

# WORKING

Newsletter of the New York Makes Work Pay Initiative • Issue 5 • October 2010

## SPECIAL SSDI AND SSI RULES FOR WORKING INDIVIDUALS WITH STATUTORY BLINDNESS

### These Special Rules Create Extra Work Incentives for Individuals Who are Blind



Earlier issues of our Working newsletter have discussed Social Security Disability Insurance (SSDI) and work, as well as Supplemental Security Income (SSI) and work. Those newsletters made reference to special rules for individuals who meet the Social Security Administration (SSA) definition of statutory blindness (hereafter, statutorily blind) but did not fully explore those issues. Our longer policy-to-practice briefs on these topics go into more detail, but still do not fully explain all the special rules or provide one place to view all the unique SSDI and

SSI rules that apply to individuals who are blind.

Our feature article will discuss the special SSDI and SSI work rules and work incentives relevant to beneficiaries who are statutorily blind as they consider work, commence work,

### Inside this issue

Special SSDI and SSI Rules	1
What it Means to be “Statutorily Blind”?	2
Special Rules for SSDI Beneficiaries	3
A Higher Earnings Threshold for SGA	4
The Trial Work Period Rules	5
Special Rules for SSI Beneficiaries	8
MONEY TALK	9
Blind Work Expenses	10
Conclusion	13



**TOLL-FREE Work Incentives Hotline**  
available statewide!

**1-888-224-3272** Voice  
**1-877-671-6844** TDD

or continue to work. Although most of the rules and incentives that apply to everyone else also apply to individuals who are statutorily blind, some of the rules are more liberal for those who are blind. Additionally, some special rules or work incentives apply only to the blind and are not allowed for any other disability.

In the pages that follow, we will discuss these special rules, first describing the rules in the SSDI program and then describing the rules in the SSI program. Case examples will be used throughout to show how these rules will affect real people who go to work despite a severe visual disability that is characterized as statutory blindness. To provide context, we will briefly summarize some of the work incentive rules before explaining how those rules are applied differently for individuals who are blind. However, for a full discussion of the SSDI or SSI work rules and work incentives we refer

the reader to our newsletters and policy-to-practice briefs on those topics. (See box, page 4, on how to find our past newsletter articles and policy-to-practice briefs on the NY Makes Work Pay website.)

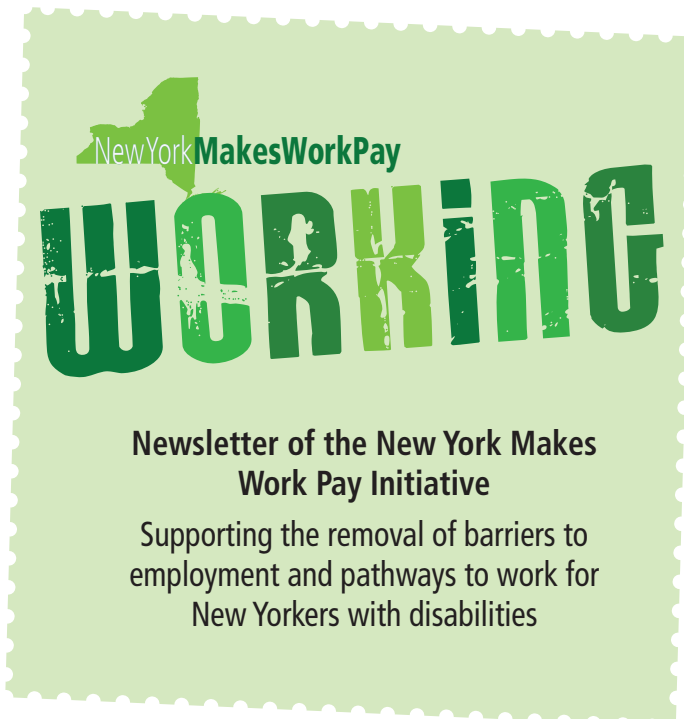
## What Does it Mean to be Considered “Statutorily Blind”?

