

WORKING

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Supplemental Security Income and Work A Review of SSI Rules Related to Work Activity. A Discussion of the SSI Work Incentives Available to Maximize Independence through Work.

Supplemental Security Income (SSI) recipients who go to work have a great set of work rules and work incentives that will allow individuals with disabilities, in many cases, to thoughtfully plan their progression to maximum levels of independence through work. These rules can help individuals retain maximum levels of cash benefits, retain Medicaid, retain assets that will support a work effort, and retain assets that will enhance independent living and quality of life.

Our feature article will discuss the SSI work rules and work incentives that will be relevant to recipients as they consider work and commence work during 2010 and into the future. Although most of these rules have been around since the SSI program began in 1974, we will describe positive changes to the existing rules and some new work incentives that have been implemented during recent years. These changes have dramatically altered, in a positive way, the benefits analysis that many SSI recipients will face when they go to work or consider work today.

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In the pages that follow, we will discuss, among other things: the earned income exclusions available to all SSI recipients; earned income exclusion for individuals with impairment-related or blind work expenses; earned income exclusions for some students who work; rules that allow for exclusion of certain federally-based educational assistance, including work study income; and the right to exclude income, for SSI purposes, if used in an approved Plan for Achieving Self Support (PASS) or federally-approved Individual Development Account (IDA). We will discuss special resource exclusions that will help to support a work effort, including: resources used in an approved PASS or IDA; property that is essential to self support; time limited ex-

clusions for retroactive SSI/ Social Security Disability Insurance (SSDI) or tax refunds (including earned income tax credits); gifts used to support education; and certain federal assistance used to support higher education. We will also discuss and provide links to more extensive materials on section 1619(b), allowing for continued Medicaid when SSI cash benefits are lost due to earned income.

Readers who would like to review a much more thorough discussion of the SSI program and work incentives should read our policy-to-practice brief, *Supplemental Security Income, Medicaid and Work: Guidelines for Proactively Using the SSI and Related Medicaid Work Incentives to Help Individuals with Disabilities Maximize Independence Through Work* (available at: <http://www.NYMakesWorkPay.org>). Like most of our other policy-to-practice briefs, this brief includes extensive citations to the relevant law, regulation, and policy.

Background on SSI, Payment Rates, and Medicaid

SSI is a means-tested cash payment program for individuals with disabilities, administered by the Social Security Administration (SSA). An eligible individual must have limited income and limited resources. Both earned income and unearned income are relevant in determining eligibility and monthly payment amount. SSI should be distinguished from Social Security Disability Insurance (SSDI), an SSA-administered cash benefit program for individuals who have paid into the Social Security trust fund and, in some cases, their dependents.

The SSI program determines the monthly payment amount by deducting countable



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Important Note!

More PASS and Medicaid Buy-In webinars will be starting soon! Join the New York Makes Work Pay Email List to be informed of dates and times.



CHANGES TO THE MEDICAID APPLICATION PROCESS

Two significant changes to the Medicaid program became effective April 1, 2010. As of that date, individuals are no longer required to appear for face-to-face interviews when they apply for Medicaid. However, persons can still ask for application assistance, if necessary.

The Medicaid application form also changed. The revised application is called "ACCESS NEW YORK HEALTH CARE (DOH-4220)" and replaces the green and white "Application for Temporary Assistance (TA)-Medical Assistance (MA)-Medicare Savings Program (MSP)-Food Stamp Benefits (FS)-Services (S)" including Foster Care for health insurance only applications. The major change to the revised application is that questions about an applicant's resources have been removed and may now be found on a supplemental form called "Access NY Supplement A (DOH 4495 A)." This revised application is also for use in applying for other public health insurance, which includes the Medicaid Buy-in Program for Working People With Disabilities (MBI-WPD).

The revised application also allows individuals to add the name and address of a contact person who can receive notices about their Medicaid case in addition to the applicant. The contact person can be designated to do one or more of the following:

- apply for and/or renew Medicaid for the individual
- discuss the individual's application or case
- get notices and correspondence.

Individuals need to fill out both the Access New York Health Care and Supplement A to apply for Medicaid.



income from an SSI base rate. New York has three primary 2010 SSI rates, based on living arrangements:

- Living alone - \$761 per month
- Living with others (and paying pro rata share of household expenses) - \$697
- Living in the household of another (not paying the pro rata share of household expenses) - \$472.34

Higher rates exist for SSI couples and for individuals who reside in one of three "congregate care" levels. For example, the SSI rate is \$1,109 for individuals who live in a state certified community residence in New York City, Long Island, Westchester County, and Rockland County. The community residence rate is \$1,079 in the rest of the state. Go to <http://www.otda.state.ny.us/main/directives/2009/INF/09-INF-22-Attachment-1.pdf> to see a SSI Benefit Levels Chart effective January 1, 2010.

