

# The Substantial Gainful Activity Rule

## Using the SSDI Program's Trial Work Period, Extended Period of Eligibility, and Expedited Reinstatement Rules to Minimize Consequences of the SGA Rule as a Beneficiary Pursues a Work Goal

### Reducing Countable Wages to Avoid a Finding of SGA

#### The Substantial Gainful Activity (SGA) Rule

- ◆ Countable wages of \$980 per month (\$1,640 if legally blind) amount to SGA in 2009.
- ◆ Applies to both Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) applicants. If average countable wages are more than the SGA amount, the application will ordinarily be denied.
- ◆ The SGA rule does not apply to SSI recipients.
- ◆ The SGA rule does apply to SSDI recipients.

#### SSDI's Trial Work Period (TWP) and Extended Period of Eligibility (EPE)

- ◆ During a nine-month TWP, benefits will continue even if wages are above the SGA level.
- ◆ Following the ninth TWP month a 36-month EPE begins.
- ◆ The first time a person earns at the SGA level, during the EPE, benefits will continue for that month and two more months (the "three-month grace period").
- ◆ Thereafter, and during the remainder of the EPE, the person will receive an SSDI check any time that countable wages are below the SGA level. They will not get a check for months when countable wages are more than the SGA level.
- ◆ The first time a person performs SGA following 36-month EPE, SSDI benefits will be terminated.

#### SSDI's Expedited Reinstatement (EXR) Provisions

- ◆ Following a termination of benefits due to SGA, benefits can be reinstated, in some cases, if the person stops earning wages at the SGA level.
- ◆ The person who stops working or has wages reduced below the SGA level must apply for EXR within 60 months of the last EPE month (see above), or within 60 months of the last month he or she received SSDI benefits - - whichever occurs later.
- ◆ If EXR benefits are awarded and paid for at least 24 months, the person is entitled to a new TWP and EPE.
- ◆ For more detail, see our "Expedited Reinstatement At-a-Glance."

## **Reducing Countable Monthly Earnings Below the SGA Level**

### **Countable Earnings are Reduced by Any Paid Time Off**

- ◆ Pay received for a holiday (full day or half day) is not counted when measuring wages against the SGA level.
- ◆ Pay received for a vacation or personal day (or part of a day) is not counted.
- ◆ Pay received for a sick day (or part of a day) is not counted.

### **Countable Earnings are Reduced by Any Impairment Related Work Expense**

- ◆ Impairment related work expenses (IRWEs) are expenses for disability-related items that allow an individual to work.
- ◆ The expense must be paid by the person with a disability.
- ◆ The expense must be related to the person's disability or a diagnosed medical condition.
- ◆ If the person did not incur the expense and receive the item or service in question, the person would not be able to work.
- ◆ For more detail, see our "Impairment Related Work Expenses At-a-Glance"

### **Countable Earnings are Reduced by Any Subsidies**

- ◆ A subsidy occurs when an employer pays a worker more in wages that the person has actually earned through their labor.
- ◆ A subsidy may also occur when the worker receives special supports, such as job coaching assistance, to allow the person to perform a job despite a severe disability.
- ◆ For more detail, including examples, see our "Subsidies At-a-Glance"