



Key Facts

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Benefits Assistance Resource Center
Virginia Commonwealth University, Rehabilitation Research
& Training Center on Workplace Supports

TRIAL WORK PERIOD (TWP)

Unless medical recovery is an issue, individuals receiving Social Security benefits due to a disability (SSDI, CDB, DWB) are normally entitled to a nine-month Trial Work Period (TWP). This important work incentive provides beneficiaries an opportunity to test work skills while maintaining full benefit checks, no matter how much income is earned. In 2006, only months in which an individual earns more than \$620 or works over 80 hours in self-employment would count as TWP months, also referred to as "service months" by the Social Security Administration (SSA). The TWP ends only when a beneficiary performs nine months of trial work within a rolling period of 60 consecutive months. The TWP service months do not have to be consecutive to be counted. Keep in mind that while the TWP protects individuals from losing benefits due to work, it does NOT prevent the consideration of any medical evidence that may demonstrate medical recovery. A Trial Work Period determination is an initial determination that carries appeal rights and is protected by the provisions of administrative finality. POMS Sections DI 1300.035 through DI 13010.090 contains SSA's policies and procedures concerning the Trial Work Period.



How are earnings calculated during the TWP?

For Title II disability beneficiaries, SSA counts gross monthly income earned in the calendar month, rather than when it was actually received in paychecks. This is exactly the opposite of how earnings are counted for SSI and is an important difference between the two programs. For example, a school teacher may only work 9 months out of the year, but may have paychecks spread out over the entire 12 month year. For the purposes of determining when TWP service months have been used, SSA will take the annual salary and divide it over the weeks or months which the teacher actually worked. When determining if work activity is considered "services" for TWP purposes, SSA is only concerned with income that is performed for remuneration or gain and produces earnings that exceed the applicable TWP amount. Work incentives are not applied to reduce your income below the TWP amount. For example, it is not possible to deduct Impairment Related Work Expenses (IRWEs) to reduce countable earnings under the current TWP amount. Activity performed without remuneration as part of a therapeutic program, training or self-care, would not constitute services. Some work that results in payments such as training stipends also may not represent services for TWP purposes. Determinations of what does and does not constitute "services" are determined by SSA and you can request written determination from the local SSA Field Office.

When would the TWP begin and how are service months counted?

For beneficiaries in wage employment, TWP service months are credited when gross earnings are over the TWP amount for that year. Since January of 2001, the TWP amount is indexed annually, meaning that it will go up (or at least not go down) in January of each new calendar year. Past TWP amounts still apply to work performed in the months in which those prior amounts were in effect. For example, work that was performed in the calendar year 2001 is evaluated using the TWP standard for that period, which was \$530, not the 2006 TWP amount of \$620. Previous TWP amounts are shown in the chart below:

- Calendar years before 1979 -- \$50 or 15 hrs. self-employment
- Calendar years 1979-1989 -- \$75 or 15 hrs. self-employment
- Calendar years 1990-2000 -- \$200 or 40 hrs. self-employment
- Calendar year 2001 - \$530 or 80 hours self-employment
- Calendar year 2002 - \$560 or 80 hours self-employment
- Calendar year 2003 - \$570 or 80 hours self-employment
- Calendar year 2004 -- \$580 or 80 hrs. self-employment
- Calendar year 2005 -- \$590 or 80 hrs. self-employment
- Calendar year 2006 -- \$620 or 80 hrs. self-employment

Social Security uses the following policies to determine when the TWP may begin. Keep in mind that only months in which gross earnings or the work hours of self-employment exceed the applicable TWP amount will count as service months!

- The TWP may begin with the month in which an individual becomes first entitled, or is re-entitled, to a Title II disability benefit, provided this month is not prior to the month the application was filed. No TWP can begin earlier than the month in which the application was filed.
- When the initial disability benefit entitlement is based on a protective filing date, the protective filing date is the application date, so the TWP cannot begin before the protective filing date.
- If an individual is reinstated to benefits through expedited reinstatement (EXR) the TWP begins the month after the initial reinstatement period (IRP) is completed. The initial reinstatement period ends when the individual has had 24-months in which there were no earnings, or earnings were below the SGA level applicable at the time. These months do not need to be consecutive. For more information on Expedited Reinstatement go to www.vcu-barc.org and download the VCU BARC Briefing Paper entitled "Understanding Expedited Reinstatement".
- When a Childhood Disability Beneficiary (CDB) turns 18, the TWP begins with the month of the 18th birthday or the month in which entitlement to CDB is attained, whichever is later.

When does the TWP end?

