VCU Work Incentive Planning and Assistance National Training Center

vcu-ntc.org

SSA Disability Program Differences for Individuals Who Are Blind

February 2011

Social Security's Definition of Blindness

In both the title II and the SSI disability benefit programs, Social Security makes a distinction between individuals who are "disabled" and individuals who are "blind". To receive Social Security disability benefits due to blindness, individuals must meet the SSA definition of being "statutorily blind". This is defined in the following manner:

> **"Statutory blindness is defined in the law as central visual acuity of 20/200 or less in the better eye with the use of correcting lens. An eye which has a limitation in the field of vision so that the widest diameter of the visual field subtends an angle no greater than 20 degrees is considered to have a central visual acuity of 20/200 or less." 20 CFR 404.1581**

Visual impairments that do not meet the statutory blindness definition cannot be deemed "blind" for the purposes of SSA disability benefits. However, they may constitute "disability" provided that the disability requirements and all other non-medical factors of eligibility are met. In some cases, individuals will have visual impairments in combination with other disabling conditions. If the combination of conditions meets the disability standard, the individual may be found eligible for benefits as "disabled" instead of being found eligible due to statutory blindness.

It is important to understand that legal blindness is NOT the same as statutory blindness, although this phrase is more commonly used by the general public when referring to individuals with significant visual impairments. It is quite possible for an individual to be considered "legally blind" for the purposes of State or local governments while still not meeting the strict standard of being statutorily blind for SSA purposes. Conversely, individuals who meet the SSA

definition of blindness may walk without a cane or guide dog, may be able to read print, and in rare circumstances that depend on special equipment and state law, may even be able to drive. It is not possible to determine whether or not a person meets the blindness test without an examination conducted by a qualified medical professional.

Establishing Blindness

A person cannot receive disability benefits based on blindness unless SSA has medical evidence of blindness in the claims folder. If an individual does not have blindness as the disability benefit diagnosis, he/she may request that SSA perform a medical Continuing Disability Review (CDR) to establish blindness as the primary disability. The law states that the Federal government can pay to obtain medical evidence of records (MER) necessary to establish disability and blindness for all disabled or blind applicants.

This change in designation of disability may be requested at any time, but should most definitely be pursued if an existing visual impairment becomes worse over time, or if loss of vision occurs because of a related disabling condition such as diabetes.

Establishing blindness as the disability of record is important because SSA provides certain special rules to blind individuals which are NOT applicable to recipients with other disabilities. In addition, there are certain advantageous work incentives which are only afforded to persons who are receiving benefits based on blindness. If a CWIC suspects that a beneficiary may meet SSA's definition of blindness, the beneficiary should be referred to a qualified physician for a thorough eye examination.

Differences in SSI for Individuals who are Blind

When the Supplemental Security Income (SSI) program was created in 1974, it was the product of consolidating numerous state poverty programs for people who were over age 65, blind or disabled into a one overarching federal program. The distinction between age, blindness and disability continues in the present program. This section will outline how the SSI benefits for individuals with statutory blindness differ from SSI benefits for individuals with disabilities other than blindness.

Differences in Assessing Eligibility for SSI

There are several critical differences in the way SSA assesses eligibility for SSI benefits for individuals who meet the definition of blindness.

- Unlike with the title II disability program, there is no 12-month duration requirement for "statutory blindness" in the SSI program. This means that if an SSI claimant is found to

be otherwise eligible and statutorily blind, he/she is eligible regardless of the anticipated duration of his/her blindness.

- Under the SSI program, a statutorily blind individual is eligible for SSI payments even if engaging in Substantial Gainful Activity (SGA), as long as all other factors of eligibility are met (e.g., income and resources specifications).