Medicaid is a publicly funded health insurance benefit and covers a wide range of health-related expenses for eligible individuals. In New York an SSI recipient is automatically eligible for Medicaid. As long as the individual is eligible for at least a \$1 SSI payment, Medicaid eligibility is automatic. As noted below, when an individual works and earns enough to lose the right to an SSI check, he/she likely will qualify for continued Medicaid under the 1619(b) program.

Earned Income Exclusions as Work Incentives

When an SSI recipient works, in most cases the only impact of wages or self-employment income is a gradual reduction to the SSI payment amount as countable in-

come increases. Because more than 50 percent of gross wages will be disregarded in the SSI check calculation, the recipient frequently is better off by going to work. We caution the reader that the benefit of these exclusions may be offset by other expenses, such as costs related to transportation or childcare; or the loss of other means-tested government benefits that are affected by changes in income (e.g., federal housing subsidies or food stamps). For those eligible for the federal earned income tax credit, the amount of that credit, usually received as a tax refund, helps to offset both Social Security taxes (i.e., FICA) withheld and other expenses related to work.

The first \$65 plus 50 percent of remaining gross wages are excluded. The SSI program distinguishes between unearned and earned income. Unearned income is anything other than wages and includes SSDI payments. Earned income includes wages received from employment or net income from self-employment. In calculating the SSI check, the first \$20 of unearned income is disregarded (i.e., as a general income exclusion). The first \$65 plus 50 percent of the remaining gross wages (or net income from self employment) is also excluded. If the person has no unearned income, the \$20 general income exclusion will be added to the \$65 and the first \$85 of gross wages will be excluded.

Example. David lives alone in Binghamton, New York and receives \$761 in monthly SSI. He is offered a part-time job earning \$385 in gross pay per month.

Since David has no unearned income, the SSI program will disregard the first \$85 of his wages ($\$385 - 85 = \300). An additional 50 percent will then be excluded ($\$300$

$- 150 = \$150$). Subtracting the countable income from the SSI base rate, David will be entitled to an SSI check of \$611 ($\$761 - 150 = \611) and he will continue getting automatic Medicaid. His net gain from going to work is the amount of the exclusion (\$235) less any amounts taken out of his paycheck for taxes and other payroll deductions. David can probably expect to get any state and federal income taxes refunded when he files his income tax return in the following year and may qualify for the earned income tax credit as well.

Back to the Example. David is offered increased work hours. He would now make \$1,085 per month, but is concerned because he heard something about the \$1,000 substantial gainful activity (SGA) rule. David's disability continues and his resources are within SSI limits.

Because of a longstanding work incentive, known as section 1619(a), the SGA rule will not apply to SSI recipients. This means that when David earns more than the SGA amount (\$1,000 in 2010), the only impact is that his SSI payment will continue to decrease. For every additional \$2 in gross wages David's SSI check will go down by \$1. Thus, after disregarding the first \$85 ($\$1,085 - 85 = \$1,000$) and 50 percent of the remaining wages ($\$1,000 - 500 = \500), David will have \$500 in countable income. Subtracting this from the SSI base rate of \$761, David winds up with a \$261 SSI check and his Medicaid continues. His net gain from going to work is the amount of the exclusion (\$585) less any amounts taken out of his paycheck for taxes and other payroll deductions. Like before, David can probably expect to get any state and federal income taxes refunded when he files his income tax return in the following year and he should

qualify for the earned income tax credit, as well, which would cover his FICA deductions.

Impairment related work expenses (IRWEs) will reduce countable earned income. IRWEs are the reasonable cost of items and services that, because of an impairment, are needed and used in order to work. IRWEs may include attendant care, medical or prosthetic devices, drugs, medical services, residential modifications, and special transportation.

To be deductible as an IRWE, the expense must meet a three-part test:

1. It must be paid by the worker and not paid or reimbursed by another source;
2. It must relate to the individual's disability; and
3. Without it, the person must be unable to work.

A medical expense can be deducted as an IRWE even if it would be incurred in the absence of employment. The test is whether the person could work without paying the expense. For example, a person can deduct the cost of anticonvulsant medication as an IRWE, even though this medication would be required in any event to prevent seizures.

Many assistive technology or specialized equipment expenses could qualify as IRWEs. These include:

- vehicle modification expenses for persons who are mobility impaired (e.g., hand controls or a hydraulic lift for a vehicle);
- construction of ramps or lifts, or purchase of portable ramps to allow a person to leave the home for work;
- purchase of a telecommunication device for the deaf (TDD) to allow a per-

son who is deaf to perform work in an office or from home; and

- specialized or modified office equipment (e.g., desks, phones, or computers) to work in an office or from home.

