

# **SOCIAL SECURITY DISABILITY BENEFIT ISSUES AFFECTING TRANSITION AGED YOUTH**

**February 2008**

## **Part I. The Importance of Considering Social Security Disability Benefits in the Transition Planning Process.**

The successful transition of students with disabilities from school to work and full community participation is a major policy initiative within several federal agencies including the U.S. Department of Education and the U.S. Department of Labor. In recent years, school to work transition has also become a growing emphasis for the Social Security Administration (SSA). Since many students with disabilities are receiving Social Security disability benefits such as SSI or title II Childhood Disability Benefits (CDB), and so few become employed at substantial levels after completing school, it makes sense for the SSA to be an active partner in these initiatives.

Unfortunately, the impact of Social Security benefits on transition aged youth is seldom considered during the formal transition planning process conducted by school personnel. While this oversight is attributable to numerous factors, it represents a significant “missed opportunity” to educate students with disabilities and their families. Social Security benefits serve as a valuable resource to eligible students as they transition from school to adult life. These benefit programs offer not only cash payments and health insurance, but also include numerous work incentives specifically designed to increase employment and earnings capacity during and after secondary education. Failure to focus on Social Security benefits during transition is not merely a missed opportunity, but may also cause harm when students and family members are not educated about nor prepared for the effect of earnings on cash benefits and medical insurance.

If Social Security benefits counseling is such an important aspect of successful transition from school to work, why is it not consistently included in the transition planning process? The answer to this question is multifaceted and is due to break-downs in several service systems. First, public school personnel are typically not aware of benefit issues and often do not consider this life domain to be within the scope of their responsibility. In addition, school personnel seldom ever receive training on Social Security benefits and work incentives. Since this is complex subject matter, educators may feel unprepared to address this issue with students and family members.

School systems are not solely responsible for the failure to include benefits counseling in the transition planning process. State vocational rehabilitation agencies also neglect to focus on this critical service, generally for the same reasons as schools. Again, VR personnel are not fully trained on the complex effects of employment on Social Security benefits, and may not be able to counsel students in this area. Most VR professionals will only meet individually with a transitioning youth during the final year of school which results in too much planning and overall work to be completed in too short a period of time. Even worse is the fact that if a student chooses to withdraw from school, it is then the sole responsibility of the youth and his or family to make contact with a VR representative. These individuals likely will “slip through the cracks” and not receive the services that they are entitled to receive.

Finally, while the former Benefits Planning, Assistance and Outreach initiative (known as the Work incentives Planning and Assistance program as of September 2006) funded by the SSA created a national cadre of Community Work Incentive Coordinators (CWICs), these professionals simply have not reached the transition aged youth population. As of September 30, 2006, approximately 16,762 persons aged 14-22 had received BPAO services. This represented only 6.6% of the total population served by BPAO projects and represents a relatively low penetration rate with the total transition aged population.

For those CWICs who are reaching the transition aged population, the counseling provided often is generic in nature rather than custom designed to meet the unique needs and interests of students and their families. As this paper will demonstrate, there are numerous Social Security issues unique to this population that have not been emphasized in either the BPAO or WIPA training programs. It is our hope that this document will add value to benefits planning for transition aged youth by highlighting the critical issues relevant to this group, and providing the technical information necessary to provide competent advisement on these matters.

## **Part II. Critical issues for transition aged youth under 18**

**Issue: Parents and students are ignorant about SSA disability benefits and associated work incentives and fear that employment will cause ineligibility for benefits.**

If parents of school aged children with severe disabilities were asked what their number one concern was, many would express frustration with trying to establish or maintain eligibility for the SSI program and Medicaid. While for some of these families, the need for an SSI cash payment is of paramount importance, many would indicate that the Medicaid coverage is their most critical need. Many children with severe disabilities have significant medical involvement requiring expensive treatments, services, and medications. Often, these medical interventions are not covered by private insurance or the existing coverage involves high premiums, co-payments or deductibles that families can ill afford. The quest for affordable health insurance which covers needed services is often the driving force behind the desire to establish SSI eligibility for school aged youth.

Because SSI is a means-tested program, many children with severe disabilities are not found eligible due to parental income or resources. In other cases, families have trouble obtaining the

evidence needed to facilitate a positive disability determination. Either way, WIPA personnel must recognize that a great deal of time, energy and effort may have been expended to secure the student's SSI benefit. Parents who have fought a long, exhausting battle to establish SSI eligibility are particularly loath to risk benefits; paid employment is viewed as a significant risk. The risk of employment is felt even more acutely by parents with children in application status. Before the final eligibility determination is rendered, many families will refuse to even consider allowing the student to participate in paid employment for fear that it will result in a negative determination. In some cases, the family will have been advised by an attorney not to permit the student to work for pay.

Social Security disability benefits folklore among the parents/caregivers of transition aged youth is a powerful force. Unfortunately, most of the information shared among families about Social Security disability benefits is incorrect or at best, incomplete. To make matters worse, this folklore is often inadvertently reinforced by school personnel, VR Counselors, and even SSA Claims Representatives. Families are often so ignorant about Social Security benefits that they do not know which of the various disability payments their child receives, what the eligibility guidelines for that program are, or even how much the monthly payment is. When families are this insecure in their understanding of very basic benefits concepts, it is unreasonable to expect them to grasp the complex effects of employment.