When an individual has completed nine service months (1/92 or later), SSA counts back 60 consecutive months to see if the nine service months were completed in that 60-month period. If not,

- the service months that fall before the 60-month period are disregarded,
- the service months that fall within the 60-month period are counted, and
- the TWP continues.

Each time thereafter that a service month is used; SSA counts to determine if 9 service months have been completed within the 60-month period ending with the 9th service month. When 9 service months are identified within a 60-month period, the TWP has been completed.

DI 13010.060

How does the TWP work for someone who is self employed?

For self-employed persons, SSA counts net earnings from self-employment (NESE) rather than gross earnings. This means they look at gross business receipts less approved business expenses. In general, SSA applies the IRS rules for what constitutes approved business expenses. Work activity in self-employment will constitute "services" only when net earnings in a calendar month are more than the TWP amount, or the person spends more than a specified number of hours in that month in the work activity. It is possible to have NESE under the current TWP amount and still use a service month because of this 80 hour rule. See the chart above for the number of hours related to TWP for self-employed beneficiaries. Service months are determined on a month-by-month basis in both wage employment and self-employment situations. Self employed beneficiaries need to be able to track both total receipts and business expenses paid by calendar month in order to determine actual net earnings from self-employment (NESE) during the Trial Work Period.

How many Trial Work Periods does a beneficiary get?

Beneficiaries are entitled to one TWP per period of disability. A new TWP is afforded whenever a new period of entitlement begins. This may happen after an individual is terminated from benefits, re-applies and is found eligible under a new period of disability. As of January of 1992, the TWP may begin immediately upon re-entitlement rather than after any 5-month waiting period. A new TWP may also apply when the individual was already on benefits and had used up a prior TWP, but became entitled under a new work record. For example, this can happen when a CDB earns enough work credits to begin receiving a disability benefit on his/her own work record. This new period of entitlement would afford the individual a new TWP, but that TWP would only apply to the new benefit. Service months on one record that were credited before entitlement on another record cannot be charged as TWP service months on the subsequent record. If entitlement on more than one work record begins in the same month, any TWP service months would apply to both benefits concurrently.

A new TWP will also be afforded under expedited reinstatement (EXR) after the initial reinstatement period is complete. This means that another 9-month TWP will be available after the beneficiary has received 24

months of expedited reinstatement payments. For more information, go to www.vcu-barc.org and download the VCU BARC Briefing Paper "Understanding Expedited Reinstatement".

Who is permitted to have a Trial Work Period?

Most beneficiaries of the Social Security disability program are afforded a TWP, with a few notable exceptions. First, individuals who have medically recovered but are receiving continued payments under the Section 301 provisions are not afforded a TWP. Second, SGA level work performed less than 12 months from the date of disability onset, and before the date of the final disability determination, is not protected by the trial work provisions. Work performed in or after the month of entitlement and more than 12 months from date of disability onset is protected by the TWP, regardless of whether the work occurs before or after the final determination. Work performed after the 5-month waiting period, and after the final determination date, is protected by the trial work provisions. This applies regardless of whether the work occurs less than, or more than, 12 months after onset. When counseling beneficiaries about their access to TWP protections, it is important to know the date of disability onset and when SGA level work began relative to the 5-month waiting period and notification of the disability determination. People who receive Title II disability benefits due to blindness are entitled to a TWP in the same manner as non-blind beneficiaries. There are no special TWP rules for blind individuals.

When is a TWP service month not payable?

If a Federal Court convicts a beneficiary of fraudulently concealing work activity that occurred during the TWP, the beneficiary is not eligible to receive payment for any of those TWP service months during which he or she rendered services that occur in or after March 2004 and before the date of the conviction. Although the beneficiary is not eligible for payment of benefits for the TWP service months, the beneficiary will still be entitled to the trial work period. If payments for those TWP service months have already been made, the beneficiary will be liable for repayment. The amount of the overpayment will be subject to appeal, but will not be subject to waiver rights.

DI 13010.035

How does the Social Security Administration track TWP months?

Once a beneficiary reports work activity, service months may be tracked by the local SSA Field Office, or by the Office of Disability Operations (ODO) Payment Service Center PSC as requested by the Field Office. Since many factors may hinder successful TWP tracking, beneficiaries and Benefits Specialists should never assume the SSA will know when the TWP ends. A proactive approach is recommended in which the beneficiary assumes primary responsibility for keeping up with service months. The Benefits Specialist may assist in this process by working closely with SSA personnel to research past work history and ensure that TWP months are reported, entered, and acted upon.

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