IRWEs were discussed extensively in our SSDI policy-to-practice brief (available at <http://www.NYMakesWorkPay.org>) as a way to reduce countable income below the SGA limit. Any item or items that the SSI beneficiary pays for and that would meet the SSDI criteria for an IRWE would *also* qualify as an IRWE for SSI purposes and reduce the countable income to be applied in calculating the SSI check.



***Example.** Lisa had polio as a child. She lives alone in a home which she owns. Recently, her mobility problems worsened. Lisa receives \$420 in SSDI and earns \$885 in gross wages per month. Her combined countable income, \$810 (\$400 from SSDI, \$410 from wages), makes her ineligible for SSI. She is eligible for Medicare, but is not eligible for automatic Medicaid since she is not an SSI recipient. She is not eligible for Medicaid under section 1619(b) because she never received SSI in the past. (Lisa is currently eligible for Medicaid with a spend down and is probably a candidate for the Medicaid Buy-In for Working People with Disabilities if she does not find a way to obtain SSI.)*

Lisa obtains a loan to modify a spare bedroom to make it a home office that will accommodate her disability, with a widened doorway and a special work station to allow her to work from her wheelchair. The home office will allow Lisa to telecommute as an employee despite her worsening disability. After obtaining the loan and having the work done, Lisa will pay \$200 per month for the next three years.

These payments would qualify as IRWEs and reduce her countable income for calculating the SSI check.

This will be Lisa's budget if she applies for SSI after taking out the loan:

| | | | |
|--------|--------------------------|----|-----|
| Step 1 | Unearned income | \$ | 420 |
| | General income exclusion | - | 20 |
| | Counted | \$ | 400 |
| Step 2 | Earned income | \$ | 885 |
| | IRWE deduction | - | 200 |
| | | \$ | 685 |
| | Earned income exclusion | - | 65 |
| | | \$ | 620 |
| | Additional 50% exclusion | - | 310 |
| | Counted | \$ | 310 |
| Step 3 | Counted unearned income | \$ | 400 |
| | Counted earned income | + | 310 |
| | Total counted income | \$ | 710 |
| Step 4 | Base SSI rate | \$ | 761 |
| | Counted income | - | 710 |
| | SSI benefit | \$ | 51 |

Lisa will now be eligible for SSI (assuming her resources are below \$2,000), but will need to file an SSI application. For every additional \$2 in IRWEs, her SSI check will increase by \$1. For example, if Lisa has difficulty typing due to arthritis and purchases a special keyboard for \$100, she will have an additional IRWE of \$100 for that month. Under the formula above, her earned income would only be decreased by \$50 and her SSI check would increase by \$50 to \$101 per month.

Could Lisa use a Plan for Achieving Self Support (PASS), rather than IRWE, to pay for the home office? We will need some additional facts to answer this question. In this case, since Lisa's only income before the PASS proposal is submitted is from SSDI and wages, her goal would have to result in an income level high enough to eliminate SSDI (i.e., wages above the 2010 SGA level of \$1,000 per month). The reader is encouraged to consult our newslet-

ter or policy-to-practice brief on the PASS for guidance on these issues (available at: <http://www.NYMakesWorkPay.org>).

Eligibility for this minimal SSI check makes Lisa eligible for automatic Medicaid. This is important, since Medicaid may pay for many items which Medicare will not cover, including more extensive home health care than Medicare. Also, since Medicare will pay no more than 80 percent of the cost of durable medical equipment, Medicaid should be available to pay the co-payment.

The student earned income exclusion (SEIE). To qualify for this special exclusion, the student must be under age 22 and regularly attending a school, college, university, or course of vocational training. During calendar year 2010, the first \$1,640 of monthly earnings is excluded, up to a maximum of \$6,600 per year. This exclusion occurs before the standard SSI earned income exclusions are even applied.



***Example.** Manny, age 20, is deaf and receives SSI at the \$761 living alone rate. He attends college full time and does not work during the school year. During June, July, and*

August, he works and earns \$2,005 gross each month.