### **Strategies for Success**

1. Be proactive in your approach with families in application status and those who have yet to apply. Conduct seminars about the various Social Security disability benefits programs and discuss eligibility factors in detail. Don't neglect to invite families with children as young as middle school age. The earlier this critical information is delivered, the better for all involved!
2. CWICs need to spend time explaining Social Security benefits basics before they launch into lengthy explanations of the work incentives. Social Security knowledge is built cumulatively. A person must grasp simple concepts before higher order information can be understood. Use a developmental approach when providing information or training to students, families, and school personnel. It may also be necessary to discuss work incentives numerous times and offer documentation from the SSA that the information being provided is correct before parents are willing to consider paid employment for the student. Use visual aids such as SSI calculation sheets to show how wages would affect the SSI check. Customize the information by providing SSA publications on topics of specific interest to individual families. It may be helpful to use a real-life example such as a youth earning money while working a summer job.
3. Benefits counseling for SSI recipients should emphasize the Student Earned Income Exclusion(SEIE) since most are eligible for this work incentive and it frequently results in ALL earned income being excluded (resulting in ZERO reduction in the SSI cash payment and no change in medical benefits!) Once again, use SSA publications

such as the “Redbook” on work incentives to verify that the information being provided is correct.

4. When working with families in application status keep in mind that most families do not realize that students may have countable earned income up to the current Substantial Gainful Activity (SGA) guideline and still be found eligible for benefits (both SSI and title 2 Childhood Disability Benefits). In addition, remember that some work incentives (i.e., Impairment Related Work Expenses, Subsidy and PASS) may be applied during the initial application period in order to reduce countable earnings under the SGA guideline. Students who qualify as being statutorily blind per the SSA definition are exempt from the SGA test entirely during initial eligibility. Timely information about work incentives can be used to help a student establish eligibility for Social Security benefits while they are employed!
5. An especially effective strategy for easing employment risk aversion is to have families talk to one another about their experiences with employment and SSI. However, it is important that CWICs pair a new family with one that had a positive experience with employment! Word of mouth is a powerful tool for families with school-aged children – use it to your advantage.
6. CWICs should reach out to attorneys who handle Social Security cases and provide training and support to them on work incentive issues. Developing a collaborative relationship with these attorneys can be beneficial for both parties!

**Issue: Application of parent-to-child deeming rules for SSI recipients under age 18.**

When SSA determines the eligibility and amount of payment for an SSI recipient, the income and resources of people responsible for the recipient’s welfare are also considered. This concept is called “deeming” and is based on the idea that those who have a responsibility for one another share their income and resources. Since SSI is a means-tested program, the portion of parental income/resources shared with the child is “deemed” by Social Security as being available to that child for the purposes of SSI eligibility and when calculating the amount of the SSI payment. Determining how much of the parental income and/or resources to count against the child is called “parent-to-child deeming”. It does not matter if money is actually provided to an SSI eligible child for deeming to apply.

Families of school-aged children with disabilities really struggle with the concept of parent-to-child deeming. Deeming rules and calculations seem inscrutable to families and are often perceived as “unfair” since they cause so many children with severe disabilities to be ineligible for both SSI cash payments and Medicaid coverage. Since deeming rules are so complex, school personnel, VR staff and even CWICs are often at a loss to explain the deeming process in a way that is understandable. Parents end up feeling frustrated and powerless. This sense of helplessness contributes to the fear of benefit loss and aversion to the potential risks of paid employment.

## Strategies for Success

1. While parent-to-child deeming is certainly complex, the general rules are not beyond the understanding of the average layperson. It is true that CWICs cannot determine the exact amount of parental income or resources deemed to a child, but a trained CWIC can explain broad deeming concepts and help families understand how the process works. The most important message to pass along to parents is that not all income or resources count – there are myriad deductions and exclusions. Parents should never assume their child is ineligible without completing the application process, nor assume that ineligibility is a permanent condition. Only the Social Security Administration can determine how much parental income is actually deemed.
2. Deemed income from a parent to an eligible child is treated like unearned income when determining the SSI payment amount. For this reason, children with deemed income have a lower “break-even point”. The break-even point is the point at which total countable income causes the SSI cash payment to be reduced to zero. CWICs must discuss this effect with parents, but should always point out that use of work incentives such as the Student Earned Income Exclusion in combination with the general and earned income exclusions and the SSI one-for-two reduction often causes earned income to be completely disregarded. Students receiving SSI always come out ahead by working.
3. CWICs must also remember that since deemed parental income is counted as a particular type of unearned income for SSI, it may be used to fund a Plan for Achieving Self-Support or PASS. PASS is a work incentive under which individuals with disabilities may set aside income and/or resources to be used to achieve a specific occupational goal. A PASS can be established to cover the costs of education, training, starting a business, or buying support services and equipment needed to work. Funds set aside in an approved PASS do not count when determining SSI eligibility or SSI payment amounts. A student with deemed parental income actually has an advantage when it comes to writing a PASS since he/she has income and/or resources to set aside in the PASS without even going to work. For students under age 22 without any unearned income (such as deemed income from the parents), a PASS can be difficult to use since most if not all earned income will be already be excluded by the student earned income exclusion.

Using deemed income in a PASS is not difficult. Simply verify the amount of income SSA has determined to be deemed and have the parent(s) contribute that amount of income less the standard \$20 general income exclusion into the PASS account each month. Deemed resources may be treated in the same manner. Rather than viewing parental deemed income as a thing to be avoided, CWICs need to see it as a potential opportunity to help students achieve long-term career goals. Keep in mind that a Plan for Achieving Self Support may also be used to help a student become initially eligible for SSI. If deemed income has precluded eligibility in the past, this income can be set aside in a PASS and thus disregarded during the SSI eligibility determination. Assuming all other SSI eligibility criteria are met, CWICs can use

work incentives to reduce countable income and/or resources, thus allowing the student to receive SSI and Medicaid.

### **Some Information About SSI and Child Support Payments**

Some parents of children receiving SSI pay court-ordered support payments. The court-ordered support payments are not counted as part of the parents' income and, therefore not part of the income deemed from parents to children. Child support payments received for a child are counted as direct unearned income for the child SSI recipient – this income is not attributable to the parents. This rule applies whether the child support is paid in cash or in-kind. In-kind support is a phrase the SSA uses to describe goods or items other than money that are given to the eligible child or custodial parent to provide food, shelter, or clothing.