The Social Security Administration (SSA) applies the same criteria for statutory blindness in the SSDI and SSI programs:

“Blindness” is defined . . . as central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which has a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered as having a central visual acuity of 20/200 or less.

As a practical matter, there are three separate ways to establish that an individual is statutorily blind:

- To have no vision (we might describe such a person as “totally blind”);
- To be extremely near-sighted (we may be aware of individuals who meet the blindness criteria, but have some functional reading ability when using large-print documents or print magnifiers);
- To have extreme limitations in visual fields (what some describe as “tunnel vision”).



Keep in mind that all three of these categories of blindness/visual limitation meet the criteria for statutory blindness. Individuals who fall within any of the three categories will benefit from the special rules described in this article.

We often hear the term “legally blind” to refer to individuals who meet SSA’s criteria for statutory blindness, but none of the regulations or policies governing SSDI or SSI use that term. New York’s Commission for the Blind and Visually Handicapped (CBVH) uses the term “legally blind” to describe the degree of blindness/visual impairment needed to qualify for their services. CBVH’s definition of legal blindness is nearly identical to SSA’s definition of statutory blindness, but uses slightly different language (“visual acuity of 20/200 or less in the better eye with best correction or a restricted field of vision of 20 degrees or less in the better or stronger eye”). As a practical matter, anyone who meets the CBVH criteria should meet SSA’s criteria. (See box, p. 7, regarding the services available through CBVH.)

Even if an individual’s visual disability does not meet the definition of statutory blindness, his or her visual limitations may be severe enough to meet the SSDI or SSI criteria for disability (with or without the presence of another disability). Keep in mind, however, that the special rules for statutory blindness apply only to only individuals who meet the more stringent criteria.

In some cases, an individual may qualify for SSDI or SSI benefits based on another dis-

ability but later have their vision deteriorate to the point that it now meets the statutory blindness criteria. Sometimes, the disabling condition itself may lead to vision loss, as is often the case with diabetes or multiple sclerosis. In other cases, the initial diagnosis involves vision loss that may get worse over time, as is often the case with glaucoma. In still other cases, the individual may develop vision loss that is not associated with the initial disabling condition. Often, the development of vision loss meeting the statutory blindness criteria goes unreported because the individual will continue to qualify for cash benefits under the original diagnosis. However, in order to take advantage of the special rules described below, the individual must report the new or deteriorating vision loss to SSA along with medical proof of statutory blindness.

## **Special Rules for SSDI Beneficiaries Who are Statutorily Blind**

---

### **No Requirement for 20 Credits (Quarters) of Work Out of Last 40 Quarters**

Many readers know that to qualify for SSDI benefits on one’s own earnings record, an individual must generally have 20 credits of work (formerly referred to as “quarters”) out of the past 40 quarters (or 20 credits during the last 10 years). During calendar year 2010, \$1,120 is enough to earn one credit. If the individual is younger than age 31, fewer credits are needed to establish what is known as “insured status.” The individual must also establish they are disabled under SSDI criteria.

An individual who is statutorily blind is not required to meet this “20/40” test for substantial recent work (or the alternative earnings test for younger workers) to be insured for SSDI purposes. Instead, the individual need only establish that he or she is “fully insured.” An individual is fully insured if he or she has a minimum of six credits of coverage and as many total credits as the calendar years elapsing after 1950, or elapsing after the year of attaining age 21, whichever occurs later.

*Example.* Marcia is 34 years old and applied for SSDI benefits in June 2010 based on statutory blindness. Following graduation from high school at age 18, Marcia worked full time for four years then stopped paid employment to care for a young child. She did not work again until the year 2000 at age 24. During the



*past 10 years Marcia has worked sporadically and accumulated 15 credits of coverage during that period. Can Marcia be approved for SSDI based on her 15 credits?*

Although Marcia has not earned 20 credits during the last 40 quarters (i.e., during the last 10 years), as an individual who is statutorily blind she is not required to meet the 20/40 test. Rather, since she has at least one credit for each year elapsed since age 21 (i.e., at least 13 credits) she is “fully insured” and will qualify for SSDI.

