.
- ◆ The costs must be reasonable.
- ◆ The cost must occur in the month that work was performed unless the item is durable equipment.
- ◆ If the item is durable equipment, the cost can be averaged over a 12-month period and applied to months of high earnings even if the individual was not working during the entire 12-month period.

Impairment Related Work Expenses (IRWE) do not differ for individuals who are blind. Blind people may have deductions for adaptive technology, for dog guide expenses (including vet bills and food), for reader or driver services, for Braille watches, Braille paper, for special transportation situations, for eye medications or ophthalmic treatment not covered by insurance, or for other goods or services that relate to blindness, are paid by the beneficiary and are necessary to work.

Once SSA determines the value of the IRWE, the CR will deduct the amount of the IRWE from the individual's gross wages, or from the individual's Net Earnings from Self-Employment. This paper will discuss self-employment issues in a later section.

Subsidy

The value of a subsidy may also be deducted from gross wages when SSA is determining countable income. The rules for subsidy are the same for blind individuals as for individuals with other impairments. A subsidy occurs when an employer pays someone who is less productive because of a disability or blindness the same wage as someone without a disability or blindness doing the same job. The pay is the same even though the person with a disability or blindness may have lower productivity, more absences, more supervision, or other assistance not needed by non-disabled individuals being paid the same amount.

Subsidy recognizes that individuals with disabilities may not be able to make as much money without formal or informal supports in place. Like IRWE, subsidy

allows SSA to deduct the part of the wages attributable to extra support. By doing this, the CR establishes “countable income” as what the person would have earned without the extra help or special circumstances.

Subsidy can either be the deduction of a specific amount, or it can be a deduction of a percentage of a person’s wages. For more information on Subsidy, see the VCU BARC briefing paper “Understanding Subsidy” on the www.vcu-barc.org website.

When Work Incentives May Apply

SSA may use both IRWE and Subsidy when a CR is making a decision if work performed was substantial. There are two more tools that a CR may use when making SGA decisions on wage income. These are called Unsuccessful Work Attempts (UWA) and Averaging. Once someone is eligible for SSDI, these tools may only be used after the Trial Work Period is complete, and before the first instance where the individual is considered by the SSA to have performed Substantial Gainful Activity. Once SGA is performed, the benefits cease, and Unsuccessful Work Attempt and averaging disappear from the CRs toolbox. Neither of these SGA decision tools is applied differently for individuals who are blind.

Unsuccessful Work Attempt

“Unsuccessful Work Attempt” means what it implies. An individual worked above the SGA guideline amount for a short while, and the work stopped because of the disability or because of the removal of special conditions like having a job coach. Unsuccessful Work Attempts may last between one and three months if they end due to the disability or the removal of special supports. If the attempt is longer, from three to six months, the work can only be considered unsuccessful if other criteria apply. For example, the work might have occurred in a period of remission, or the beneficiary might have had frequent absences from work. Any SGA level work that lasts over 6-months can not be considered an UWA.

Averaging

Under some circumstances, fluctuations in earnings during a consistent period of work effort and during the same SGA level may be averaged after subsidy and IRWE deductions have been made. If the average amount exceeds the SGA guideline, the entire period could be considered SGA. If the average of the period falls below the current SGA guideline amount, the entire period would not represent SGA level work. Note that months without earnings are never used as part of a period to be averaged.

Cessation and Grace

Once a CR determines that an individual has performed SGA, the beneficiary receives three more months of benefits. The first month of these three is called the “cessation month” and is actually the first month in which the person performed SGA. The subsequent two months are called the Grace Period. After the Grace Period months have been paid, the benefit stops unless the person’s situation has changed and the beneficiary is again eligible for benefits. This provision is the same for all beneficiaries.

Expedited Reinstatement (EXR)

Expedited Reinstatement (EXR) is a complex work incentive that was created by the Ticket to Work and Work Incentives Improvement Act of 1999. There is a complete discussion of this provision in the VCU BARC briefing paper titled “Understanding Expedited Reinstatement” on the www.vcu-barc.org website. Although this work

incentive applies equally to all SSDI beneficiaries, EXR is a little more complex for beneficiaries who meet the definition of statutory blindness.