This will be Manny's SSI budget with the student earned income exclusion:

| | | | |
|--------|-----------------------------------------------|----|------|
| Step 1 | Unearned income | \$ | 0 |
| Step 2 | Earned income | \$ | 2005 |
| | Student earned income exclusion | - | 1640 |
| | | \$ | 365 |
| | General income exclusion (not otherwise used) | - | 20 |
| | Earned income exclusion | - | 65 |
| | | \$ | 280 |
| | Additional 50% exclusion | - | 150 |
| | Counted | \$ | 130 |

| | | | |
|--------|-------------------------|----|------------|
| Step 3 | Counted unearned income | \$ | 0 |
| | Counted earned income | | <u>150</u> |
| | Total counted income | \$ | 150 |
| Step 4 | Base SSI rate | \$ | 761 |
| | Counted income | - | <u>150</u> |
| | SSI benefit | \$ | 611 |

The above example demonstrates how important the SEIE is to a high school or college student who makes significant money during the summer months. It allows the student SSI recipient to keep most, if not all, of his/her summer wages with little or no affect on the SSI payment rate. The SEIE's monthly and yearly maximum amounts are adjusted annually based on a cost-of-living index.

Blind Work Expenses as an Earned Income Exclusion

Individuals who are statutorily blind are allowed many deductions from earned income which are not allowed for any other disability. The most common blind work expenses (BWEs) include:

- federal, state and local income taxes;
- Social Security taxes;
- mandatory pension contributions;
- meals consumed during work hours;
- training to use an impairment-related item or an item which is reasonably attributable to work (e.g., cane travel, Braille, computer course for computer operator);
- a guide dog (cost of purchase and all associated expenses, including food, licenses and veterinary services);
- transportation to and from work;
- attendant care services (in the work setting, to get a person to and from work, and, in some cases, in the home);

- structural modifications to get a person to and from work (even if related to a second physical disability);
- medical devices, medical supplies and physical therapy.

Any earned income used to meet "any expense reasonably attributable to the earning of income" will qualify as a BWE.

Many BWEs might also qualify as IRWEs. When an item can be used as either, it is always best to use the BWE. This is because the BWE is deducted from earned income after using the 50 percent earned income exclusion; the IRWE is deducted before using the 50 percent exclusion. The practical effect is that the person will see a dollar-for-dollar increase in the SSI check for BWEs, but, as illustrated above, no more than a 50 cent increase in the SSI check for every one dollar spent on IRWEs.

Example. Jerry is statutorily blind, works as a social worker, and earns \$25,020 per year or \$2,085 per month. He has the following monthly expenses that meet SSI's criteria as BWEs:

| | |
|--------------------------|-----------|
| Income taxes | \$ 95 |
| (federal, state & local) | |
| Social Security tax | 160 |
| Union dues | 15 |
| Transportation | 95 |
| Guide dog | 30 |
| Lunches (\$6 per day) | 132 |
| Readers | 140 |
| Braille paper | 10 |
| Cassette tapes | 25 |
| CDs | <u>15</u> |
| Total | \$717 |

Calculation of SSI check:

| | |
|----------------|---------------------------|
| \$ 2,085 | |
| - <u>85</u> | (\$65 + \$20 exclusions) |
| 2,000 | |
| - <u>1,000</u> | Additional 50 % exclusion |
| 1,000 | |
| - <u>717</u> | Blind work expenses |
| \$ 283 | Countable income |

| | |
|--------|-------------------|
| \$ 761 | Base SSI rate |
| - 283 | Countable income |
| \$ 478 | Monthly SSI check |

Keep in mind that, like IRWEs, expenses are only deductible as BWEs if the wage earner pays for the item. For example, if the employer pays for readers, Braille paper, cassette tapes, and CDs as reasonable accommodations under the Americans with Disabilities Act, those expenses cannot be taken as BWEs.

BWEs offer a tremendous opportunity to fund a wide range of work-related assistive technology:



Consider Gloria, an attorney who is blind and receives \$761 in monthly SSI. She is setting up a practice in a home office. A firm is willing to pay her \$2,500 per month, as an independent contractor. She will prepare the written arguments or briefs in up to 10 Social Security appeals and provide research assistance on selected cases. After deducting the usual business-related expenses, Gloria's self-employment income is reduced to \$24,000 per year or \$2,000 per month.

Gloria did this type of work before using paid readers and a traditional dictation machine. Knowing these methods slowed down her productivity, she seeks to invest in state-of-the-art technology that will help her boost the quality of her work and her efficiency. She plans to purchase: a personal computer with voice activation and voice output; a high quality Braille printer; and a high quality scanner. She will purchase these items through a small business loan at a total cost of \$6,600. With finance charges, Gloria will pay \$200 per month on this loan for 36 months. The full \$200 payment will qualify as a blind work expense.

