

Benefits Assistance Resource Center

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SUBSIDY AND SPECIAL CONDITIONS

Subsidy, like other The Social Security Disability Insurance (SSDI) work incentives, is used when a Claims Representative examines work effort to determine if the work an individual performs is Substantial Gainful Activity. Subsidy exist at the time of the determination, for the sole purpose of evaluating work activity. It is the SSA's job to decide if a subsidy exists, and how much of a subsidy can be established for a given circumstance.

What is a Subsidy

Sometimes a person's disability will result in the need for extra assistance, a reduced production rate, frequent breaks, or fewer job duties than coworkers in a similar job. When that happens, the individual's income is not only pay for their work product, but also represents either direct help from someone else, like a supervisor or job coach, or full pay for lower productivity than other employees. SSA is only interested in assessing earnings that can be attributed directly to the individual and the earnings potential if those supports weren't in place. Therefore, the SSA adjusts the value of the income by deducting the cost attributed to the extra help or special situation that each person experiences.

When Subsidy is Considered?

The SSA considers Subsidy when making an SGA determination for Social Security Disability Insurance (SSDI), Childhood Disability Benefits (CDB formerly known as SSDAC), or Disabled Widow(er)s benefits (DWB). Thus, Subsidy doesn't apply during the Trial Work Period, doesn't apply to SSI at all after the person is eligible, and isn't relevant if the earnings are below SGA without deductions. It applies only as part of the whole package of SSDI work incentives used in an SGA determination: Subsidy, Impairment Related Work Expenses, Unsuccessful Work Attempts (UWA), and income averaging. Unlike Income averaging, and UWA, Subsidy and IRWE may still be used after the consumer has a Cessation month, to allow payment continuation even though gross earnings exceed the current SGA limit.

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**Virginia Commonwealth
University
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How does the SSA make subsidy determinations?

When conducting a work Continuing Disability Review, the Work Activity Report (form SSA 821), asks questions that should help the Social Security Claims Representative identify when a subsidy exists. The SSA will look for subsidy if the consumer reports getting extra help, having lower productivity, missing more work, or being hired under a special program or by a friend or relative. They might also ask about a subsidy if the consumer has:

- ◆ sheltered employment;
- ◆ a childhood disability;
- ◆ a cognitive or emotional disability;
- ◆ an apparent earnings discrepancy between amount paid and the value of services performed;
- ◆ a disability where the nature and severity indicate that the worker receives support from others in doing the work;
- ◆ a job acquired through a special program; or
- ◆ a job working for family or a friend.

To make the decision if a subsidy exists, the SSA gathers information from the beneficiary, and from his/her employer. Does she/he have a slower production rate than industry standard? Does she/he need a job coach to perform his/her duties? Was she/he hired by a friend or relative to do this job? Does she/he have more absences, shorter days, or fewer duties than co-workers? Is she/he working under a special program? What is the extra assistance, lower productivity, or special circumstance worth?

How does the SSA know how much to deduct?

In developing subsidies, employers provide documentation (SSA Work Activity Questionnaire) regarding the actual value of the workers' services. Employer subsidies may be either specific or non-specific. Specific subsidies are those in which employers are able to designate a specific dollar amount of subsidy after calculating the reasonable value of the worker's services. Specific subsidies should include an adequate explanation as to how a specific subsidy was calculated. If an employer cannot provide a satisfactory explanation for identifying a specific amount of the subsidy, the amount of the subsidy can be determined through further development by the employer. For, non-specific subsidies, the employer determines the value of the subsidy by comparing the work of individuals in terms of time, skills, and job responsibilities at the workplace with that of coworkers without known disabilities performing similar work. The proportional value of the work must then be estimated according to the prevailing wage for such work.

What are Special Conditions?

Special conditions exist when a worker receives supports or services from someone other than an employer, potentially subsidizing the worker's ability to perform SGA. Vocational Rehabilitation or job coach services provided to workers are a strong indication that the work is subsidized. In cases where special conditions are being provided to the worker, the subsidy is determined by the following activities:

- ◆ Comparing the time, energies, skills, and responsibilities of the worker with a disability to workers without known disabilities performing the same or similar work;
- ◆ Estimating the proportionate value of such services according to the worker's pay scale for his/her work; and
- ◆ Determining how often the job coach monitors or supports the person and how intensively job coach services remain overtime.

How is the dollar amount of a subsidy determined when a worker is receiving job coach services?