## A Higher Earnings Threshold for Substantial Gainful Activity

Under both SSDI and SSI program rules, an adult with a disability is considered disabled if he or she has a disability that prevents the individual from performing substantial gainful activity (SGA). During

### Newsletters & Policy-to-Practice Briefs on NYMWP Website



The New York Makes Work Pay Project provides an array of services to individuals with disabilities and the agencies and advocates that serve them, helping to remove obstacles to work and pave the way to self-supporting employment. More information on our project, our special initiatives, and our growing list of publications can be found on our website, [www.nymakesworkpay.org](http://www.nymakesworkpay.org).

Two publications, our Working newsletter and our Policy-to-Practice brief series, involve a series of articles covering the many Social Security, SSI, Medicaid, Medicare and related regulations and policies that individuals must navigate as they pursue their work goals. The newsletter, generally 10 to 12 pages per issue and published three times per year, provides a practical discussion of a chosen topic or topics and is written for a very wide targeted audience that includes individuals with disabilities, their families, and the various service providers who work with them. The policy-to-practice briefs, generally 25 to 30 pages per brief with six briefs published per year, target the same topics but cover them in much greater detail and provide extensive references (citations) to the laws, regulations and policies where the various rules are found. The briefs are more targeted to readers who spend a substantial amount of time with individuals with disabilities, helping the consumer understand how the various programs and systems operate.

Both the newsletters and the policy-to-practice briefs can be found on the Research/Publications section of our website, at [www.ilr.cornell.edu/edi/nymakesworkpay/m-resources.cfm](http://www.ilr.cornell.edu/edi/nymakesworkpay/m-resources.cfm). Readers can scroll down to find the newsletters and policy-to-practice briefs.

calendar year 2010, an individual with a disability other than blindness who is earning more than \$1,000 per month will ordinarily be found to be performing SGA. However, if that individual is statutorily blind, the SGA countable earnings threshold is \$1,640 per month during 2010.

If the individual is performing SGA based on monthly earnings at the time of application, the SSDI application may be technically denied. As noted in our SSDI policy-to-practice brief covering SSDI and work, gross earnings can be reduced by deductions for paid time off (e.g., vacation/personal, holiday and sick pay), impairment related work expenses, and subsidies to determine “countable income.” When countable earnings average more than the SGA amount for the year in question, you can expect the SSDI application to be denied. (As noted in the SSI discussion below, there is no SGA rule for the blind in the SSI program.)

Once the individual’s SSDI application is approved, countable earnings above the SGA threshold will not affect the SSDI payment during a nine-month trial work period (TWP). However, once the TWP is exhausted, an individual who earns more than the SGA amount will get benefits for three more months (the “grace period”) and then lose benefits if they continue to earn at more than the SGA level. Our policy-to-practice brief and newsletter on SSDI and work each highlight the ability to return to cash benefit status when a person stops working at the SGA level, under either the

Extended Period of Eligibility or Expedited Reinstatement provisions.

In all situations in which SGA-level earnings are relevant ( i.e., upon application for benefits or following the trial work period), individuals who are statutorily blind will benefit from a much higher SGA earnings threshold of \$1,640 per month. This means that an individual who is blind can earn almost 65 percent more money per month before their application is denied or their benefits ceased following a trial work period.

*Example: A higher SGA threshold on application for SSDI. Carmela, age 44, worked for many years as a registered nurse but stopped her full-time employment when her diabetes and*



*associated vision loss made it impossible to continue her regular work. At the time of application, Carmela meets the criteria for statutory blindness (even though she has some vision) and is working*

*part-time as a medical receptionist earning \$1,325 in monthly gross wages (with no deductions for paid time off, IRWEs, or subsidies).*

If Carmela’s only disability was diabetes, her application would be denied because she is performing SGA by earning more than the 2010 SGA threshold of \$1,000 per month for individuals who are not blind. However, since she is statutorily blind, her earnings are measured against the higher SGA threshold for the blind (\$1,640 per month in 2010) and her application will not be denied based on her countable earnings alone. In fact, her application should be approved be-

## Services Available through the Commission for the Blind and Visually Handicapped (CBVH)



As stated on its website, <http://www.ocfs.state.ny.us/main/cbvh>: “The mission of the New York State Commission for the Blind and Visually Handicapped is to enhance employability, to maximize independence and to assist in the development of the capacities and strengths of people who are legally blind.” CBVH provides services and funding for services for children and adults who are blind (and in some cases severely visually impaired but not technically blind).