The law provides that individuals filing initial and/or subsequent SSI applications for disability or blindness payments, including children, are potential candidates for presumptive disability/presumptive blindness (PD/PB) payments. The presumptive disability/presumptive blindness provision of the SSI program means that an individual or child, applying for Supplemental Security Income (SSI) based on disability or blindness, may receive up to 6 months of payments (as early as the month following the month of application) prior to the final determination of disability or blindness if he or she is determined to be presumptively disabled or blind; and meets all other eligibility requirements.

Payments based on PD/PB are not considered overpayments if it is later determined that the claimant is not disabled or blind unless the claim is disallowed due to ineligibility based on non-medical factors, it is subsequently determined that the amount of payment was computed in error.

Differences in SSI Work Incentives for Individuals Who are Blind

In addition to the differences in eligibility determinations, blind individuals also are treated differently in the SSI program when they work. The chart below provides a quick reference for the various work incentives available to SSI recipients and indicates which of these provisions are different for individuals who are blind.

Work Incentive	Does it differ?	How?
Student Earned Income Exclusion (SEIE)	No	N/A
General Income Exclusion	No	N/A
Earned Income Exclusion	No	N/A
Impairment Related Work Expense (IRWE)	Yes	Expenses should be deducted as Blind Work Expenses, never as IRWE
One-for-Two Offset	No	N/A
Blind Work Expense (BWE)	Yes	Deductions must be related to work and paid out of pocket – need not be related to disability
Plan for Achieving Self-Support (PASS)	Not functionally but…	Since more earnings may be excluded under Blind Work Expenses, and thus there is less countable income for working SSI beneficiaries, PASS may not be as powerful for individuals who are blind
Expedited Reinstatement (EXR)	Not functionally but…	Because insured status for blind people is different, entitlement to SSDI may occur

Work Incentive	Does it differ?	How?
		sooner, SSDI benefit might affect SSI EXR
1619(a)	Yes	Not applicable since SGA is not a factor for blind SSI recipients
1619(b)	Yes	Blind Work Expenses might allow a higher individualized earnings threshold

Blind Work Expenses (BWEs)

Blind Work Expenses (BWEs) provide a powerful work incentive for SSI recipients who are statutorily blind. BWEs represent any earned income of a blind person which is used to meet any expenses reasonably attributable to earning the income. Essentially, the cost of any work-related item paid by a blind person may be deducted as a BWE, regardless of any non-work benefit that may be derived from the item or the item's relationship to the person's blindness.

For blind SSI recipients, using the BWE deduction would almost always be preferable to claiming the expense as an Impairment Related Work Expense or IRWE. This is because BWEs do not need to be related to the disability, but only an expense incurred by working. Because of this rule, there are a great many more expenses which would qualify as a BWE which would not be allowed as an IRWE. In addition, BWEs are applied at a later point when using the standard SSI calculation sheet when determining countable income and how to adjust the SSI cash payment. Impairment related work expenses are deducted before the standard SSI one-for-two offset. In contrast, BWEs are deducted after the one-for-two offset which means that a larger percentage of the expense is actually deducted

The following chart provides guidance on types of expenses that are deductible as BWE, IRWE, or both, and the amount deductible. The chart is not intended to be all-inclusive. Refer to the policy discussed in POMS SI 00820.535, SI 00820.540, and DI 10520.001 ff. to determine whether an expense, which is not listed below, can be deducted as a work expense.

TYPE OF EXPENSE	DEDUCTIBLE AS		AMOUNT DEDUCTIBLE
	BWE	IRWE	
Attendant care services which are rendered in the: • home (with certain limitations as described in DI 10520.010D • process of assisting an individual in making the trip to and from work; or	X	X	The amount deductible under DI 10520.010D **NOTE:** DI 10520.025C.3. for documentation required when a family member performs the attendant care services. See DI 10520.030F regarding proration of attendant care expenses.

