

## How Work Affects SSI, SSDI and CDB Eligibility

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Chapter 2 of this guide provides a general overview of the four basic types of government benefits. Income and resources are critical in determining continuing eligibility for most benefits. This chapter will focus specifically on three types of cash benefit programs: Supplemental Security Income (SSI), Social Security Disability Income and Childhood Disability Benefits (CDB) also known as Disabled Adult Child (DAC) benefits.

SSI, SSDI and CDB provide cash income to persons who are disabled and incapable of SGA. As of 2014, SGA is defined as the ability to earn \$1,070 or more per month in earned income. For persons who are blind, SGA is \$1,800 per month. The reason for the difference between the two levels of SGA is because SGA for persons who are blind was indexed to inflation in 1974. The SGA level for persons who have other disabilities was not indexed for inflation until 2000. Effective Jan. 1, 2000, SGA was increased from \$500 per month to \$700 per month and indexed for inflation moving forward. From 1/1/2000 to 1/1/2014 it has increased from \$700 per month to \$1,070 per month.

It is important to note that a person with a disability (other than blindness) has to be more disabled today to collect SSI, SSDI or CDB than in 1974 because the SGA level has not kept up with inflation. The SGA was \$300 in 1974 when SSI was first introduced. For persons who are blind, SGA was indexed from day one of SSI and is now \$1,800 per month. Because the SGA for all other disabilities was not indexed for inflation until 2000, the SGA for other disabilities does not have the same “buying power” than the SGA for the blind. In other words, a person with a cognitive or physical disability is not able to earn the same buying power he could in 1974 when you calculate inflation costs into the SGA of \$1,040 per month.

Earned income is treated differently by SSA when determining eligibility or continued eligibility for SSI, SSDI and CDB.

### SSI TREATMENT OF INCOME

SSI requires that in order to be eligible for SSI a person must have a medically determinable disability which has lasted a year, is expected to last a year or end in death before the end of a year. The person with a disability must have limited resources and must also be incapable of SGA. That means he cannot be earning or be determined to have the capacity to earn more than \$940 per month when he initially applies for SSI.

The following is a list of resources than a person is allowed to own and still be eligible for SSI:

- cash resources up to a maximum of \$2,000
- life insurance with a face value of up to \$1,500

- burial plots for self and immediate family
- burial funds up to \$1,500 for SSI recipient and spouse
- one car
- furniture and household goods of ‘reasonable value’
- a home, regardless of its value, if the person lives in the home

SSI also does not count the following income indetermining SSI eligibility:

- the first \$20 per month of most income earned from any source
- the first \$65 of most earned income and half of any earned income in excess of \$65.
- food stamps
- home energy assistance
- food or shelter from certain non profit organizations approved by SSA

Once an individual has been found eligible for SSI, his eligibility may be reviewed every 1 – 3 years. Even if SSI later determines that an individual’s disabling condition may not improve over time, his case will be reviewed every 5 years to be certain he still meets the eligibility criteria.

Once a person is receiving SSI, SSA wants to encourage him to work his way off the program so they deem earned income differently than they do unearned income. Unearned income in excess of the first \$20 is deducted dollar for dollar from one’s SSI monthly check (federal SSI level for 2014 is \$721 per month).

The following is an example of the effect of working on SSI. In this example the individual is earning \$1,000 per month in earned income

#### FIRST STEP

Work earnings:	\$1000.00
Earned and unearned income exemption	- \$ 85.00
Remaining	\$ 915.00 divide by 2
Total Countable earnings:	\$ 407.50

#### SECOND STEP:

SSI Benefit:	\$ 721.00
Total Countable earnings	- \$ 407.50
Adjusted SSI payment	\$ 313.50

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**THIRD STEP:**

Adjusted SSI Payment	\$ 313.50
Earned Income	\$1000.00
Total Monthly Income	\$1313.50

You can maximize the amount of money you receive under SSI if you are familiar with deductions allowed for “Impairment Related Work Expenses” (IRWE’s). IRWE’s will be discussed below.

**SOCIAL SECURITY DISABILITY INCOME TREATMENT OF INCOME**

As previously stated, in addition to being disabled, an individual applying for SSDI must have worked and paid into social security the requisite number of quarters, sometimes referred to as Quarters of Coverage (QC’s). The requisite number of quarters is determined by the number of years a person has worked and his age when he was first determined to be disabled. As with SSI, the disability must be a medically determinable mental or physical disability that has lasted a year or is anticipated to last a year which prevents him from earning SGA. If he meets these requirements, he will be eligible for SSDI based on his own work record. The amount of SSDI he receives will vary depending on the rate of pay and number of QC’s paid into SSA.