If the eligible child is under age 18, the SSA deducts one-third of the value of the cash support before applying the amount received in the benefit calculation formula. If the eligible child receives in-kind items (food and/or shelter) from an absent parent, SSA applies the one-third child support exclusion to the value of the in-kind items, compares this to the Presumed Maximum Value, and counts the lesser amount as the child's income. The Presumed Maximum Value is one-third of the SSI Federal benefit rate plus \$20.00.

If the eligible child is over 18 and no longer meets the definition of a minor child, the support payment is counted the same as other types of unearned income for the eligible individual. This rule also applies if the support payment represents arrearages and the eligible individual is paid directly or paid to a parent that gives the arrearage to the eligible individual. If the parent does not give the arrearage payment to the adult child, the support arrearage is unearned income to the parent that received the payment. For an adult over 18, the full value of in-kind support is considered unearned income, subject to the Presumed Maximum Value (PMV) rule.

For more specific information about support payments and SSI benefits refer to:

POMS SI 00830.418 - Alimony and Spousal Support  
POMS SI 00830.420 - Child Support Payments  
POMS SI 00835.300 - Presumed Maximum Value Rule

### **Issue: Transition age youth who receive title II disability benefits instead of SSI.**

There is a common misconception that all students with disabilities receiving cash benefits from the Social Security Administration are getting SSI. Although the majority of students with disabilities would be receiving Supplemental Security Income or SSI payments, by no means does this apply to ALL students. A small percentage of transition aged youth will be receiving title II Social Security disability benefits such as SSDI or more commonly Childhood Disability Benefits (CDB), while still others receive a Social Security child's benefit that is completely

unrelated to disability. Once again, the problem with this confusion is that neither parents nor school personnel understand that different Social Security benefit programs exist, or that these benefits vary widely in how they function. Let's take a look at each of these programs, how students are found eligible and the differences in how these benefits work.

## **Title II Child's Benefits**

This type of Social Security benefit has nothing to do with being disabled, but rather is paid to dependent children of certain insured workers. Even if the child has a disability, the child receives regular child's benefits until the age of 18. Child's benefits may be paid to multiple children and in some cases a care-giving parent up to family maximum. To be entitled to Title II child's benefits, an individual must have filed an application for child's benefits and must be:

- a. The child of an insured worker who is deceased, retired and collecting Social Security retirement benefits or disabled and collecting SSDI.
- b. Dependent upon that insured worker
- c. Unmarried (with some exceptions)
- d. Under age 18; or if age 18 or over, a full-time elementary or secondary school student under age 19.

Eligibility for child's benefits hinges primarily on how SSA defines the words "child" and "dependent". The regulations surrounding the Social Security Administration's definition of a child are very complex, covering situations such as adoption, stepchildren, grandchildren, illegitimate children and numerous other convoluted familial relationships. Dependency is also defined very precisely and is related to where and with whom the child lives and how much financial support is provided. It is impossible for CWICs to make determinations on these matters. Only SSA personnel have the authority to decide when an individual meets all the requirements to be eligible for a Title II child's benefit.

WIPA personnel do need to know when a transition aged youth is receiving a title II child's benefit. This can be verified by sending a signed release of information form to SSA or requesting a Benefits Planning Query (BPQY). The reason for knowing this is that the effect of earned income on title II child's benefits is completely different than for SSI, SSDI, or CDB. These rules are based on the Annual Earnings Test, which is described below:

## **The Annual Earnings Test**

People who receive Title II Social Security benefits not based upon disability are subject to a "test" that determines if they were eligible for all of the cash benefits they received in a year. This is called the Annual Earnings Test (AET). Each year, an "exempt amount" is established. Only countable earnings over the exempt amount will affect the beneficiary's Social Security payments. The exempt amount of gross earnings (or net earnings from self-employment) is

fairly high when compared to earnings limits under the title II disability programs. The Annual Earnings Test never applies to SSI benefits.

**Example:**

Alexandra is 17, and working in the summer prior to going to college. Alexandra receives a Social Security title II child's benefit on her mom's work record. Alexandra makes \$2,150.00 in 2008 in her summer job. Since the AET limit in 2008 for people on title II child's benefits is \$13,560, these earnings will be exempt and have no affect on Alexandra's benefits.

If a youth generates earned income that exceeds the annual earnings test, the SSA should be notified. SSA will recover \$1.00 of child's benefits for every \$2.00 of earned income over the exempt amount. In most cases, this will result in entire benefit checks being withheld until any overpayment has been recovered. Since it is unlikely that school aged youth would earn more than the AET, we will limit further discussion of overpayment recovery. In the unlikely event that earnings do exceed the AET, refer to POMS RS 02500.000 – Annual Earning Test Subchapter Table of Contents for more information.

**Note:** Social Security Child's benefits and Childhood Disability Benefits (CDB) are completely different programs. A child's disability cannot be established prior to age 18 for Social Security Childhood Disability Benefit purposes. For youth with disabilities under the age of 18, the Annual Earnings Test would apply because the Social Security program received would be child's benefits, not CDB. Once the youth turns 18 and the disability determination is made, the Annual Earnings Test would no longer apply since the benefit received would be CDB. From this point forward, the youth could access the Title II disability work incentives. Keep in mind that title II child's benefits may continue up to the age of 19 years and 2 months if the beneficiary fails to meet the disability criteria and is attending elementary or secondary school on a full-time basis.

**Childhood Disability Benefits**

Social Security Childhood Disability Beneficiaries (CDB) are adults with disabilities who do not have sufficient work credits for insured status, but receive a Title II benefit based upon a parent's insured status. To be eligible for CDB, individuals must be at least 18 years old, disabled by SSA's definition before the age of 22, the child of an insured worker who is either deceased, retired and collecting SSA benefits, or disabled and drawing an SSDI benefit, and unmarried (with some exceptions). This program was previously referred to as "Disabled Adult Child" or DAC benefits.