The dollar amount of the subsidy is determined by the total number of job coaching hours per month multiplied by the worker's hourly wage. This figure is then subtracted from the monthly gross earnings to determine the countable earnings for the month.

Explaining Subsidy

Subsidy is a tricky work incentive to explain to employee/beneficiary and employers. It is important that you help the individual to realize that the SSA is not evaluating their work performance. Instead, the SSA is assessing if the disability has an impact on work production, and whether or not they could be as productive without supports on the job. It is a subtle difference, but an important one.

Be careful to explain that the individual does not lose any money by helping the SSA establish that a subsidy exists. Some people are confused by the phrase "the SSA takes", or "the SSA deducts", and think that they must pay the SSA for their subsidy. Explain that this is all part of the SSA's decision about whether or not they could make as much without help.

When explaining Subsidy to an employer, it is important to let the employer know that the SSA wants to compare the employee's work to someone with-

out a known disability to determine if she/he could make as much elsewhere without the help that employer provides. Even though workers with disabilities may require extra help, many employers appreciate the employee, and are impressed with what they do. The employer may be reluctant to describe the work as less than that of other employees for fear of offending, or losing, the worker. Treat this with finesse, to gain an accurate picture of the consumer's Subsidy.

Can a Subsidy ever be established retroactively?

Yes, in fact, they usually are. All of the SSDI work incentives involve making a decision about what has already happened. In some cases, a subsidy pattern can be established based on past work for the same job, and the SSA is willing to project that the same subsidy will exist in the future. In most cases, however, the SSA is looking back and making a determination about what has already happened. It may even be possible for the SSA to overturn a benefits Cessation, once they realize that a subsidy should have been considered. Establishing a subsidy could thus eliminate an erroneous overpayment.

Can a self-employed individual have a subsidy?

SSA uses the term "Un-incurred Business Expense" for workers that are self-employed and receiving support that someone else provides at no cost. Employment subsidies exist when a self-employed person receives:

- ◆ Unpaid help with the worker's business provided by a family member, relative or friend;
- ◆ Un-incurred business expense (Vocational rehabilitation purchases equipment for the business); and
- ◆ Soil Bank Payments (farmers/ranchers).

SSA deducts the cost of these expenses when determining SGA for workers that are self-employed.

How can consumers document Subsidy, special conditions or unincurred business expenses for SSA?

The subsidy/special condition should be documented in letter format and include the following information:

- ◆ the individual's job,
- ◆ start date,
- ◆ hourly wage,
- ◆ job schedule,
- ◆ duties, and
- ◆ declaration that a subsidy exists.

A description of the subsidy or special condition should be provided as well as how the dollar amount/value of the subsidy was determined with supporting evidence.

Scenarios

JIM

Jim is a senior in high school and is working for the first time with the assistance of a job coach provided by his school's Transition program. He is an assistance stocker at a local pharmacy and works 30 hours per week and earns \$6.25/hour, for a total of \$787/month gross. When Jim first began his job, his job coach remained with Jim 100 percent of the time for the first three weeks. The job coach has since faded and provides approximately 5 hours of on the job support per week. Jim's parents have asked the employer and Transition Coordinator to help document the subsidy for SSI eligibility purposes as Jim is currently earning over the SGA level. The following illustration shows the effect of Jim's subsidy on his gross earnings level

Hours of job coaching on the job per month:	20
Multiply by Jim's hourly wage:	<u>x 6.25</u>
Equals monthly subsidy:	\$125.00

Jim's gross monthly earnings:	\$787.00
Less dollar amount of subsidy:	<u>-\$125.00</u>
Monthly gross earning counted towards SGA:	\$662.00

ANDREW

Andrew is an CDB beneficiary and has been working for the past year at the Holiday Inn South as a Bell Hop. He works full time and earns \$6.00/hour for a total of \$1008.00 in gross earnings per month. Andrew has just completed his trial work period and is being reviewed for SGA determination. During the CDR, SSA requests information as to whether a subsidy exists. Andrews's employer determined that a subsidy did exist by comparing Andrew's work in terms of time, skills and job responsibilities with that of his coworkers performing the same work. Andrew's job description was reviewed and it was determined that Andrew performs his work duties at an estimated 70 percent (30 percent less efficient as compared to his co-workers without disabilities.) The following illustration shows the effect of Andrew's subsidy on his gross earnings level.