SSDI has different rules regarding the treatment of earned and unearned income. For example, unearned income does not affect SSDI as it does SSI. There is also no reduction in SSDI for every dollar earned in excess of the \$65 earned income set aside as there is with SSI. If a person earns \$900 per month, he will be able to keep the entire \$900 of earned income and his entire SSDI check. As long as the individual is incapable of earning more than the \$1,070, he will keep his full SSDI payment as well as his earnings. An individual could also earn over the \$1,070 but only for a time period referred to as a Trial work Period (TWP). If after what is referred to as a Trial Work Period (TWP), he continues to earn more than the \$1,070, he may lose his SSDI.

For example in the example above, the \$1000 per month resulted in a decrease of the individual’s SSI to \$313.50. With SSDI, the individual will lose his entire SSDI if he is capable of SGA beyond the TWP. The SSI deeming rules are somewhat kinder if a person is earning in excess of SGA \$1,070. Generally speaking the SSDI rules are more black and white when it comes to earned income. This creates a potential trap for the unwary if one’s adult child would otherwise qualify as a DAC under the Childhood Disability Benefit program. This potential ‘trap’ will be discussed below.

The distinction between the SSI earned income deeming rules and SSDI and CDB (which will be discussed below) is very important as income in excess of \$1,070 may result in the complete loss of SSDI and/or CDB. As demonstrated in the above example, income in excess of \$1,070 may not result in a complete loss of SSI. It is important to remember that while the

SSDI deeming rules of earned income are in the recipient’s favor if he is earning less than SGA (\$1,070), any income in excess of the \$1,070 may result in a total loss of SSDI.

**SSDI WORK INCENTIVE RULES**

There are the rules that affect a person’s ability to work if he is receiving SSDI. Persons receiving SSDI can attempt to return to work while still retaining their full monthly SSDI payment and Medicare by using what is called a Trial Work Period (TWP). The TWP allows a person to earn in excess of SGA for a period of 9 months in a 5 year period. The months do not have to be consecutive months.

During the TWP, a person can test their ability to maintain employment without fear of losing his SSDI. A person receiving SSDI under his own work record may be able to still qualify for SSDI cash benefits for a 3 year period of time beyond the TWP. referred to as Extended Period of Eligibility (EPE). EPE basically gives a worker who is disabled a grace period of three years beyond his trial work experience to determine if he is capable of gainful activity. If during the EPE, the individual earns less than SGA, he will receive a SSDI check for the month(s) he earned less than SGA. If a person’s earnings stay above the SGA during the three year grace period, when the grace period ends, his benefits will terminate. An individual receiving SSDI benefits under his own work record can qualify for SSDI benefits even after EPE has expired under what is referred to as Expedited Reinstatement (EXR). If the worker is incapable of continuing to work, he can reapply for SSDI and receive an expedited decision as to whether or not he re-qualifies for SSDI. The individual may even be eligible for six months of provisional benefits while he is waiting for a decision. The new rules take away many of the disincentives of trying to become gainfully active for persons receiving SSDI under their own work records. Prior to these rules, if a person tried to work and was successful for 9 months but then failed one month later, he lost his SSDI and Medicare and he would have to start the application period completely over resulting in a year or more without any cash benefits or Medicare.

The following is an example of how a person receiving SSDI and earning in excess of SGA is affected by his earned income:

SSDI benefit	\$ 700 per month
Earned Income	\$1,000 per month
Total Income	\$1,700 per month

Monthly income after TWP and grace period for EPD

SSDI benefit	\$ 0
Earned Income	\$1,000
Total Income	\$1,000

If the individual falls below the SGA level within 5 years of losing his benefits, he will be able to file for expedited reinstatement of benefits and will not have to wait months for his benefits to start again.

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However there is a way that the person earning \$1,000 per month may still be able to reduce his countable income and remain eligible for his full SSDI check and his earnings.

If the worker is paying for any good or service that enables him to work this cost may qualify as an Impairment Related Work Expense (IRWE). In order to qualify as an IRWE, the item or service must be something that the person needs in order to work. In addition, the worker needs to pay for those expenses himself. Examples of IRWE's are as follows:

- attendant care services
- transportation costs that are impairment related
- medical devices
- prosthesis
- work related equipment or services such as typing aids, page turning devices, telecommunications devices for the deaf, seeing eye dog, medical supplies such as elastic stockings, catheters, incontinence pads.

In the above example if the person were earning \$1,000 per month but had an impairment related expense of \$200 per month, he would still be considered earning less than SGA. Remember that the worker must pay the IRWE himself. If it is paid by his parent or special needs trust, it will not qualify for the IRWE deduction from earned income.