Expedited Reinstatement:

- ◆ Is available to individuals who lost their SSD eligibility due to work activity and who are not currently performing SGA because of the same or related disability.
- ◆ Permits applicants to receive up to 6 months of provisional payments while the SSA is making a final reinstatement determination.
- ◆ Must be requested within 60 months of the termination of the earlier period of disability entitlement.
- ◆ Permits SSA to use an easier disability standard for determinations of entitlement.

New applications place the burden of proof on the individual to establish a disability, but EXR places the burden of proof differently. EXR assumes that the applicant has a disability, and the medical evidence is examined to see if the individual has medically improved.

Extended Medicare

Since the Ticket to Work and Work Incentives Improvement Act of 1999 was passed, individuals who lose entitlement to cash benefits due to work activity may receive at least 93 months of Medicare eligibility beginning with the month after the last month of the TWP. For more information on this complex program, see: "Understanding Medicare" and "Extended Medicare" on the BARC website. There is no difference in the Extended Medicare provisions for people who are blind and individuals with other disabilities.

Special SGA Considerations for Self-Employed Individuals

Net Earnings from Self-Employment

Individuals who are self-employed are allowed to subtract the cost of producing the goods or services they sell from the money the business receives. Businesses are also allowed to make deductions for office equipment, pay for employees, property cost, etc. from the money received by the business. The rules for these deductions are defined by the Internal Revenue Code, and are adjudicated by the Internal Revenue Service (IRS). Net profit is the amount left after these deductions.

Self-employed individuals pay both the employee and employer parts of the Social Security tax. The IRS gives credit for this additional tax, as does SSA. To give credit for the additional tax burden, the net profit is multiplied by .9235 to determine the Net Earnings from Self Employment (NESE) for the calendar year. This calculation is performed on Schedule SE of the federal tax return. The result of this calculation, divided by the number of months the individual was engaged in the business, is the amount SSA uses in lieu of gross wages when making SGA determinations for self-employed individuals.

The work incentive deductions discussed above, and the ones that follow, are deducted from the monthly NESE and then compared to the SGA guideline to determine if the individual's work activity is substantial.

Self-Employment and Subsidy

There are special subsidies that individuals who are self-employed may access. One is called unpaid help, and allows SSA to deduct the reasonable value of

free help given to the businesses of individuals with disabilities. For example, a family member reads to a blind individual for free, a service for which the business would otherwise have to pay. This gives the business more profit than the business would have had if it paid for similar services. The reasonable value of this unpaid help is a deduction from the month's NESE when determining if the self-employment is SGA.

The application of this rule does not differ for individuals who meet the statutory definition of blindness. Like IRWE, however, there are issues that may be more common among blind people, such as reading services, driving services etc.

Unincurred Business Expenses

Another subsidy that applies to all individuals who are self-employed is called "Unincurred Business Expenses". Simply put, these are items for which a business would normally be financially responsible, but instead the business gets these items for free. For example, if a business needed a piece of equipment to start, and Vocational Rehabilitation provided that equipment free of charge, the value of the equipment could be subtracted from the NESE.

In cases where the item is expensive, SSA may be able to deduct the value of depreciation. Using depreciation, rather than deducting the actual value of the equipment, generates a deduction spread over several calendar years of NESE. Essentially, the deduction of depreciation would follow the same IRS rules that the company would have used had they actually purchased the item, rather than getting it at no cost. This is applied to all SSDI beneficiaries the same, but needs special consideration in the case of blind individuals who operate businesses under the Randolph-Sheppard Act.

Randolph-Sheppard Vending Facilities

The Randolph Sheppard Act created a program that offers special self-employment opportunities to blind individuals. Participants are given training in business, and then are given a vending facility, route, restaurant or other food service business to operate. Although individuals running these facilities may sometimes make a significant profit, that profit is inflated by items, equipment, facility space, and inventory provided by the Randolph-Sheppard program.