Importantly, CBVH can support individuals in their long term vocational plans. This support can include among other things counseling, evaluations, funding for education and specialized equipment, transportation services, and services to locate suitable employment.

cause she is not performing SGA and meets the criteria for statutory blindness.

*Example: Approval of SSDI for one disability, but earnings subject to SGA for the blind based on acquired blindness. Let’s go back to Carmela and change her facts. Assume that Carmela is approved for SSDI based on diabetes alone and later becomes statutorily blind based on deteriorating vision loss. After developing blindness, she begins working at the medical receptionist job, earning \$1,325 in monthly gross wages.*

Since her blindness occurred some years after her SSDI approval, Carmela will need to be proactive, and tell the Social Security Administration that she is now statutorily blind, providing them with medical evidence of her blindness. In this case, she would be subject to regular trial work period rules, as she is under age 55. After she works nine trial work months, she will be subject to the higher SGA threshold for the blind, \$1,640 per month, based on her acquired blindness.

## The Trial Work Period Rules

The TWP is any nine months, within a rolling 60-month period, during which SSDI beneficiaries may test their ability to work without losing benefits. During the TWP, the SGA rule will not apply. The beneficiary can keep both the paycheck and the disability check, no matter how much is earned per month. The work itself, when performed during the TWP, cannot be used to show medical improvement until the nine-month TWP is completed. Even then, the work activity alone of an SSDI beneficiary who has received benefits for at least 24 months cannot be used as evidence that the person is no longer disabled even if the work occurs after the TWP.

During calendar year 2010, an SSDI beneficiary who earns at least \$720 in a calendar month has used one TWP “services month.” Typically, the amount needed to count as a TWP month will increase each year based on the National Wage Index. Once the person has worked nine TWP months during a

consecutive 60-month period, their TWP is completed. Even though individuals who are statutorily blind will be subject to a different earnings threshold for SGA, those blind individuals who qualify for a TWP will be subject to the same TWP earnings threshold (\$720 in 2010) for counting as a TWP month.

### **A Different Set of Criteria for the Trial Work Period for Statutorily Blind Individuals Age 55 or Older**

The TWP rules for individuals who are statutorily blind and under age 55 are the same as the TWP rules for non-blind individuals. By contrast, some individuals who are age 55 or older and blind will be entitled to a TWP.

#### **Individuals Who Are Entitled to A TWP**

The following classes of individuals, age 55 or older and statutorily blind, will be entitled to a TWP:

- An individual whose last work ended because of an impairment/disability and for whom the current work requires a significant vocational adjustment;
- An individual who returns to SGA level work that requires skills or abilities that are comparable to those skills and abilities he or she used prior to being 55 or blind (whichever is later);

Last job ended because of impairment/disability and new job requires significant vocational adjustment.

This provision is straightforward and is best illustrated by this example:

*Gerald, age 58, worked for an insurance company as a homeowner's claims adjuster. The job involved driving to customer's homes to review damage to homes associated with storms, fires, etc. To perform this*



*job, he was required to take photos showing the details of home damage and was often required to climb ladders to assess the damage. When his vision deteriorated, he could no longer perform the job and stopped working. At age 53, he applied for and was approved for SSDI, having established statutory blindness.*

At age 56, Gerald received assistance from the Commission for the Blind and Visually Handicapped and attended a community college program in paralegal studies. He learned to use a personal computer with an enhanced screen and voice output software. At age 58, he returned to a different job as a paralegal for a law firm. Gerald's gross countable earnings at this new job begin at \$2,250 per month (after accounting for paid time off, impairment related work expenses and subsidies).