Some things to remember about CDB benefits:

- A person receiving title II child's benefits up to the age of 18 must apply for CDB and complete the disability determination process to get CDB payments. If



eligible, the individual will be switched from child's benefits to CDB as soon as the youth turns 18 and the medical determination of disability is complete.

- Unlike SSDI, there is never a 5-month waiting period for disability benefits under the CDB provisions.
- The 24-month Medicare Qualifying Period (MQP) applies to CDBs. This means that Medicare coverage cannot begin until the beneficiary is 20 years old, or 24 months after the 18<sup>th</sup> birthday.
- Benefits will stop if the individual marries, unless the spouse is also someone who receives a Title II Social Security benefit (except a child's benefit). Keep in mind that SSI is not considered a Social Security benefit. If the spouse only receives SSI, the CDB benefit should stop the month of marriage.
- The same work incentives apply to all persons receiving a Social Security benefit due to disability, whether that benefit is SSDI, Disabled Widow(ers) Benefits, or CDB.
- It is possible to collect a title II benefit on two work records simultaneously: SSDI on your own record and as a CDB on an insured parent. This is known as being "dually eligible".

### **Social Security Disability Insurance (SSDI)**

Social Security Disability Insurance (SSDI) program provides monthly cash benefits for former workers, under age 65, who become disabled. Individuals may receive an SSDI payment if they meet SSA's definition of disability, have sufficient work credits to be fully insured as a former worker, and be insured for disability status (this last requirement does not apply to blind individuals). The SSDI cash benefit received by an individual is related to how much that person earned and how long the person was employed. Unlike the SSI program, unearned income and resources are not considered and have no bearing on eligibility or payment amount.

There is a common misconception that young people under the age of 18 may not receive an SSDI benefit. In fact, there is no age limit of this type within the SSDI program. Establishing eligibility for SSDI can happen quite quickly for younger persons since fewer "work credits" are needed for those who become disabled before the age of 24. While CWICs will encounter relatively few transition-aged youth receiving SSDI, it does happen and should be watched for. For more information on eligibility for SSDI, refer to POMS DI 10105.000 or RS 00301.000.

### **Concurrent Beneficiaries**

A "concurrent beneficiary" in Social Security parlance, is someone who receives Social Security Title II benefits such as SSDI, CDB or Child's benefits, and also a reduced SSI payment. Concurrent beneficiaries receive two separate checks each month (one for the Title II benefit and

one for the SSI), as well as both Medicare (after the 24-month Medicare Qualifying Period) and Medicaid.

A concurrent beneficiary may begin as an SSI recipient who subsequently becomes eligible for a title II payment. An example of this would be when a parent dies, retires, or becomes disabled and starts to collect Social Security that could trigger eligibility for Childhood Disability Benefits. In this case, the student would get a CDB payment that would count as unearned income for SSI. The SSI check would be reduced or eliminated depending on the amount of the CDB payment. A concurrent beneficiary may also be created when a youth who is receiving title II payments subsequently meets the eligibility criteria for the SSI program. An example of this might be a student on child's benefits whose parents become unemployed, thus lowering the amount of deemed income that previously prevented the child from receiving SSI.

In all concurrent cases, title II benefits take precedence since these are entitlement programs. Once the title II benefit has been determined, eligibility for SSI is assessed. The title II payment benefit is considered unearned income for the purposes of determining both eligibility for and the amount of the SSI benefit. There is no choice when determining which benefits a beneficiary will receive since SSI is the payer of last resort in all cases. If there are any other benefits available, those must be accessed first and will be taken into consideration when determining SSI eligibility. If a youth is potentially eligible for a title II benefit, he/she must apply or risk losing SSI eligibility. The concurrent beneficiary must also meet all applicable income and resource tests for the SSI cash benefit.

### **Strategies for Success**

1. CWICs must never assume that all transition aged youth will be receiving SSI benefits. A surprising number will be getting title II payments (Child's benefits, CDB or SSDI), or title II in combination with SSI (concurrent beneficiary). Case specific advisement on work incentives should never be provided until benefit types and amounts have been verified by the Social Security Administration. Far too few CWICs take the time to complete this essential step. The result is that students and family members are given inaccurate or incomplete information about the effect of earnings on benefits. Benefits may be verified by obtaining a Benefits Planning Query (BPQY) report from the local SSA Field Office. Case specific benefits advisement in advance of verification is an irresponsible act to be avoided at all costs!
2. CWICs must learn the specifics of how earnings impact the various Title II programs and be prepared to share this information with students, family members, teachers and VR Counselors. It is not enough to understand the work incentives for SSI and Social Security disability programs when serving transition aged youth! It is important that CWICs constantly stress the fact that numerous Social Security programs exist and that they function very differently from one another.
3. Students who are concurrent beneficiaries need to have extra attention paid to their situations. More time will be needed to discuss the various Social Security benefit programs and work incentives and more time may be needed to help monitor benefits

after employment begins. In addition, CWICs should remember that concurrent beneficiaries are natural PASS candidates since they have a source of unearned income to fund the plan prior to employment. The advantages of PASS should be discussed in detail with transition aged youth who are concurrent beneficiaries.

### **Part III. Critical issues related to the 18<sup>th</sup> birthday.**

#### **Issue: The SSI Age 18 Redetermination**

Parents of children with severe disabilities who are awarded SSI benefits and Medicaid are generally relieved when this eligibility is established. They believe that a major hurdle has been cleared and think that they have secured a lifelong benefit for their child. Unfortunately, this perception is wholly inaccurate. Since the adult definition of disability for SSI is different than that for children, individuals who are found eligible for SSI under the childhood disability definition are required to go through a full disability “redetermination” after reaching the age of 18. The SSA calls this process the “age 18 redetermination.” Parents must be aware that SSI benefits are not “for life” and are not an “entitlement.” The sooner the facts are realized, the easier it is to prepare for the Age 18 Redetermination.