One example of unincurred business expenses in a Randolph-Sheppard sponsored business is free rent and utilities for a restaurant in a federal building. Both the utilities used and the square footage in which that restaurant operates have a value, since the vending program pays the utilities, and the federal government could potentially rent the space. The operator of the business neither pays rent, nor utilities out of the money taken in by the business. SSA may thus use both the monthly utility bills and the monthly rental value of the square footage as deductions from the NESE when determining if the vender was performing SGA.

In addition to free space, venders may receive equipment, supplies, or even some services under the program at less cost or at no cost than in the common market. In situations where the deductions are appropriately applied, venders who have relatively large incomes from their businesses may continue to be entitled to benefits, because their profit is inflated by the supports the Randolph Sheppard program supplies. Unfortunately, on occasion, deductions available to Randolph-Sheppard venders are not identified to SSA, or not fully understood, thus are inappropriately omitted from the SGA decision. Benefits Specialists working with individuals who have businesses under any specially supported program should inform consumers about unpaid help and unincurred business expenses. Informed consumers can then insure that the SSA is fully aware of their situations when making SGA decisions.

Self-Employment Tests

There are three tests for self-employment that are used to determine if the work effort is substantial. The first of these tests is called Significant Services and Substantial Income. That means that the person with a disability has a significant role in the business, AND the countable income (NESE minus applicable work incentive deductions for IRWE, Subsidy, etc.), exceeds the applicable SGA guideline. This is the only one of the three SGA tests for self-employment that applies to blind individuals. The other two rules, Comparability of Work and Worth of Work tests, treat situations where the reported income may not reflect the value of the work performed. These tests only apply to individuals with disabilities other than blindness.

SOCIAL SECURITY PROGRAMMATIC DIFFERENCES—ABBREVIATED TABLE

Provision	Does it differ?	How?	Applicants to DIB, CDB SSDI or DWB?
Disability freeze	Yes	May begin earlier or last longer than for non-blind	DIB beneficiaries only
Waiting Period	Yes	If benefits terminate and person re-applies, never another waiting period if individual is in freeze status (see later discussion)	DIB beneficiaries only; CDB beneficiaries never waiting period
Trial Work Period (TWP)	Yes	The length of the TWP is the same for blind and non-blind, but the TWP may not apply to CDB or SSDI blind beneficiaries who are over age 55	All three
Extended Period of Eligibility (EPE)	Yes	SGA is higher	All three
Substantial Gainful Activity (SGA)	Yes	SGA for blind individuals is higher (see chart)	All three
Cessation and Grace	Yes	Occurs at a higher SGA level	All three
Impairment Related Work Expense (IRWE)	Yes	Service animals or blindness-related items may be deducted	All three
Subsidy	Yes	Randolph-Sheppard vending stands and unincurred business expenses	All three
Unsuccessful Work Attempt (UWA)	No	No difference	All three
Averaging	No	No difference	Applies to all three
Expedited Reinstatement (EXR)	Yes	Some different considerations due to freeze	Freeze considerations only apply to DIB
Continued entitlement under non-comparable SGA after age 55	Yes	Blindness Only	Applies only to DIB and CDB beneficiaries

Provisions for Legally Blind Individuals Over Age 55

If someone meets the statutory definition of blindness and receives either Childhood Disability Benefits (CDB) or Disability Insurance Benefits (DIB), there is an additional definition of disability if an individual is blind and attains age 55. Essentially, the individual retains entitlement to benefits throughout this period provided:

- ◆ The individual is over age 55 and blind
- ◆ The beneficiary "is unable to engage in SGA requiring skills or abilities comparable to those of any gainful activity in which he or she was previously engaged with some regularity and over a substantial period of time. For the purposes of this occupational definition of disability for blindness, work activity is determined to be 'comparable SGA' or 'non-comparable SGA.' " DI 26005.001

If the work that a blind DIB or CDB beneficiary performs is not comparable to "gainful" activity performed prior to age 55, the person does not lose entitlement to benefits while he or she is working and performing SGA. It is important to note that entitlement does not mean the individual is due benefit payments. The beneficiary does not receive payments if the beneficiary is performing SGA.