Andrew's gross monthly earnings before subsidy is applied:	\$1008.00
Less subsidy (30 % of gross earnings):	<u>-\$ 302.00</u>
Monthly gross earnings counted towards SGA:	\$ 706.00

JANIE

Janie is employed full time as an Office Assistant for Just For Feet Warehouse. She has been employed with the company for 10 years. Janie became legally blind two years ago and has been back at work for the last year. She currently earns \$8.75/hr. which brings her gross monthly income to \$1470. Janie is also receiving SSDI and Medicare. As her trial work period has ended, SSA is reviewing Janie’s earnings for SGA. Due to her visual disability, Janie requires software and other technology to be able to perform her daily work tasks. She also is allowed to take longer breaks and lunch. Given these accommodations for her disability, Janie is able to perform at 75% compared to her non-disabled co-workers performing the same work. The following illustration shows the effect of Andrew’s subsidy on his gross earnings level:

Janie’s gross monthly earning before subsidy is applied:	\$1470.00
Less subsidy (25% of gross earnings)	<u>-\$ 368.00</u>
Monthly gross earnings counted towards SGA:	\$ 1102.00*

* The SGA level for persons with blindness/visual impairments is currently \$1240/month.

JOHN

John, a CDB beneficiary has been employed part time at a local recycling company for 11 years. He began employment initially as part of a work crew that received full time support from a local supported employment program. After the first three years of the crew operation, the employer hired John as an individual employee vs. crew worker for 25 hours/week at \$ 8.00/hr. A job coach from the SE program has continued to provide ongoing employment support for John, which averages 2 hours per week. John also has received extra supports and supervision provided by the employer which includes daily reminders of his individual work duties. His employer estimated that John performed at 75% (25% less efficient than an employee without a disability in the same position).

John recently received notification from SSA that he is in an overpayment situation and there were up to five years of earnings in question for a total overpayment of \$50,000. As it was evident that subsidies existed in John’s employment, his employer and SE case manager provided the following documentation for SSA to verify the subsidies.

Hours of job coach intervention:	8 hours
Multiplied by John’s hourly wage:	<u>\$8.00/hr.</u>
Monthly job coach subsidy:	\$64.00

(continued)

Employer sponsored non-specific Subsidy: (25%)	\$210.00
John's gross monthly earnings:	\$840.00
Less dollar amount of identified subsidies:	-\$274.00
Monthly gross earnings counted for SGA:	\$566.00

PAULA

Paula is employed full time as a Bookkeeper for Home Health Care, Inc. She averages \$850.00/month in gross earnings. Due to the severity of her disability, she tires easily and is allowed to work at home and adjust her schedule to work when she is able. Given this accommodation for her disability, Paula performs at an estimated 80% as compared to her co-workers without disabilities. The estimate of her work subsidy is based on her performance and actual hours worked. The following is an illustration of Paula's subsidy on her gross earnings level:

Paula's gross monthly earnings before subsidy is applied:	\$850.00
Less subsidy (20% of gross earnings):	-\$170.00
Monthly gross earnings counted for SGA:	\$680.00



Resources

Code of Federal Regulations for Social Security (CFR) References

Regulations No. 4, Subpart P, Sections 404.1573, 404.1574, 404.1574a, 404.1575

404.1573	General information about work activity.
404.1574	Evaluation guides if you are an employee.
404.1574a	When and how we will average your earnings.
404.1575	Evaluation guides if you are self-employed.

Regulations No. 16, Subpart I, Sections 416.973, 416.974, 416.974a, 416.975

416.973	General information about work activity.
416.974	Evaluation guides if you are an employee
416.974a	When and how we will average your earnings.
416.975	Evaluation guides if you are self-employed.

Program Operations Manual System (POMS) References

DI 10505.001	General – Evaluation and Development of Employment
DI 10505.010	Determining “Countable Earnings”
DI 10505.025	Special Employment Situations
DI 24001.025	Substantial Gainful Activity (SGA) Earnings Guidelines and Evaluation of Earnings and Income

Websites and Documents

SSA Office of Employment Support Programs (OESP), The Work Site
www.ssa.gov/work

Red Book on Employment Support
Obtained by calling toll free 1 800-772-1213, at local SSA offices and the OESP Website.

Regional SSA Program Circular, Disability Insurance: “Job Coach Services in Supported Employment,” (Philadelphia Region, 8/2/89)

Cornell University Program on Employment Disability
<http://www.ilr.cornell.edu/ped>

The University of Montana Rural Institute on Disabilities
<http://ruralinstitute.umt.edu>

Virginia Commonwealth University's
Benefits Assistance Resource Center

Give us a call or e-mail us...We are the answer to your Social Security Work Incentives questions!!!

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