The following would be Gloria's SSI budget using BWEs:

| | |
|-------------------------------------------|------------|
| Income taxes (federal, state & local) | \$ 85 |
| Social Security tax (as self-employed) | 306 |
| Transportation | 95 |
| Guide dog | 25 |
| Readers | 100 |
| Braille paper | 20 |
| Cassette tapes | 15 |
| CDs | 10 |
| Payments, new equipment | <u>200</u> |
| Total | \$ 856 |

Calculation of SSI check:

| | |
|-------------|---------------------------|
| \$ 2,000.00 | |
| - 85.00 | (\$65 + \$20 exclusions) |
| 1,915.00 | |
| - 957.50 | Additional 50 % exclusion |
| 957.50 | |
| - 856.00 | Blind work expenses |
| \$ 101.50 | Countable income |
| \$ 761.00 | Base SSI rate |
| - 101.50 | Countable income |
| \$ 659.50 | Monthly SSI check |

Despite \$2,500 in revenue, Gloria is able to reduce her countable monthly income for SSI purposes to just over \$100. She has done this by using traditional business deductions, the usual SSI earned income exclusions, and BWEs. This allows her to generate an extra \$659.50 per month through SSI payments plus automatic Medicaid eligibility (in New York and most states) during that critical three-year start up period for her private law practice.

Assistance under Title IV of Higher Education Act or Bureau of Indian Affairs Student Assistance Program

All student financial assistance received under the Higher Education Act (HEA) or Bureau of Indian Affairs student assistance programs is excluded from income and resources, regardless of use. The resource exclusion does not have a time limit, i.e., it is excluded regardless of how long the assistance is held.

Examples of HEA Title IV programs that would be eligible for this exclusion include:

- Pell grants
- State Student Incentives
- Academic Achievement Incentive Scholarships
- Byrd Scholars
- Federal Supplemental Educational Opportunities Grants (FSEOG)
- Federal Educational Loans (Federal PLUS Loans, Perkins Loans, Stafford Loans, Ford Loans, etc.)
- Upward Bound
- GEAR UP (Gaining Early Awareness and Readiness for Undergraduate Programs)
- LEAP (Leveraging Educational Assistance Partnership)
- SLEAP (Special Leveraging Educational Assistance Partnership)
- Work-Study Programs (i.e., student wages generated through work study is excluded)

This special exclusion for work-study earnings, available for all students regardless of age, is often overlooked by benefits advisers.

Section 1619(b) – Continued Medicaid for Individuals Who Lose the Right to an SSI Payment through Work

Continued Medicaid coverage, through section 1619(b), is one of the most important SSI work incentives. In New York, Medicaid often pays for very expensive items or services such as home health care, prescription drugs, psychiatric counseling, custom and power wheelchairs, augmentative communication devices, and a range of other services.

Section 1619(b) provides Medicaid to persons who lose cash SSI because countable earnings equal or exceed the SSI payment rate. For example, gross monthly wages of \$1,607 will result in \$761 in countable income, reducing the SSI check to \$0 for an individual living alone. Similarly, gross monthly wages of \$1,479 will result in \$697 in countable income, reducing the SSI check to \$0 for an individual living with others.

Under 1619(b) criteria, a person must meet all of the following criteria:

1. Continue to be blind or disabled (A person age 65 or older may qualify if he or she is also blind or disabled.);
2. Have unearned income less than the SSI limit;
3. Have resources within SSI limits;
4. Meet a prior month requirement;
5. Meet a Medicaid use test; and
6. Meet an income "threshold" test.

Items (2) through (6) require some discussion. If a person would be ineligible

for SSI based on unearned income alone, he or she cannot be eligible for 1619(b). For example, a New York resident who lives alone and receives a private disability pension of \$900 per month would not be eligible for SSI, without regard to any additional earnings. This person, then, would be ineligible for 1619(b), even if he or she met the rest of the 1619(b) criteria. Similarly, an individual whose resources, after exclusions, exceed \$2,000 would be ineligible for 1619(b) Medicaid.

Under the prior month requirement, to be initially eligible for 1619(b), an individual must have been eligible to receive an SSI check during the past 12 months. An individual would lose prior month status for 1619(b) only if he or she went through a period of 12 consecutive months without any entitlement to an SSI check or 1619(b) benefits.

The Medicaid use test should be easy to meet in most cases. This test is met if the person used Medicaid within the past 12 months, expects to use Medicaid in the next 12 months, or would be unable to pay unexpected medical bills in the next 12 months

without Medicaid. Most people who really need Medicaid will fit into the first two categories, and only the rare individual with superior medical insurance and great job security will be outside the scope of the last criterion.

The final 1619(b) criterion is the “income threshold” test, requiring annual gross earnings to be below a certain threshold. There is both a “general threshold,” which applies to all individuals, and an “individualized threshold,” which will be specific to an individual. A person who meets the other 1619(b) criteria will be eligible for Medicaid if annual earnings are below the general threshold.