Gerald will be entitled to a TWP when he returns to work at the new job. This is because he lost his previous job because of an "impairment" (i.e., his blindness) and the new job requires a significant vocational adjustment. Following his nine-month TWP, Gerald will be subject to the SGA earnings threshold for the blind.

Returned to comparable work, using skills used prior to age 55.

This provision is illustrated by the following example:

*John was an accountant throughout his work life. John lost his vision when he was in his early 50s. John received SSDI for several years, without working, until he was 57. At age 57, John returned to private practice as a self-employed accountant and used all of the skills he used prior to attaining age 55. John also made a significant net profit from his business (averaging \$2,500 net per month), even after considering all work incentives for self-employed individuals such as unpaid help, and unincurred business expenses. John continued to average \$2,500 or more, as net income from self employment, over the next five years. When John returned to work, SSA determined that he was engaging in comparable SGA. John's work was substantial, and utilized the skills he had used prior to attaining age 55 and blindness.*

John was eligible for a TWP, since this was his first comparable work attempt after entitlement and attaining age 55, and John had not used his TWP previously.

Became entitled to disability benefits while engaging in non-comparable SGA; then returns to SGA that requires comparable skills.

This provision is difficult to grasp because it involves a concept that is unique to the blind and not used often. If an individual meets the criteria for statutory blindness and is working at the SGA level, he or she can be approved for disability benefits but will not receive payments for any month during which SGA is performed. However, whenever countable monthly earnings are at or below the SGA threshold for the blind,

the individual will be entitled to an SSDI payment. Additionally, if this individual became entitled to benefits while performing "non-comparable SGA (i.e., work that does not involve the skills or abilities used before age 55 or becoming blind)," a TWP would only become available: if he or she later returns to work that requires skills and abilities acquired before age 55 or before becoming blind (whichever is later); or if his or her previous work ended because of an impairment and the current work requires a significant vocational adjustment.



## Join Our Email List!

To join the email list go to:

[www.NYMakesWorkPay.org](http://www.NYMakesWorkPay.org)

Benefits of joining the list:

- Keep up-to-date on statewide developments
- Get the "Working" newsletter via email
- Find out about future Work Incentives Information Network (WIIN) trainings

This policy is best illustrated by taking the preceding example and modifying the facts: *John was working as an accountant until his visual disability made it difficult to continue this work. He quit his accounting job and went to work as a receptionist/customer relations specialist for a computer software company. He was earning \$2,000 in countable income (more than the SGA threshold for the*



## MONEY TALK

### Financial Education – Getting Money Smart in New York

by Elizabeth Jennings

If you are like most Americans, (60% according to a 2009 Harris Poll) you don't have enough money at the end of the month to save. Employment will provide you with additional dollars, but financial education will help you to recognize that a better financial life always starts with taking the first STEP.....

**S**ave automatically with direct deposit.

**T**rack your spending.

**E**xamine your wants versus your needs.

**P**lan with a goal and a budget.

The more you know about budgeting, banking services, credit, and managing your money, the more likely you are to achieve your financial goals through financial education. In New York, there are several opportunities to learn as you earn..... for free.

- New York's Office of the State Comptroller has designed a website with economic resources specific to New Yorkers with disabilities: <http://www.yourmoneyny.com/helpresource/disabilities/index.php>.
- New York's State Banking Department has a directory of free financial education resources: <http://www.banking.state.ny.us/fec/index.htm>.
- To locate a free Financial Education program in your local community, dial 2-1-1 (3-1-1 in New York City).
- The Federal Deposit Insurance Corporation (FDIC) offers Money Smart, a training program to help adults outside the financial mainstream enhance their money skills and create positive banking relationships: <http://www.fdic.gov/consumers/consumer/moneysmart/index.html>.

The Money Smart curriculum helps individuals build financial knowledge, develop financial confidence, and use banking services effectively. The computer based version enables individuals

to complete Money Smart at their own pace on a computer in English or Spanish. Money Smart is available online or can be ordered on CD-ROM.