Trial Work Period Eligibility for Blind Beneficiaries who are Age 55 or older (CDB and DIB Only)

"If the blind individual age 55 or older became entitled to disability benefits while engaging in noncomparable SGA, he or she is entitled to a TWP only if:

1. The individual later returns to SGA that requires skills or abilities comparable to those required in the work he or she regularly did before he or she became blind or became 55 years old, whichever is later; or
2. The individual's last previous work ended because of an impairment and the current work requires a significant vocational adjustment." DI 41001.025.

Case Study Examples

SAM

Sam is blind and 56 years old. He is working as a receptionist in an Independent Living Center. Sam has only met the standard for blindness for about five years. In fact, Sam's last work was as a truck driver. Sam is working full-time, and has \$1500.00 in countable income per month in 2004. The SGA level for blindness in 2004 is \$1350, so Sam is performing SGA. The skills Sam used as a truck driver are not comparable to those he is using as a receptionist. Sam's benefits are suspended when he reaches countable SGA. They remain suspended until Sam's work again falls below the SGA level. Unlike entitlement prior to age 55, if Sam's work ceases to be SGA, Sam won't need to reapply for benefits. He will just need to let the SSA know that his work situation has changed.

Sam does not have a TWP unless he begins to engage in work that was comparable to the work he performed prior to age 55. Instead, as soon as Sam begins to earn SGA in non-comparable work, Sam's benefits are suspended. The SSA should continue his entitlement until he reaches full retirement age and earnings no longer affect his benefits. Sam would be due cash payments for any months during the period that his countable earnings were under the SGA level.

LLOYD

Sam's brother Lloyd was an attorney throughout his work life. Lloyd also lost his vision when he was in his early 50's. Lloyd received DIB for several years, until he was 57. Lloyd returned to private practice as an attorney, and used all of the skills he used prior to attaining age 55. He also made a significant net profit from his business, even after considering all work incentives for self-employed individuals such as unpaid help, and unincurred business expenses. When Lloyd returned to work, SSA determined that he was engaging in comparable SGA. Lloyd's work was substantial, and utilized the skills he had used prior to attaining age 55 and blindness.

Lloyd was eligible for a TWP, since this was his first comparable work attempt after entitlement and attaining age 55. Lloyd had not used his TWP previously. Since Lloyd continued to work above the blind SGA level using the skills he used prior to attainment of age 55, his benefits were terminated after the Extended Period of Eligibility had passed. If Lloyd again stops working, or reduces his work to below the SGA level prior to the time he attains full retirement age, he will have to reapply for benefits. As discussed in the next section, however, Lloyd would still be under a disability freeze and would not serve another waiting period, regardless of when he reapplied.



How Earning Benefits May Differ for Blind Individuals

The following sections give some background on how individuals become entitled to Social Security benefits. This is offered so the reader can better understand the programmatic differences for blind beneficiaries.

Being "Insured" for Benefits

The Social Security system is designed as a type of social insurance. Taxes paid on work serve as premium payments. Benefits are earned by paying Social Security taxes on wages, or on the net-profit from a trade or business. All benefits stem from the work of the person who owns the Social Security number on which the benefits are paid.

The amount of wages taxed is used to determine eligibility and the amount of payments. Workers gain eligibility by earning Quarters of Coverage (QC's). Social Security "covered" quarters used to refer to an actual three-month period. The quarter would be "covered" if the person worked and earned above the applicable monetary amount to be credited as a QC. Since 1978, however, QC's are acquired by earning a total yearly monetary amount regardless of when the earnings occur in the calendar year. No one may earn more than 4 QCs per year.