TYPE OF EXPENSE	DEDUCTIBLE AS		AMOUNT DEDUCTIBLE
	BWE	**IRWE**	
• work setting.			
Drugs and medical services which are essential to enable the individual to work (e.g., medication to control epileptic seizures)	X	X	The amount paid. See DI 10520.010H
Expendable medical supplies **Examples:** • Bandages • Catheters • Face masks • Incontinence pads	X	X	The amount paid. See DI 10520.010H.3. and SI 00820.550C.1 and SI 00820.550C.2.
Federal, State and local income taxes and Social Security taxes	X		The amount withheld. Assume the amount withheld reflects the individual's tax liability.
Dog Guide	X	X	The cost of purchasing the dog and all associated expenses (e.g., its food, breast straps, licenses, veterinary services, etc.).
Fees **Examples:** • Licenses • Professional association dues • Union dues	X		The amount paid
Mandatory contributions **Examples:** • Pensions • Disability	X		The actual amount of the mandatory contribution. For example, mandatory pension contributions are considered reasonably attributable to earning income

TYPE OF EXPENSE	DEDUCTIBLE AS		AMOUNT DEDUCTIBLE
	BWE	**IRWE**	
			and, therefore, deductible. Voluntary pension contributions are considered savings plans and, as such, are life maintenance expenses and not deductible.
Meals consumed during work hours	X		The actual value of the meals whether bought during work hours or brought from home.
Medical devices **Examples:** • Braces • Inhalers • Pacemaker • Respirator • Wheelchair	X	X	The cost of the items plus maintenance and repair of such items whether the individual works at home or at the employer's place of business. See DI 10520.010E.
Non medical equipment/services **Examples:** • Air cleaners • Air conditioners • Child care costs • Humidifiers • Portable room heaters • Posture chairs • Safety shoes • Tools used on the job • Uniforms	X	*	The cost of the item plus maintenance and repair of such item whether the individual works at home or at the employer's place of business. *To be deductible as an IRWE, the item or service must be impairment-related.
Other work-related equipment/services **Examples:** • Job coaching fees	X	X	The cost of the item plus maintenance and repair of such item whether the individual works at home or at the employer's place of business.

TYPE OF EXPENSE	DEDUCTIBLE AS		AMOUNT DEDUCTIBLE
	BWE	**IRWE**	
• One-handed typewriters • Special tools designed to accommodate an individual's impairment • Telecommunications devices for the deaf • Translation of materials into Braille • Typing aids (e.g. page turning devices) • Vision and sensory aids for the blind			See DI 10520.010E.2.
Physical therapy	X	X	The amount paid. See DI 10520.010.
Prosthesis	X	X	The cost of the item plus maintenance and repair of such item. See DI 10520.010E.1.
Structural modifications to the individual's home to create a work space or to allow the individual to get to and from work.	X	X	The cost of the modifications. See DI 10520.010G.
Training to use an impairment-related expense or an item which is reasonably attributable to work **Examples** • Braille • Cane travel • Computer program course for a computer operator • Grammar • Stenotype instruction for a typist	X	X	The cost of the training plus travel expenses to and from the training facility. Compute travel expenses to and from the training facility in the same manner as transportation to and from work (shown previously in this chart).

TYPE OF EXPENSE	DEDUCTIBLE AS		AMOUNT DEDUCTIBLE
	BWE	**IRWE**	
• Use of one-handed typewriter • Use of special equipment • Use of vision and sensory aids for the blind **NOTE:** Training does not include general education courses. Such courses may be excluded under a PASS.			
Transportation to and from work	X	X	**BWE** • In own vehicle: the applicable allowance, or, if more advantageous, the standard mileage rate permitted by IRS for non-governmental business use. See DI10520.030. **NOTE:** Do **not** recompute the transportation expense if the expense was computed using prior instructions. • For other than in own vehicle: the actual cost of the bus, car pool, or cab fare. **IRWE** See DI 10520.030.
Vehicle modification	X	X	See DI 10520.030.