The Money Smart program consists of 10 modules:

1. Bank on It - an introduction to bank services
2. Borrowing Basics - an introduction to credit
3. Check It Out - how to choose and keep a checking account
4. Money Matters - how to keep track of your money
5. Pay Yourself First - why you should save, save, save
6. Keep It Safe - your rights as a consumer
7. To Your Credit - how your credit history will affect your credit future
8. Charge It Right - how to make a credit card work for you
9. Loan To Own - know what you're borrowing before you buy
10. Your Own Home - what home ownership is all about

For organizations, an instructor-led version of Money Smart is available for those who plan to teach financial education to others in English, Spanish, Chinese, Korean, Vietnamese or Russian. A version for individuals with visual impairments is also available. The instructor-led guide includes everything necessary to start teaching the program, including easy-to-follow cues, script, and interactive class exercises.

The FDIC provides the Money Smart curriculum to interested parties free of charge. A limited number of copies are available to each party; however, the materials are easily reproduced and have no copyright restrictions.

FDIC staff is available to provide technical assistance and to help facilitate partnerships among interested parties. Training can be provided free of charge for groups of 10 or more. For more information, to complete the modules online or to bring Money Smart training to your community: <http://www.fdic.gov/consumers/consumer/moneysmart/trainthetrainer.html>

For more information on Financial Education programs in New York and the benefits of participating, please contact Elizabeth Jennings at [evjennin@law.syr.edu](mailto:evjennin@law.syr.edu).

blind) when he applied for and was approved for SSDI benefits. Because he was earning above the SGA amount, he was not entitled to benefit checks at this time.

Two years later John drastically cut back his hours, his countable monthly earnings went below \$1,000 and he began receiving monthly SSDI checks. Several months later he estab-

lished his own accounting business, as described above, making \$2,500 per month in countable net earnings from self employment.

In this example, John would be entitled to a TWP when he returns to and starts the accounting work because it is work he regularly did before becoming both age 55 and blind, and he used the skills and abilities he

## National Service, Benefits and the Heart Act

What is the impact of national service work activity on disability benefits provided by SSA? Fortunately, the Heart Act has provided some well needed relief to those individuals involved in national service who receive SSI.

National service is work activity completed under the auspices of AmeriCorps or VISTA type programs. In order to provide correct information to an individual beneficiary it is critically important to know the exact national service program in which the beneficiary is participating. Next, it must be determined whether the beneficiary is receiving SSI or SSDI. Finally, look to the provisions of the Heart Act in order to determine whether benefits eligibility and receipt is protected despite the work activity being completed and the stipends received.

The Heart Act applies ONLY to the SSI program. As a result, there continues to be no protection for SSDI beneficiaries who participate in national service; the usual work incentive rules of the Title II program will apply to these individuals. However, SSI beneficiaries are fully protected by the Heart Act. AmeriCorps (VISTA) and National Civilian Community Corps (NCCC) participants will see NO reduction in SSI cash payments due to any stipend provided by the national service program. The Heart Act will also protect Medicaid coverage in 1634 states. Individuals residing in 209(b) states must refer to their state regulations to determine if Medicaid protection exists.

The benefits specialist must also remember that there are a myriad of other benefits that may be impacted by any national service stipend received by an SSA beneficiary, including TANF, SCHIP, Unemployment Insurance, and SNAP. Always consider the potential use of asset building tools available under each of these programs that may assist the beneficiary in maintaining eligibility during national service experience.

The benefits specialist has some very unique and special issue to consider when counseling anyone participating in national service.

had used in this prior “comparable” work. Given the facts above, John would use up his TWP in 9 consecutive months.

### **Individuals Who Are Not Entitled to a TWP**

The following classes of individuals, age 55 or older and statutorily blind will not be entitled to a TWP:

- An individual whose last work ended for reasons unrelated to their disability or disabilities (i.e., impairment);
- An individual whose last work ended because of a disability (i.e., impairment), but whose current work does not require a significant vocational adjustment;
- An individual who became entitled to disability benefits while engaging in “non-comparable SGA” and later returns to SGA that does not require 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.