Having enough QCs is a “yes” or “no” eligibility question. SSA determines if a person is eligible or “insured” for benefits by determining when and how many QCs the person has earned. There are several types of insured status, and the amount of required work is contingent on the type of benefits the applicant seeks.

Before entitlement to disability benefits can begin, a person must serve a waiting period consisting of 5 full calendar months. The waiting period begins the first full month the person is disabled and meets insured status. The waiting period can be no earlier than 17 months prior to the month of filing.

The following is an abbreviated illustration of the types of insured status necessary to receive DIB.

Fully insured status

To be “fully insured” means that an individual has one covered quarter of work for each year between the year the individual attains age 21 and the date the disability occurs. Individuals must have a minimum of six covered quarters. The number of QC’s needed will never exceed forty.

Disability insured status

Disability insured status means that the individual is fully insured, and also has “at least 20 QC’s during a 40 quarter period ending with the quarter the waiting period begins.” RS 00301.120 (If an applicant became disabled before attainment of age 31, the required number of recent quarters of coverage is reduced. RS 00301.140.)

Insured Status for Blind Individuals

For people who are blind, only the fully insured status test must be met. Individuals who meet the statutory definition of blindness can be entitled with less work, especially less recent work, than applicants who have other disabling conditions. Whether blindness occurs before the person has worked, or after, they could be entitled to cash DIB benefits as early as the month that all of the following criteria are met:

- ◆ The person has vision loss that meets the definition of statutory blindness,
- ◆ The person has at least 6 QCs,
- ◆ The person is fully insured, and
- ◆ The person is not performing Substantial Gainful Activity (SGA).

Calculating Benefits

Once an applicant is determined to be eligible for benefits, SSA then calculates the payment based on the amount of wages or self-employment income on which taxes were paid. SSA uses a number of years with the highest earnings from the person’s entire work history. In circumstances where the person was previously entitled to disability benefits and is reapplying to receive benefits, or if the person is blind, the calculation may exclude years during the previous period of disability entitlement or blindness. This is usually to the beneficiary’s advantage, because the excluded years are often years in which the person was unable to work at all. Excluding, or “freezing” years that fall during a period of disability or blindness also reduces the total number of QCs necessary to be insured for benefits. The following section explains this more fully.

Disability Freeze

Although the disability freeze provisions apply to all DIB beneficiaries, they apply differently to blind individuals who apply for or receive DIB. In fact,

individuals who are blind who have not stopped working may apply for freeze status instead of applying for cash payments. The disability freeze results in a change to the benefit calculation because years during a period of disability can be excluded from the calculation.

Below is some information to help understand this complex calculation provision:

- ◆ SSA calculates benefits based on the years of work from the time a person starts working until the disability freeze begins.
- ◆ In the most common benefit calculation type, the SSA's computer system increases the amount of past earnings so that they represent current dollars. This is referred to as "indexing" the earnings. SSA then uses the highest of these indexed earnings to help determine how much a beneficiary should receive.
- ◆ SSA determines how many years of work to pick for the calculation by subtracting the year the person turned 22 from the year the person became disabled, then subtracting 1 year for every five years that result. A maximum of 5 years can be subtracted.
- ◆ Becoming entitled to disability benefits "freezes" the "clock" that keeps track of how many years are used in the calculation. It also prevents most of the earnings during the period of disability from being used in the calculation. This is usually good for the beneficiary, because years of entitlement to disability benefits may be years with little or no earnings.
- ◆ SSA either uses all of the person's earnings throughout their work history and period of disability, or SSA excludes the freeze period entirely—whichever yields a higher benefit amount.
- ◆ If someone who is not blind is subsequently terminated from benefit status, the earnings "clock" thaws and covered income earned after benefits are terminated can be counted in calculating benefits if the person again becomes entitled.
- ◆ If a person is blind, the clock should never start again unless it is to the person's advantage (the disability freeze period is extended indefinitely). In other words, if there are earnings after the blind person's disability "freeze" period begins, those earnings will not be used in the benefit calculation unless they would increase the person's benefit amount. Both a blindness freeze calculation (excluding those earnings) and a non-freeze calculation (including those earnings) are computed to determine which calculation yields the highest benefit amount.
- ◆ Previously entitled non-blind individuals whose benefits are terminated for five or more years must file a new application and must serve another five month waiting period before again receiving benefits. However, because of the extended freeze, blind individuals whose benefits previously terminated (regardless of how many years ago) and who file a new application do not serve a second waiting period.