The age 18 redetermination will occur at some point after the 18<sup>th</sup> birthday. It may occur at a regularly scheduled Continuing Disability Review (CDR), or at another point as determined by the SSA. In general practice, the age-18 redetermination usually occurs within 12 months after the 18<sup>th</sup> birthday, although this is not required by regulation. An individual who is NOT determined eligible for SSI benefits as an adult will be entitled to receive two more months of payments after the date of determination. This means the date on which the recipient is notified of the outcome of the age 18 redetermination. Overpayment may be considered if an ineligible individual continues to receive payments after the two-month grace period. For individuals found ineligible under the adult rules, the Social Security Administration does NOT seek recovery of all SSI payments received after the birthday month, but only those received after the determination is made and the two grace months are over.

A significant problem related to the age 18 redetermination is that SSI recipients and their families typically have no idea that this process occurs, nor how it differs from the regularly scheduled CDRs. Unfortunately, the age 18 redetermination has negatively impacted many young adults, particularly those with respiratory, endocrine, and cardiovascular disabilities, as well as those living in southern states. Overall, Social Security estimates that 37% of all young adults who are redetermined fail to meet the adult disability standards. This ineligibility causes the loss of SSI cash payments and associated Medicaid coverage. Failure to establish SSI eligibility at Redetermination also means losing access to valuable work incentives at a critical transition point for youth. In addition, when eligibility ends a student no longer has access to the Ticket to Work program.

## Strategies for Success

1. CWICs can have a huge impact if they focus their efforts on early planning and preparation for the age 18 redetermination during the transition process. First and foremost, students, families, school personnel, and VR staff should be given detailed, understandable information about the redetermination process during the very earliest stages of transition planning. Specifically, the CWIC must discuss how information will be gathered that contributes to the part of the redetermination that examines the recipients' future ability to earn income through paid employment. In addition, a contingency plan must be developed in case SSI eligibility is lost. This plan must include strategies for meeting the youth's support needs for work and community living and for securing appropriate medical insurance.
2. Fear of the age 18 redetermination process creates significant uncertainty regarding the impact of work/earnings on the disability determination. Many families are under the mistaken impression that SSI recipients must not be working at any level when the redetermination occurs. In fact, the SGA step of the sequential evaluation process does not apply to these disability redeterminations (POMS DI 23570.020 - Development and Evaluation of Childhood and Age 18 Disability Redeterminations). This means that a transition aged youth may be employed above the SGA guideline and still be found eligible for SSI under the adult rules during the age 18 redetermination as long as the disability standard and all other SSI eligibility criteria are met. CWICs must stress this point repeatedly with all concerned parties. There is no reason to hold back on paid employment until after the student successfully completes the age 18 redetermination. There is no reason not to engage in paid employment before, during or after the redetermination! This fortifies the previously stated point that if all SSA rules and regulations are followed correctly and all incentives are utilized correctly, pre-adult SSI recipients should not be penalized for working and earning money.
3. CWICs must remember that disability benefit payments may continue even though the student is not found to meet the adult definition of disability if eligibility can be established for "section 301" status. Payment of benefits under section 301 requires that the beneficiary be actively participating in an approved vocational rehabilitation or be receiving special education services under an IEP prior to the adverse disability determination. For transition age youth under age 22, SSA assumes that continued participation in educational program under an IEP is likely to result in permanent removal from the disability rolls. For more information on section 301 provisions, refer to Unit 7, Module 3 of the CWIC Training Manual. There is also a written summary of regulatory changes made to section 301 provisions in 2005 on the VCU WIPA NTC website at [www.vcu-ntc.org](http://www.vcu-ntc.org).

Benefits Specialists need to understand that most VR counselors and school personnel are completely unaware of the section 301 provisions. Students at risk of termination due the age 18 redetermination need to receive information about section 301 continuation of benefits from a very early age! These students will need to access

vocational rehabilitation services or must continue to stay in school and receive education services under an IEP in order to use section 301 protections. The CWIC may need to keep a close watch on these students as DDS does not always identify those who may be eligible for section 301 when a Medicaid determination is made. The CWIC may need to act as a coordinator to facilitate a successful section 301 determination since the local SSA Field Office may not have experience with these rather rare cases and the other involved parties (state VR agency, private VR provider, and school) may not know this provision exists. Furthermore, important changes in how section 301 determinations are made for transition age youth were implemented in 2005. These changes make continuation of benefits under section 301 easier for transition age youth than for other beneficiaries. Keep in mind that individuals receiving benefits under section 301 are not eligible for a Ticket from the Ticket to Work program.

### **Issue: Parent-to-child deeming stops**

While we have already covered the issue of parent to child deeming above, it is important to recognize that the 18<sup>th</sup> birthday marks the end of “deeming” from ineligible parents to eligible SSI recipients. In-kind Support and Maintenance (ISM) is food and shelter that is provided to an SSI eligible individual. ISM counts as unearned income if the eligible individual does not pay for it. When deeming applies to a child under age 18, food and shelter provided by the parent to the child is not counted as income. When deeming ends, the food and shelter is counted as income (ISM) if the child does not pay for his/her share of these items. Once a student turns 18, the income and resources of the parents are no longer considered in making SSI eligibility determinations or in calculating the amount of the SSI payment. At this point, only the income and resources of the eligible individual are considered. Some youth may now become eligible for SSI who were not eligible before due to deemed parental income and/or resources. Transition aged youth who were denied SSI as children should be encouraged to reapply upon turning 18. Receipt of an SSI benefit can aid in the transition process by providing the student with cash resources, Medicaid coverage and access to valuable work incentives.