The following items are specifically identified as NOT deductible under the BWE provisions:

1. In-kind payments
2. Expenses deducted under other provisions (e.g., PASS)
3. Expenses which will be reimbursed
4. Life maintenance expenses. Although not all inclusive, life maintenance items include the following:

a. meals consumed outside of work hours;
b. self-care items (including items of cosmetic rather than work-related nature);
c. general educational development;
d. savings plans (e.g., Individual Retirement Accounts (IRA's) or voluntary pensions);
e. life and health insurance premiums

5. Items furnished by others that are needed in order to work (the value of such items is not income)
6. Expenses claimed on a self-employment tax return (see SI 00820.545B.1 for further discussion regarding this issue)

The BWE exclusion applies only to earned income. Blind work expenses in excess of the earned income an individual receives during the month are never deducted from unearned income.

When providing WIPA services, CWICs should assume that any individual who is receiving SSI due to blindness and has more than $65.00 in earnings would have some type of deductible Blind Work Expenses. It is important to carefully explore potential BWEs with beneficiaries and provide specific information about retaining documentation necessary to substantiate each expense claimed. .

Blind Work Expenses Example:

Kathleen receives SSI and is working. She is working 40 hours a week for $10.00 per hour. This results in a monthly gross earned income of approximately $1720.00. ($400 per week multiplied by 4.3.) Kathleen is neither a student, nor is she under 22, so she is not eligible for the Student Earned Income Exclusion. She lives in a state that does not supplement SSI payments. Kathleen pays all of her own living expenses. Kathleen takes transportation that costs $120.00 per month. Kathleen meets the definition of statutory blindness.

What can be subtracted as Blind Work Expenses?

- Kathleen has $120.00 in transportation a month for work.
- She pays state and federal taxes, FICA and local taxes of approximately 20% of her earnings, or $344.00.
- Kathleen eats at work, and she reports spending approximately $30.00 per week on her lunches, or approximately $129.00 per month.

After asking Kathleen additional questions about work expenses, it is determined that these are all of the applicable deductions. The estimated total of all Kathleen's BWEs comes to $593.00.

How to calculate Kathleen's SSI payment:

- Kathleen has no unearned income, she has $1720.00 in earnings and she is not is not a student
- Since the $20.00 General Income Exclusion has not yet been used, subtract $20.00 from the estimated earnings, leaving $1700.00.

- Subtract the $65.00 earned income exclusion, leaving $1635.00.Because Kathleen is blind, there is no IRWE deduction.
- Divide the remainder in half: $1635.00 divided by 2 is $817.50.
- Subtract total estimated BWEs of $593.00, leaving $224.50 in countable earned income.
- Because there is no unearned income, the total countable income equals 224.50. This is the amount that would be subtracted from the current Federal Benefit Rate to calculate Kathleen's benefit.

  Notice that most of the Blind Work Expense deductions would not have been deducted as IRWEs if Kathleen was not statutorily blind. With SSI, work always adds to total income available to pay monthly living expenses. With BWE, work is even more beneficial.

IMPORTANT REMINDER: Blind Work Expenses only apply to the SSI program. For costs to be deducted from gross wages under the SSDI or CDB disability programs, the costs must not only meet the requirements that the item be paid out of pocket and related to work, but also must meet the "related to an impairment" criteria that is needed for IRWE before the item can be deducted. Remember that SGA levels are higher for statutory blind individuals, so blind beneficiaries may still be under SGA, even with higher earnings.

How BWEs are Applied for Members of SSI Eligible Couples

If both members of an eligible couple are blind, all work-related expenses should be deducted on the BWE line of the SSI payment calculation. If only one member of the couple is blind, then only the work-related expenses of the blind person may appear on the BWE line of the calculation. If the non-blind member of the couple is working, the non-blind person's expenses that meet the definition of IRWE will be deducted from the couple's earned income on the IRWE line, and the blind person's expenses will be deducted as BWE.