Insured status and calculation year example

How many QCs does Linda need?

Facts: Linda became disabled in 2004. She turned 22 in 1987.
 $2004 - 1987 = 17$, thus Linda needs 17 QCs to be fully insured.

If Linda is not blind, she would also need to have worked 5 out of the last 10 years, or would need to have earned 20 out of the last 40 Quarters of Coverage to have earned disability insured status. If Linda is blind, however, she would only need 17 QCs over her entire work history to be insured for benefits. The recent work criterion would not apply.

How many years will SSA use when calculating Linda's benefit?

SSA will do a simple calculation to determine how many years of earnings will be used in the calculation. SSA starts with the same number of years, as the number of years used to calculate fully insured status. SSA then drops one year for every five years of that number.

Use 17 minus 1 year for every 5 years of work to calculate Linda's benefit:

$$17/5 = 3.4. \text{ (drop any remainder)} \quad 17 - 3 = 14.$$

Whether or not Linda is blind, SSA will use the 14 years of Linda's highest earnings between the year she attained age 21 up through 2004 (the year she became disabled) when calculating her benefit.

When calculating someone's entitlement, the excluded freeze period for blind SSDI applicants may begin at the earliest point they meet all of the following criteria:

- ◆ The person has at least six Quarters of Coverage (QCs).
- ◆ The person has a visual acuity that meets the definition of blindness
- ◆ The person is fully insured for benefits

This is true even if the blind individual was performing SGA. However, people who are not blind must meet an additional criterion:

- ◆ The person is not performing SGA

DIB applications have a retroactivity of 12-months prior to the month the application is filed with SSA. Neither blind, nor non-blind applicants may receive benefits for months earlier than 12-months prior to the month of filing (i.e., the application date). For example, a person (whether blind or not blind) who files an application in April, 2004 and is determined to be disabled in March, 2002 will not receive retroactive benefits an earlier than April, 2003.

Blind beneficiaries, however, may have a disability freeze period that precedes the 12-month retroactivity. The freeze period may begin years before the application was filed. Thus for blind applicants, SSA may take a disability freeze calculation back indefinitely to the time that all of the above conditions were met. People with disabilities other than blindness would be restricted in this

“looking back” (retroactive) period to the beginning of the waiting period. By regulation, the waiting period cannot occur more than 17 months prior to the month the application for disability benefits was filed.

Benefits Specialist Role

The provisions that affect blind Social Security disability beneficiaries are very complex and under utilized. Appropriate application of these provisions may have significant impact on the entitlement of the individual beneficiary to whom they apply. Because they are complex, and because blind individuals are a small percentage of individuals receiving benefits, Benefits Specialists should refer to this briefing paper when they are assisting a beneficiary who is blind. Benefits Specialists should also not hesitate to seek technical assistance should questions arise.



Frequently Asked Questions

How does Expedited Reinstatement differ for individuals who are blind?

If someone receives SSDI and is under age 55, the disability freeze provisions would be likely to yield the same benefit payment for EXR or reapplication. Since blindness is usually considered a permanent disability, the likelihood of medical reinstatement should also be similar. Individuals who receive CDB or DIB who are blind and over age 55 would not need EXR to be re-entitled if their benefits were suspended under the over age 55 provisions discussed above. Expedited Reinstatement is not disadvantageous for blind former beneficiaries. In fact, the provisional benefits may make EXR much more appealing than reapplication, since the EXR request would permit payments for up to six months while the reinstatement decision is being made.