Although parent to child deeming ends at the age of 18, another important SSI concept known as “in-kind support and maintenance” or ISM begins at this point. Basically, in-kind support and maintenance is unearned income attributable to the eligible individual in the form of food, clothing, or shelter that is given to the individual or received because someone else pays for it. In-kind support may be provided by someone who resides in the same household as the recipient (such as a parent), or by someone outside of the household. ISM can cause a person to be ineligible for SSI benefits, as well as reduce the amount of benefits paid. SSA uses two rules to determine the value of the in-kind support and maintenance (ISM) an individual receives:

- The Value of the One-Third Reduction (VTR) rule is applied when the eligible individual lives in another person’s household for a full calendar month and receives both food and shelter from that person and does not pay his or her fair share for it.

- The Presumed Maximum Value (PMV) rule is applied when an eligible individual receives ISM and the VTR rule does not apply (see POMS [SI 00835.300](#)).

These two rules are mutually exclusive. When the VTR rule applies in any one month, the PMV rule cannot apply. Social Security carefully assesses an SSI recipient's living arrangement (LA) to determine whether in-kind support and maintenance (ISM) is being received, and subsequently, if ISM is being received, whether the ISM is to be valued under the VTR rule or the PMV rule. Because of this, an SSI recipient's living arrangement can be a critical factor in determining both eligibility and cash payment amount. Living Arrangement and ISM determinations are detailed and complex. For more information, see POMS SI 00835.000 Living Arrangements and In-Kind Support and Maintenance – Subchapter Table of Contents.

### **Strategies for Success**

1. CWICs should actively encourage transition aged youth who were unable to establish eligibility for SSI due to deemed parental income to reapply for benefits after the 18<sup>th</sup> birthday. It is important to remind students and families that the SGA test will apply during the initial application process, so students earning more than the current SGA guideline will not be found eligible. However, once eligibility is established, the SSI work incentives enable eligible students to work with very little negative impact on benefits. In almost every instance, SSI recipients come out financially ahead by working. While these issues may not seem relevant until after SSI benefits are attained, the SSI work incentives should be discussed as early as possible for any student who may establish eligibility in the future.
2. The end of parent-to-child deeming can also have a significant impact on transition aged youth who already are receiving SSI. For these students, turning 18 may mean that the SSI check will increase – sometimes substantially! CWICs should identify students affected by parent-to-child deeming and encourage their families to contact the SSA for a re-assessment of countable income and resources immediately after the 18<sup>th</sup> birthday. A higher SSI check also means a higher break-even point allowing more income to be earned before cash benefits are reduced to zero. This higher break-even point often helps families and students feel more comfortable about working.
3. CWICs need to offer clear and concise information about the change from deeming to in-kind support and maintenance calculations and the VTR/PMV rules. Most recipients and their families have little or no understanding of these concepts. It is common for SSI recipients to experience a one-third reduction of the SSI due to incorrect application of the VTR rules. This happens because families do not correctly answer questions SSA poses about whether or not the youth is paying anything toward his/her fair share of the household expenses. Parents often think that having the eligible child make a financial contribution to household expenses is not permitted by the SSA. In fact, if the parents do not ask the child to contribute, SSA will conclude that in-kind support and maintenance is being provided and will apply the VTR rules. This will result in a full one-third reduction of the current SSI federal

benefit rate. In these situations, a little bit of information supplied at the right time can make a significant difference in the SSI monthly payment. Again, the importance of this correction is to gain a higher base benefit, thus raising the break-even point.

**Issue: Eligibility for Childhood Disability Benefits (CDB) may begin at age 18**

As mentioned previously, turning 18 can also have implications related to title II eligibility. Students on title II child's benefits may lose cash payments entirely unless eligibility for CDB can be established. In addition, SSI benefits may be reduced or lost entirely due to establishing eligibility for Childhood Disability Benefits. In many instances, SSI recipients establish eligibility for additional CDB payments and become concurrent beneficiaries. All of these changes are triggered by the 18<sup>th</sup> birthday and none of them can be readily avoided. In the overwhelming majority of cases, parents and students are completely unaware of these potential changes and are ill prepared to deal with them.

**Strategies for Success**

1. While change can be frightening and stressful, not all Social Security benefit changes are "bad". CWICs can do a great deal to minimize the uncertainty by providing information about the various disability programs, their eligibility requirements, and associated work incentives well in advance. While SSI may be more "work friendly" than the title II disability programs, CDB certainly does have some advantages – not the least of which is the potential for a monthly payment higher than the SSI FBR. CWICs should not present these potential changes in a negative light – they are not necessarily events to be feared by students and their families. The best strategy is to portray these changes in a neutral manner, fully explaining both the positive and negative features. Once again, the earlier these discussions take place, the better for all concerned.
2. It is not uncommon for CWICs to characterize becoming a concurrent beneficiary as a thing to be avoided at all costs. This is unfortunate. While concurrent beneficiaries certainly have more complicated benefit situations when they go to work, they do have access to work incentives, without exception. Concurrent beneficiaries can apply the various work incentives in myriad combinations; some work incentives can be applied to both SSI and title II disability programs simultaneously! In addition, a concurrent beneficiary has a form of unearned income (title II payment) that can be set-aside in a PASS to help achieve a future occupational goal. This is a very positive feature that should be emphasized during counseling.
3. CWICs must not forget to talk to students and families about the possibility of establishing eligibility for SSDI benefits by working – even working part-time. This is particularly important for SSI recipients as it will generally cause these youngsters to become concurrent beneficiaries. As stated above, while this potential should not be feared particularly, it is something to be aware of and planned for. Parents often will ask a CWIC to predict when SSDI eligibility will occur, which is an impossible task. CWICs should not even attempt to make this prediction. It is best to refer the

family to SSA for assistance with this task, although most SSA employees will also resist trying to determine this since so many inter-related factors are involved. There is one fact that a CWIC can discuss with the family, which is that working consistently over the current SGA guideline will cause an SSI recipient NOT to establish eligibility for a title II benefit. In this case, it is working MORE, not less which will help the student avoid becoming a concurrent beneficiary, or being switched entirely over to a title II benefits (either SSDI or CDB).