The general threshold is calculated by adding together a base amount and a Title XIX (Medicaid) amount. New York’s 2010 threshold is \$43,956 (base of \$19,284 + Title XIX of \$24,672). If this general threshold is exceeded, an “individualized threshold” for 1619(b) eligibility can be determined by totaling: Medicaid amount from the threshold chart or actual Medicaid expenses, whichever is higher; BWEs; IRWEs; and publicly funded personal/attendant care that would be lost if the individual lost SSI. These expenses are then added to the base amount. The sum is the individualized threshold.

Example. Shauna is a New York resident who has gross earnings of \$55,000 and actual Medicaid expenses of \$42,000 but no additional expenses in the categories listed above. In New York, since her individualized threshold of \$61,284 (\$19,284 + \$42,000) is greater than her gross earnings (\$55,000), Shauna would be eligible for 1619(b) Medicaid in 2010.



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An Approved PASS Can Provide an Earned or Unearned Income Exclusion

SSA's Plan for Achieving Self Support (PASS) allows for the exclusion of income and/or resources that would usually be counted in determining SSI eligibility and payment amount. The PASS must be approved by SSA and the individual must use the excluded income/resources to pay for expenses related to a vocational goal. Readers who want to learn more about the PASS can read the relevant *Working* newsletter or extensive policy-to-practice brief on the subject (available at: <http://www.NYMakesWorkPay.org>). Because those publications are readily available to readers, we will only briefly describe the PASS here.



Example. Geraldine is mentally ill, lives alone in a small town about 50 miles north of Albany, New York, and receives monthly SSDI benefits of \$620 and SSI benefits of \$161. She will soon begin a community college program to become an occupational therapy assistant (OTA). New York's Office of Vocational and Educational Services for Individuals with Disabilities (VESID) will pay for her tuition and other expenses related to her school attendance, but Geraldine will need a car after graduation to drive to any job she is expected to get in the future. Public transportation is not available to get to any of the OTA positions, all of which are least 20 miles from her home.

Geraldine proposes a PASS in which she will save \$600 monthly for 20 months ($20 \times \$600 = \$12,000$), accumulating \$12,000 that she will use in her last semester to purchase a newer used car, pay the first six months

of car insurance, and make some modest wardrobe purchases to enhance her job prospects as she goes on interviews. The PASS is approved. This means the \$600 will no longer be counted by the SSI program and Geraldine's SSI check will increase to the full \$761 living alone rate. The savings that she accumulates in a dedicated bank account will not count against the SSI program's \$2,000 resource limit.

If Geraldine works a part-time job while attending college, or works during the summer, she could put a part of that income into the PASS as well. The use of earned income in a PASS is also discussed in our newsletter and policy-to-practice brief on the PASS.

SSI Resource Rules that Serve as Work Incentives

The SSI program allows an individual to maintain no more than \$2,000 in countable resources (i.e., resources that are not otherwise excluded by the SSI rules). Typically, we say that an SSI recipient is allowed no more than \$2,000 in their bank account, but countable resources include cash or non-exempt resources that can quickly be converted to cash (e.g., stock, bonds, certificates of deposit). The following are some key resource exclusions that should be viewed as work incentives.

Money saved in a dedicated savings account through an approved PASS is excluded. The PASS was already discussed, above, as an income exclusion. An individual with no countable income available to set aside in a PASS can propose a PASS to exclude resources that will be used to support a vocational goal. The "resource PASS" can be used to exclude a lump sum

received, such as retroactive SSI or SSDI benefits, a personal injury award, or an inheritance. Additionally, any income retained in a dedicated savings account is excluded or exempt and will not count toward SSI's \$2,000 resource limit.

Property that is essential to self support is excluded. Three categories of resources can be excluded under SSI's Property Essential to Self Support (PESS) provisions:

- Property excluded regardless of value or rate of return: property used in a trade or business; property that represents government authority to engage in an income producing activity (e.g., Alaska fishing permits); property used by an individual as an employee for work (e.g., "tools of the trade").
- Property excluded up to \$6,000 equity (i.e., fair market value minus outstanding loans or liens on the property), regardless of rate of return: includes equity value of "non-business property" used to produce goods or services essential to daily activities (e.g., property used to grow vegetables for home consumption).
- Property excluded up to \$6,000 equity if it produces a six percent rate of return: includes "non-business income producing property" if the property produces a net annual return equal to at least six percent of excluded equity. Any portion of the property's equity value in excess of \$6,000 is not excluded under this provision. This exclusion is often used to eliminate the equity value of modestly valued rental property.