Can a self-employed person use the same expenses as a business deduction and in a PASS?

Yes, due to a recent change in SSA regulations, self-employed individuals may use IRS rules to deduct as business expenses items or services paid by PASS funds.

Do Blind Work Expenses apply to SSDI Benefits?

No. The Blind Work Expense provisions only apply to recipients of SSI who have sufficient loss of vision to meet the criteria for blindness.

Can a self-employed person use the same expenses as IRWE and as business expenses?

No. If the IRS rules allow the deduction of an item or service as a business expense and the beneficiary thus deducts the cost from the business income when determining NESE, the item may not also be deducted as an IRWE.

Can a self-employed person use the same expenses as IRWE and in a PASS?

Under the SSI program, a person may only use the part of an expense that is not paid from the PASS as an IRWE. For Social Security disability benefits, however, SSA may deduct the entire expense when determining the beneficiary's countable income for SGA purposes.

How does the Extended Period of Eligibility differ from Expedited Reinstatement?

The Extended Period of Eligibility (EPE) is a safety net that applies to individuals who have completed their Trial Work Period (TWP), but who have not been terminated from benefit status. Expedited Reinstatement, however, is a provision that lets individuals who have been terminated from benefit status more easily reenter the SSA benefit roles. There are also significant differences in the rules themselves, as described earlier in this briefing paper.

Resources

- Code of Federal Regulations Title 20
- DI 10105.070 -- Waiting Period for DIB - 08/20/2003
- DI 10505.010 -- Determining Countable Earnings - 06/21/2004
- DI 10105.130 -- Relationship Between Freeze and DIB Insured Status - 01/23/90
- DI 10105.170 -- Insured Status for Statutory Blindness - 07/16/2003
- DI 10510.000 -- Evaluation and Development of Self-Employment - 05/03/2002
- DI 10515.005 -- Evaluation of Work of Blind Self-Employed Persons (Title II) - 03/25/2003
- DI 10520.030 -- Determining When IRWE Are Deductible and How They Are Distributed - 03/25/2004
- DI 11010.245 -- Evaluation of Work of Blind Employees - 03/25/2003
- DI 26005.001 -- Title II - 02/18/2004

- DI 41001.025 -- TWP and EPE Provisions of the Law as They Apply to Statutorily Blind Individuals - 12/08/2003
 - DI 41001.020 -- Work Comparability Provisions for Blind DIB and CDB Individuals, Age 55 and Older - 07/28/94
 - DI 41005.010 -- Claimant in Freeze Status Files for DIB - 05/27/99
 - GN 00204.030 -- Retroactivity - Title II - 03/19/2002
 - RS 00301.105 -- Fully Insured Status - 08/18/2004
 - RS 00301.120 -- DIB Insured Status - 08/18/2004
 - RS 00301.140 -- Special Insured Status for Disability Before Age 31 - 08/18/2004
 - RS 00301.250 -- Increment Amounts - Exhibit - 10/17/2003
 - RS 00605.210 -- Determining the Period of Disability - (Freeze Period) - 03/24/2004
 - RS 00605.220 -- The Freeze Computation - RIB, DIB, and Survivor PIAs - 03/24/2004
 - RS 00605.225 -- Non-Freeze Computation - 07/23/92
 - RS 00605.532 -- Freeze Recomputation of DIB PIA - 08/02/99
- The Randolph-Sheppard Act (20 U.S.C. sec. 107 et. seq.)

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<p>Virginia Commonwealth University's</p>  <p>Benefits Assistance Resource Center</p> <p>Give us a call or e-mail us....We are the answer to your Social Security Work Incentives questions!!!</p> <p>Virginia Commonwealth University Benefits Assistance Resource Center P.O. Box 842011 1314 W. Main St. Richmond, VA 23284-2011 (804) 828-1851 VOICE -- (804) 828-2494 TTY -- (804) 828-2193 FAX http://www.vcu-barc.org</p>	
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