*Example:*

Earned income	\$1,000
IRWE	\$ 200
Countable income	\$ 800 (\$140 less than SGA)

In this example, the worker would continue to receive his full SSDI payment and his earnings minus the cost of IRWEs.

## **CDB/DAC BENEFITS**

While there are a number of similarities among SSDI and CDB/DAC benefits, there is one major difference which places the DAC at risk of losing his eligibility for CDB under his disabled, retired or deceased parent's work records. As stated above, in order to receive CDB, a DAC must be disabled prior to 22, single, and be 'continuously disabled" since turning 22. SSA defines "continuously disabled" as incapable of earning in excess of SGA (\$1,070 for 2014) per month. If a DAC tries to work and earns in excess of the SGA amount for more than 9 months in a 5 year period, he is presumed capable of SGA and therefore loses his DAC status. In most cases, this loss is irrevocable.

Family members, who believe with the proper supports, their family member is employable, must become familiar with the risks taken when the DAC earns in excess of SGA. The family or representative payee needs to be vigilant about reporting to SSA all supports the individual is receiving that enables him to work. The individual must pay for his own impairment related work expenses out of his SSA or earned income.

Documenting an IRWE may enable an individual to work and still retain his eligibility for DAC benefits. The cost of IRWE's result in a dollar for dollar deduction from the individual's SGA countable earnings. In order to qualify for the deduction, the individual with a disability must pay the cost of the IRWE himself from his earnings or SSA benefits. If the parent or trustee of a special needs trust pays for the IRWE, the expense will not qualify as a deduction from the SGA level of earnings. A person with \$200 per month of IRWEs can earn \$200 over the SGA amount and still qualify for both SSDI and CDB.

Another issue parents and representative payees need to be aware is of the need to notify SSA when the individual is employed by a benevolent employer who may accept a lower level of work performance than would otherwise be accepted. Examples of benevolent employers would be a family friend or relative who hires the individual as a kind deed or favor to the parent. Reporting a benevolent employer to SSA may assist in winning an appeal should the individual exceed the SGA amounts and lose his SSDI or CDB as a result.

Under CDB, the disabled adult child need not have worked. If the parent has worked and paid into SSA the requisite number of quarters and if the parent then retires, dies or becomes disabled, the worker's disabled adult child may be eligible for cash benefits based on the parent's SSA work record. While the parent who worked and paid into SSA is disabled or retired, the DAC will receive 50% of what the parent receives. When the parent worker dies, the DAC will receive 75% of the parent's Social Security retirement funds. It is important to note, the parent receives his full check and the DAC receives an additional check equivalent to approximately 50 or 75% of the parent's check.

In order to qualify as a DAC and be eligible for CDB, a child must have been disabled prior to age 22, continuously incapable of gainful employment, single (or married to another DAC) and the parent must have become disabled, retired under SSA or died.

While there are a number of similarities between the SSDI and CDB, there is a major difference between the two that advocates and family members need to know.

SSA offers several new programs to encourage individuals with disabilities to attempt to work. They created a Trial work Period (TWP) where a person can work and earn in excess of SGA for 9 months in a 5 year period without suffering a loss or reduction in their SSDI. The TWP is a period of any 9 months in which the individual earns over SGA. It is not necessarily 9 consecutive months. If an individual earns in excess of SGA in any 9 months in a 5 year period, he will be presumed capable of gainful activity. Under the old SSA rules, if an individual tried employment and was successful by SSA's standards (i.e. any 9 months in a 5year period), but later fails to be able to maintain this employment, he risked losing his SSDI and was forced to reapply. Reapplication meant, in some cases, an extended period of time with no income. There was an appeal process but it was very difficult to overcome the presumption of SGA once one has earned in excess of SGA for 9 months in a 5 year period.

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The significant difference between continued eligibility for SSDI and for CDB is that under the former, if the person is unable to maintain his employment, he has a grace period of several years in which he can requalify for SSDI. With Childhood Disability Benefits, the individual may irrevocably lose his benefits as a DAC if he is successful in employment beyond the trial work period but later fails. For this reason parents and advocates need to be sure that the individual who is receiving DAC benefits is truly capable of gainful activity on a long term basis. If he later fails, he will be able to collect SSDI benefits under his own work record but may not be able to receive the higher level of benefits he was previously eligible for as a DAC under his parent's work record. Such a difference in monthly cash benefits may make a significant difference in the quality of the DAC's life over the course of his lifetime. This distinction between the CDB and SSDI benefits is significant and may cause a DAC to unintentionally lose his status as a DAC. It is an unintended trap for many persons who but for working for a brief time would otherwise qualify as DACs under the parent's work record.

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