Federal earned income tax credit advance payments or refunds. The earned income tax credit (EITC) is a tax credit that

reduces the tax liability of certain working taxpayers with low or moderate income. This credit sometimes results in a payment to the taxpayer, either as an advance from an employer or as a refund from the Internal Revenue Service. Any unspent tax refund or advance payment made by an employer related to an EITC is excluded from resources for the nine calendar months following the month the refund or payment is received. (New York has an additional 30 percent State EITC and New York City has an additional five percent EITC.)

Grants, scholarships, fellowships or gifts to be used for educational expenses. Section 435 of the Social Security Protection Act of 2004 provides a nine-month resource exclusion for grants, scholarships, fellowships, and gifts used to pay for tuition, fees, and other necessary educational expenses at any institution, including vocational and technical education. If at the end of the nine-month exclusion period, all or some of the money was spent for a purpose other than educational expenses, those funds are not excluded and will be counted as income in the month they were used for other purposes or the month when they were no longer intended to be used for educational expenses, whichever occurs earlier.

Assistance under Title IV of Higher Education Act or Bureau of Indian Affairs Student Assistance Program. As noted above, all student financial assistance received under the Higher Education Act (HEA), or Bureau of Indian Affairs student assistance programs is excluded from income and resources, regardless of use. The resource exclusion does not have a time limit, i.e., it is excluded regardless of how long the assistance is held.



MONEY TALK

Let's talk assets! **Why?** may be your first question. And it's a good one. If you are one of the 10 million Americans who receive Supplemental Security Income (SSI) and/or Social Security Disability Insurance (SSDI) and/or another public benefit, or you are an agency representative who assists individuals with disabilities, you have likely been taught not to earn, save or invest for fear that you, or the individual you are assisting, will lose cash or (even worse) health benefits. To answer this question and others, each edition of *Working* will provide information on one aspect of asset building including the impact on public benefits and local resources to assist you. These articles will be written by Elizabeth Jennings of the Burton Blatt Institute.

Your Right to the American Dream

The Americans with Disabilities Act (ADA), passed in 1990, is the first federal civil rights law to specifically address the rights of citizens with disabilities. The ADA mandates that Americans with disabilities have the same opportunities and access in the workplace, government programs, public accommodations, transportation, and telecommunications that other citizens enjoy. But the ADA has more to offer you. The language of the ADA includes, "assure their [citizens with disabilities] full participation, independent living and economic self-sufficiency." The ADA supports your right to economic self-sufficiency. So how did you get the message not to earn, save and invest?

Public Benefits creating Private Dependence

The public benefits that you may currently receive to help meet your basic living needs and healthcare needs originally included asset limits to ensure that individuals who did not "need" the benefit were excluded. The \$2,000 asset limit set back in the 1970's would be worth about \$11,000 today. Unfortunately, increasing cash and asset values inline with the annual cost of living index was not included in the regulations at that time. So for the last 30 years, the disability community has been taught that you have to remain asset poor, indeed poor in general, to receive public benefits. In 2007, in the State of New York, we see the result of this lesson:

- The employment rate of working-age people with disabilities (ages 21-64) was 33.5% compared to 77.9% of the general population,
- The rate of people with disabilities (ages 21-64) working full time/full year was only 19% as compared to 55.7% of the general population,
- For those working-age individuals with disabilities working full-time/full-year, the median annual labor earnings equaled \$32,700 compared to \$40,000 for those without disabilities,

- The median household income of working age adults with disabilities in New York is \$35,200 and \$71,100 for families without disabilities in New York, a gap of \$35,900, and
- The poverty rate of working age adults with disabilities in New York is 28.8% as compared to a poverty rate of 9.6% for non-disabled adults.

In the first year of *Working* you learned about New York's Medicaid Buy-In for Working People With Disabilities (MBI-WPD), which has an asset limit of \$13,800 in non-exempt resources, as well as the Plan for Achieving Self Support (PASS). These are both examples of the effect of recent legislative changes designed to increase earning and asset limits so that individuals with a disability can pursue their goals around working and earning and saving with less fear of a loss of healthcare benefits.

Defining your Path to Prosperity

In each of the following editions of *Working*, you will learn about a wide array of asset development services:

- Financial education
- Credit Counseling
- Beneficial Tax Credits (Earned Income Tax Credit)
- Social Security Work Incentives (related to building assets)
- Individual Development Accounts
- Family Self Sufficiency Program
- Small Business Ownership
- Trusts

Included in each article will be an overview of the service, the impact on public benefits and organizations to assist you. Some of these programs work together or are part of a path to prosperity. But you should know that there is no set path. The starting point is wherever an individual with disabilities is *now* in their life in relation to his/her own definition of economic self-sufficiency.

We encourage you to think beyond work. Work is a means, NOT an end.

Claire, an online blogger with a disability, writes, "What is *your* American Dream and how are you reaching for those stars? If our reach exceeds our grasp, there's only one solution: we must not lower but confidently raise our expectations."