Also because of the easier standard for insured status, there are potential differences in accessing 1619(b) continued Medicaid for people who work, and Expedited Reinstatement (EXR). Though neither of these programs is applied differently to people who are blind, the fact that blind people become entitled to SSDI more easily may mean that SSDI payments will terminate eligibility for 1619(b) continued Medicaid earlier for blind people than would occur for beneficiaries who are not blind. People who leave SSI due to work and who later reapply or request EXR may be precluded from receiving SSI and Medicaid because they are now entitled to SSDI benefits.

Blind Supplements and Pensions

In addition to the state supplements (SSP) paid under the SSI program, some states have programs that provide additional income to blind individuals. Some of these are excluded from consideration as income for SSI purposes. WIPA personnel working with blind beneficiaries should seek information about additional programs available in the state, what affects the income from these programs, and whether the benefit is excluded as income for SSI purposes.

Differences in Title II Disability Benefits (SSDI, CDB) for Individuals Who are Blind

Being "Insured" for Disability Benefits

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

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

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

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

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

Fully insured status

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

Disability insured status

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

Insured Status for Blind Individuals

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

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

Calculating Benefits

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

Disability Freeze

Although the disability freeze provisions apply to all DI beneficiaries, they apply differently to blind individuals who apply for or receive DIB. In fact, individuals who are blind who have not stopped working may apply for freeze status instead of applying for cash payments. The disability freeze results in a change to the benefit calculation because years during a period of disability can be excluded from the calculation.

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

- SSA calculates benefits based on the years of work from the time a person starts working until the disability freeze begins.

- In the most common benefit calculation type, the SSA's computer system increases the amount of past earnings so that they represent current dollars. This is referred to as "indexing" the earnings. SSA then uses the highest of these indexed earnings to help determine how much a beneficiary should receive.

- SSA determines how many years of work to pick for the calculation by subtracting the year the person turned 22 from the year the person became disabled, then subtracting 1 year for every five years that result. A maximum of 5 years can be subtracted.
- Becoming entitled to disability benefits "freezes" the "clock" that keeps track of how many years are used in the calculation. It also prevents most of the earnings during the period of disability from being used in the calculation. This is usually good for the beneficiary, because years of entitlement to disability benefits may be years with little or no earnings.

- SSA either uses all of the person's earnings throughout their work history and period of disability, or SSA excludes the freeze period entirely—whichever yields a higher benefit amount.

- If someone who is not blind is subsequently terminated from benefit status, the earnings "clock" thaws and covered income earned after benefits are terminated can be counted in calculating benefits if the person again becomes entitled.

- If a person is blind, the clock should never start again unless it is to the person's advantage (the disability freeze period is extended indefinitely). In other words, if there are earnings after the blind person's disability "freeze" period begins, those earnings will not be used in the benefit calculation unless they would increase the person's benefit amount. Both a blindness freeze calculation (excluding those earnings) and a non-freeze calculation (including those earnings) are computed to determine which calculation yields the highest benefit amount.

- Previously entitled non-blind individuals whose benefits are terminated for five or more years must file a new application and must serve another five month waiting period before again receiving benefits. However, because of the extended freeze, blind individuals whose benefits previously terminated (regardless of how many years ago) and who file a new application do not serve a second waiting period.

Insured status and calculation year example:

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

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

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

SSA will do a simple calculation to determine how many years of earnings will be used in the calculation. SSA starts with the same number of years, as the number of years

used to calculate fully insured status. SSA then drops one year for every five years of that number.

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

17/5 = 3.4. (drop any remainder) 17 – 3 = 14.

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

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

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

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

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

Blind beneficiaries, however, may have a disability freeze period that precedes the 12-month retroactivity. The freeze period may begin years before the application was filed. Thus for blind applicants, SSA may take a disability freeze calculation back indefinitely to the time that all of the above conditions were met. People with disabilities other than blindness would be restricted in this "looking back" (retroactive) period to the beginning of the waiting period. By regulation, the waiting period cannot occur more than 17 months prior to the month the application for disability benefits was filed.