4. Finally, transition aged youth and their families often fear that establishing eligibility for title II benefits can cause the complete loss of SSI and more importantly, Medicaid. This is a legitimate fear if eligibility is established for SSDI and the resulting benefit exceeds the current unearned income limit for SSI. Fortunately, this instance is extremely rare for transition aged youth since they typically have not earned enough work credits to result in such a high benefit payment. However, the loss of SSI benefits due to establishing eligibility for CDB does occur within the transition population. Fortunately, there is a special extended Medicaid provision for individuals who lose SSI eligibility due to entitlement for or an increase in Childhood Disability Benefits after July 1, 1987. This special Medicaid protection is widely unknown to education or VR professionals. CWICs need to stress this critical provision in training on benefit issues for transition aged youth and may need to offer support to families to make certain the provisions are applied properly. In some states and locales, the agency administering Medicaid programs routinely fails to identify eligibility for this special category. For more information on this topic, see POMS SI 01715.015 - Special Groups of Former SSI Recipients.

### **Issue: Legal adulthood and representative payeeship**

The 18<sup>th</sup> birthday marks the beginning of legal adulthood in our society, regardless of whether an individual has a disability or not. Social Security beneficiaries and SSI recipients who are 18 or over are viewed by the SSA as their own legal guardians with full legal power to sign documents, enter into contracts, vote and enjoy all other rights and responsibilities afforded to adults. Unfortunately, parents of young adults with disabilities often do not understand that this is the case. Many parents of young adults without a disability resist believing this transition occurs at age 18. It can be an even stronger sense of resistance for those parents of 18 year olds who do have a disability. Many parents of young adults without a disability resist believing this transition occurs at age 18. It can be an even stronger sense of resistance for those parents of 18 year olds who do have a disability. In many instances, parents assume that a young adult who is severely disabled is not afforded adult status, but continues to be the legal dependent of the parent indefinitely. Unless the parent has gone to court and established formal legal guardianship over the young adult, that individual is viewed as an adult. Family members also tend to confuse legal guardianship with representative payeeship. These two concepts are completely unrelated.



## **Representative Payees**

A representative payee is someone who receives and manages Social Security or SSI benefits on behalf of another person. A representative payee may be necessary due to either incapacity or to the youth of a beneficiary. Representative payees have authority only over the distribution of the individual's benefit checks—it is a status assigned by the SSA solely for the purpose of managing the beneficiary's benefits. Payees are not legal guardians and are not authorized to be representatives in any area other than Social Security or SSI payments.

Representative Payees must report annually how they have used the Beneficiary's money. They should retain receipts for expenditures to demonstrate that the money was used for the beneficiary. Payees are responsible for reporting all relevant changes to the Social Security Administration that may affect the individual's entitlement to benefits or payment amount. The payee must not merely act as a conduit or use funds improperly (i.e., not for the beneficiary). If the payee misuses funds, the payee is liable to repay the money to the beneficiary. If there is money left over, the payee must invest or conserve it for the use of the beneficiary.

For children under the age of 18, the need for representative payeeship is assumed by Social Security (an emancipated youth could assume responsibility for managing their own benefits under certain circumstances). When an individual turns 18, SSA will review payeeship status to see if changes are needed. This review takes place at the time of the age 18 redetermination or CDR. If the beneficiary wishes to become his or her own payee, or wishes a different Representative Payee the request for the change should be made in the local Social Security office. The SSA will evaluate the situation, and will assign a new payee if that appears to be in the best interest of the beneficiary. If an adult who has had a payee wishes to become his or her own payee, the person may need to provide medical evidence that the beneficiary is now able to be responsible for his/her own payments.

## **Strategies for Success**

1. As with so many issues in transition planning, the key to success is starting early and keeping at it. The same holds true with guardianship and payeeship issues. CWICs should begin talking to transition aged youth and their parents about the rights and responsibilities associated with adulthood as early as possible. Families need to have very specific information about all the different options available and should be encouraged to start thinking about supporting the student to become as independent as possible. Schools need to include both basic financial management skills and benefits management skills in the core curriculum offered to transitioning students. CWICs can help reinforce this skill development process by offering short seminars on various benefits management subjects to both young adults and their family members. Just talking about these issues informally is not sufficient to get the job done. Formal skill training is essential.
2. CWICs need to fully understand the process SSA uses to make and change payeeship decisions and should counsel students and families about these issues. Unfortunately, the idea of young adults with disabilities managing their own benefits and finances is

still viewed as a radical notion to many parents, teachers and VR counselors. Once again, time and energy needs to be expended on helping transition aged youth develop the skills necessary to become their own payees, whenever possible.

3. A big mistake CWICs make is assuming that families understand the responsibilities that come with serving as a representative payee. In addition, students who receive their own benefits often have no understanding of what they must report to the SSA. This ignorance is not just unfortunate, but dangerous. Failure to report relevant information to SSA often causes substantial overpayment of benefits that can take many years to pay back. CWICs in collaboration with schools and VR counselors should provide formal training on reporting responsibilities and how best to communicate with the SSA about benefits. By doing this, CWICs, school personnel, and VR Counselors will make their jobs easier and ultimately make the jobs of SSA personnel easier as well. Especially important is the fact that this will help to quell the all-too-common belief of families and payees that SSA is unfair in their actions. As one can imagine, avoiding overpayments and subsequent paybacks go a long way in strengthening SSA's relationship with its beneficiaries.

#### **Part IV. Benefit Issues for Transition Age Youth 18 and Older.**

Transition issues related to Social Security disability benefits do not stop being relevant once a beneficiary or recipient turns 18. On the contrary, some of the most important options and work incentives just begin at this point. In this section, some of the most important points for CWICs to focus on while counseling the transition aged population are highlighted.