Join us to learn how you can raise your expectations by earning, saving and investing towards your personal American Dream and how you can do it while keeping some or all of your needed public benefits.

Key Updates for 2010

Social Security and Supplemental Security Income (SSI) checks will be the same in 2010. The formula used to determine cost of living adjustments (COLAs) has resulted in no COLA for the period used for adjusting 2010 benefit amounts. Therefore, there will be no 2010 increases in either the SSI federal benefit rate or the Social Security payment rates.

Key 2010 SSI rates for NY (includes state supplement):

Living alone - \$761

Living with others

(and sharing expenses) - \$697

Living in the household of another

(not sharing expenses) - \$472.34

Substantial Gainful Activity (SGA) and Trial Work Period (TWP) amounts go up slightly in 2010.

Increases in the substantial gainful activity (SGA) amount and the amount needed for a trial work services month are not based on COLA increases, but are based on adjustments to the National Wage Index (NWI). Since there was a slight increase in the NWI, both the general SGA amount and the amount needed for a trial work month went up slightly, by \$20 in each case. However, the SGA amount for those who are legally blind did not change for 2010, as the SGA amount for the blind only goes up if both the NWI and COLA show an increase.

2010 SGA and TWP month amounts:

SGA, generally - \$1,000 per month

SGA, for the legally blind - \$1,640

TWP services month - \$720


2010 section 1619(b) eligibility thresholds for New York:

Annual earnings limit - \$43,956

Base amount - \$19,284

Medicaid or Title 19 amount - \$24,672

Other 2010 Updates:

 Medicare Part B premium, existing beneficiaries - \$96.40 per month (but higher for beneficiaries with modified adjusted gross income above \$85,000)

Medicare Part B premium, new beneficiaries (become eligible for Medicare during 2010) – \$110.50 per month

SSI student earned income exclusion – \$1,640 per month, up to \$6,600 per year (no change from 2009)

Matching funds deposited into a federally qualified Individual Development Account (IDA) are excluded. An IDA is a special bank account that helps an individual save for future expenses. When the IDA is authorized pursuant to a federally-sponsored “demonstration project,” under the authority of the Assets for Independence Act, the IDA savings can only be authorized for postsecondary education, purchase of a first home, or to start a business. The individual must use earnings from work to set up an approved bank account for an IDA.

Depending on the IDA, the individual’s savings will be matched by the entity overseeing the program (typically a not-for-profit agency or state/local government agency acting in cooperation with the not-for-profit agency) at a rate typically ranging from two-to-one to four-to-one (i.e., the IDA entity will put up \$4 for every \$1 saved by the individual). Individuals who are recipients of Temporary Assistance for Needy Families (TANF, in New York the Family Assistance Program) or who otherwise meet low-income criteria, may qualify for a federally-qualified IDA program. There are a growing number of IDAs, and if one or more exist in your region, some SSI recipients will be prime candidates to take advantage of them.

If an SSI recipient is involved in a federally qualified IDA (SSA policy refers to them as “Demonstration Project IDAs”), the following principles will apply:

- **Contributions.** Any earnings the SSI recipient contributes are deducted from his or her wages in determining countable income. If they are deposited in a Demonstration Project IDA, they are excluded from resources.

- **Matching funds.** These are likewise excluded from income and resources.
- **Interest.** Any interest earned on the recipient's deposits or matching funds are excluded from income and resources.
- **Disbursements.** Under IDA policy, disbursements can only be made for a qualified purpose (e.g., education, business capitalization, or home purchase) or allowable emergency. Disbursements made for a qualified purpose are excluded from income. Emergency withdrawals are loans and, therefore, not income.

Readers should keep in mind that IDAs that are not federally qualified (i.e., not Demonstration Project IDAs) will not enjoy these income and resource exclusions. We are not aware of any non-federal IDAs in New York State, but they do exist through-

out the country. If a non-federal IDA is established for a purpose related to a vocational goal (savings for education, savings to establish a business), the SSI recipient may want to consider a PASS proposal as a means to meet the income and resource levels of the SSI program.

Conclusion

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This newsletter has focused on SSI benefits and the effect of work on those benefits. The incentives available to SSI recipients who work are many. Thus, it is critical that benefits practitioners, who are advising SSI recipients about the use of work incentives, present scenarios as we have in our examples to show how varying levels of work will affect their SSI payment level and how the net disposable income will increase. The goal is to show recipients that work does indeed pay!

New York Makes Work Pay Partnering Organizations

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WORKING

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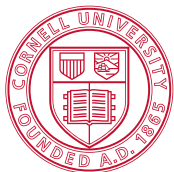
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