Work Incentive Provisions for Legally Blind Individuals over Age 55

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

- The individual is over age 55 and blind, and
- The beneficiary "is unable to engage in SGA requiring skills or abilities comparable to those of any gainful activity in which he or she was previously engaged with some regularity and over a substantial period of time. For the purposes of this occupational

definition of disability for blindness, work activity is determined to be 'comparable SGA' or 'non-comparable SGA" (POMS DI 26005.001)

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

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

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

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

Case Study Examples:

SAM

Sam is blind and 56 years old. He is working as a receptionist in an Independent Living Center. Sam has only met the standard for statutory blindness for about five years. In fact, Sam's last work was as a truck driver. Sam is working full-time, and has $1900.00 in countable income per month in 2012. The SGA level for blindness in 2012 is $1690, so Sam is performing SGA. The skills Sam used as a truck driver are not comparable to those he is using as a receptionist. Sam's benefits are suspended when he reaches countable SGA. They remain suspended until Sam's work again falls below the SGA level. Unlike entitlement prior to age 55, if Sam's work ceases to be SGA, Sam won't need to reapply for benefits. He will just need to let the SSA know that his work situation has changed.

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

Lloyd

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

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

Other Issues Affecting SSA Disability Beneficiaries who are Blind

Expedited Reinstatement (EXR) for Blind Individuals

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

Randolph-Sheppard Vending Facilities

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

One example of unincurred business expenses in a Randolph-Sheppard sponsored business is free rent and utilities for a restaurant in a federal building. Both the utilities used and the square

footage in which that restaurant operates have a value, since the vending program pays the utilities, and the federal government could potentially rent the space. The operator of the business neither pays rent, nor utilities out of the money taken in by the business. SSA may thus use both the monthly utility bills and the monthly rental value of the square footage as deductions from the NESE when determining if the vender was performing SGA.
In addition to free space, venders may receive equipment, supplies, or even some services under the program at less cost or at no cost than in the common market. In situations where the deductions are appropriately applied, venders who have relatively large incomes from their businesses may continue to be entitled to benefits, because their profit is inflated by the supports the Randolph Sheppard program supplies. Unfortunately, on occasion, deductions available to Randolph-Sheppard venders are not identified to SSA, or not fully understood, thus are inappropriately omitted from the SGA decision. CWICs working with individuals who have businesses under any specially supported program should inform consumers about unpaid help and unincurred business expenses. Informed consumers can then insure that the SSA is fully aware of their situations when making SGA decisions.

Conclusion

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

Conducting Independent Research

Code of Federal Regulations Title 20
DI 10105.070 Waiting Period for DIB
DI 10505.010 Determining Countable Earnings
DI 10105.130 Relationship Between Freeze and DIB Insured Status
DI 10105.170 Insured Status for Statutory Blindness
DI 10510.000 Evaluation and Development of Self-Employment
DI 10515.005 Evaluation of Work of Blind Self-Employed Persons (Title II)
DI 10520.030 Determining When IRWE Are Deductible and How They Are Distributed
DI 26005.001 Title II
DI 41001.025 TWP and EPE Provisions of the Law as They Apply to Statutorily Blind Individuals
DI 41001.020 Work Comparability Provisions for Blind DIB and CDB Individuals, Age 55 and Older
DI 41005.010 Claimant in Freeze Status Files for DIB

GN 00204.030 Retroactivity - Title II
RS 00301.105 Fully Insured Status
RS 00301.120 DIB Insured Status
RS 00301.140 Special Insured Status for Disability Before Age 31

Acknowledgements

Contributing Authors and Editors: Terri Uttermohlen and Lucy Miller

The development of this paper was funded by the Social Security Administration under Contract Number: SS00-07-60050, Training and Technical Assistance for the Work Incentive Planning and Assistance (WIPA) Program