- While the student earned income exclusion is a wonderful work incentive, it has several negative aspects that need to be considered. First and foremost is the difficulty students have in using SEIE in combination with PASS. Since SEIE allows so much earned income to be excluded, it leaves little countable income with which to fund a Plan for Achieving Self Support. There are some instances in which a PASS would be more beneficial for the long-term career development of a student, but is not usable due to SEIE. A potential solution to this problem lies in the SEIE. Since so much earned income can be excluded, students could take these wages and put them in the bank. The PASS could be used not to set aside INCOME, but RESOURCES. These two concepts are quite different from Social Security's perspective. By using the SEIE and PASS in combination like this the young adult could actually save for post secondary education or training that would lessen future dependency on VR funds or educational loans. While using the SEIE, the student would keep most if not all of the SSI payment intact while saving for an education.
- CWICs must also remember that eligibility for the SEIE is not automatic. A young person who quits school will lose this valuable work incentive. The SEIE can be used as a powerful incentive to encourage youth to stay in school if they understand the financial consequences of dropping out. How often are these consequences made clear to the student? In addition, for students who earn significant amounts, it is important to

remember that all other SSI work incentives can be applied to any remaining income after the student earned income exclusion has been exhausted, or for young adults who are not eligible for SEIE.

- Benefits counseling for transition aged youth on SSI must emphasize the advantages of continued Medicaid under the 1619(b) provisions. This is arguably the most powerful SSI work incentive currently in existence. CWICs must also be prepared to discuss the Medicaid buy-in program available in the state as well as other Medicaid waiver programs. While understanding the eligibility requirements for these programs is important, counseling must also include a comprehensive review of how these programs are affected by earned income. In some states, the Medicaid waiver programs have adopted the institutional rules for income. This may mean that any income (earned or unearned) over the FBR plus the \$20 general income exclusion must be paid back to the state to help offset service costs. These rules vary widely by state and must be researched fully by CWICs. Don't forget to discuss the extended Medicare provisions with all title II disability beneficiaries. These provisions guarantee at least 93 months of premium free Medicare coverage after the completion of the trial work period to eligible persons who lose cash benefits due to wages.
- Multiple sources of funding are potentially available to fund education and career development that can be used in combination with a PASS. CWICs need to be aware of options such as state VR support and Individualized Training Accounts (ITAs) provided by One-Stop Career Centers. These funds are typically paid directly to the educational or training entity and are not counted as either income or resources for SSI purposes. The addition of these funds to the PASS will not only enable the career goal to be met sooner, but add power to the plan itself. A PASS that includes multiple funding streams is often more readily approved by SSA than one that relies solely on PASS contributions.
- For youth receiving Temporary Aid to Needy Families (TANF), there may also be access to an Individual Development Account or IDA. An IDA is a special bank account that helps an individual save for an education, the purchase of a first home, or to start a business. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 authorized States to use money from their TANF grant to fund IDAs. Earnings from work are used to set up an approved bank account for an IDA. Any earnings an individual contributes to a TANF IDA are deducted from wages when determining countable income for SSI purposes. State matching funds that are deposited in a TANF IDA are excluded from income as well as any interest earned on the individual's own contributions. For more information on SSI and IDAs, see POMS SI 00830.665 - Individual Development Accounts (IDAs)—TANF Funded.
- Student financial assistance received under Title IV of the Higher Education Act such as PELL and Supplemental Educational Opportunities grants and federal work-study are income not counted for SSI purposes. CWICs need to discuss the educational loans with transition aged youth to help them select the best way to finance their education or career goals.

- Finally, since marriage is part of adult life, keep in mind that SSI recipients who marry an ineligible spouse will be subject to spouse-to-spouse deeming. Even if the spouse is an eligible individual, there are financial consequences to marriage for an SSI recipient. CWICs must be prepared to offer specific advisement about the effect of marriage upon benefits, particularly if earned income is involved. While SSDI is not affected by marriage, Childhood Disability Benefits are. Marriage to someone other than certain title II beneficiaries will cause termination of CDB on that parent's work record. Once termination on that work record occurs due to marriage, it cannot be accessed for a benefit again. The rules about marriage are complex. All questions about when marriage counts should be referred to SSA personnel.
- Finally, although the Ticket to Work program only offers a Ticket to eligible beneficiaries or recipients who are age 18 or older, CWICs should begin discussing the Ticket to Work program much earlier than this. In many cases, it will take time to decide on an occupational goal and select an Employment Network (EN) to provide needed services and supports. If careful planning has been conducted in advance of the 18<sup>th</sup> birthday, the youth may quickly select a provider and initiate services. Even if a teenager has not formally worked for pay by age 18, activities such as job shadowing, volunteering, vocationally focused outings in the community and any type of exposure and discussion related to the world of work can be critical building blocks leading up to this point in a soon-to-be adult payee's life. Benefits counseling is a critical component of the Ticket to Work program that also needs to begin as early as possible.

## **Part V. Conclusion**

As this briefing paper illustrates, SSA has made a sincere and serious commitment to improve school to work transition for students with disabilities who are receiving monetary benefits. For these students to realize their fullest potential and to take advantage of the incentives that SSA has put in place for their benefit, it is imperative that other entities share in and assist with this challenging process. These entities include families of beneficiaries, school personnel, vocational rehabilitation specialists, and community based organizations. All play an important role in a youth's development. The better one is educated on the intricacies of SSA policy, protocol, and guidelines, the more knowledge can be passed on to transition aged youth, the individuals who are directly affected. By working in concert with one another and sharing information, it is inevitable that more and more youth will realize a successful transition from school to work, and it will be an enjoyable and rewarding stage in their lives. Positive results and experiences like this will pave the way for other youth to write their own successful transition stories.

## **Conducting Independent Research**

POMS SI 00820.510 -- Student Earned Income Exclusion

POMS DI 23570.010 -- Disability Redeterminations - Age 18 Cases

POMS DI 23570.020 -- Development and Evaluation of Childhood and Age 18 Disability Redeterminations

POMS DI 14510.005 -- Policy for Section 301 Payments to Individuals Participating in a VR or Similar Program

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