This last provision is best explained by returning to John’s example, immediately above. If, instead of starting an accounting business, John took another public relations job while on SSDI benefits (and earned at the SGA level), he would not be entitled to a TWP. Instead, since this non-comparable work, he would not be entitled to SSDI payments in any SGA earnings months, but would be entitled to SSDI payment in months when countable earnings are at or below the SGA level as explained below.

### **If not Entitled to a TWP, Will Still be Entitled to an SSDI Check When Earnings do not Exceed SGA Level**

If an individual is age 55 or older, statutorily blind, and not entitled to a TWP, the right to an SSDI check will depend each month on whether countable earnings are above the SGA level. Even if the individual has SGA level earnings for a period of two consecutive years or more, if countable earnings drop to the SGA level or below, benefits will be paid without the need for a new application. The beneficiary should report all work and provide evidence of the reduction in earnings. This provision is akin to being in the Extended Period of Eligibility (EPE) forever.

### **Special Rules for SSI Beneficiaries Who are Blind**

#### **No 12-Month Duration Requirement to Establish Disability**

Ordinarily, to qualify for disability benefits under the SSI program (or SSDI program),



## **Join Our Email List!**

To join the email list go to:

[www.NYMakesWorkPay.org](http://www.NYMakesWorkPay.org)

Benefits of joining the list:

- Keep up-to-date on statewide developments
- Get the "Working" newsletter via email
- Find out about future Work Incentives Information Network (WIIN) trainings

an individual with a disability other than blindness must meet the disability criteria and establish a durational requirement. To meet the durational requirement, the disability must have already been in existence for a continuous period of 12 months or longer, be expected to last 12 months or longer, or be expected to result in death. If an applicant for SSI is statutorily blind, he or she is not required to meet this durational requirement and can establish disability simply by establishing they meet the criteria for statutory blindness.

### **No SGA Rule in the SSI Program**

For the purposes of determining initial eligibility, all applicants for SSI benefits, other than individuals who are statutorily blind, will be subject to the SGA rule. No matter how severe the disability, if the applicant is working and performing SGA by earning more than the SGA level for the year in question (i.e., \$1,000 per month in 2010), his or her application will ordinarily be denied. In the SSDI program, this rule applies to everyone, including individuals with statutory blindness. SSI applicants who are statutorily blind will not face an SGA rule. There is no SGA rule for the statutorily blind in the SSI program.

### **Blind Work Expenses as Earned Income Exclusions**

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

1. Federal, state and local income taxes;
2. Social Security and Medicare taxes;
3. Mandatory pension and disability contributions;
4. Meals consumed during work hours;
5. 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);
6. A guide dog (cost of purchase and all associated expenses, including food, licenses and veterinary services);
7. Transportation to and from work;
8. Attendant care services (in the work setting, to get a person to and from work, and, in some cases, in the home);
9. Structural modifications to the individual's home to create a work space or to get a person to and from work;



**TOLL-FREE Work Incentives Hotline  
available statewide!**

**1-888-224-3272** Voice  
**1-877-671-6844** TDD



10. 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. The expense paid for by the blind individual does not have to be related to the blindness. If the expense is disability-related, it could be for items related to a second disability other than blindness.

Many BWEs might also qualify as impairment related work expenses (IRWEs) (IRWEs are discussed at length in our policy-to-practice brief on SSDI and work). When an item can be used as either, it is always best to use the BWE. 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. This is due to the placement of the deduction in the SSI calculation formula. The practical effect is that the person can see a dollar-for-dollar increase in the SSI check for BWEs. For IRWE expenditures, there is no more than a 50 cent increase in the SSI check for every one dollar spent.

The following is an example of an SSI budget using blind work expenses:



**Join Our Email List!**  
 To join the email list go to:  
[www.NYMakesWorkPay.org](http://www.NYMakesWorkPay.org)

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

Income taxes (federal, state & local)	\$295
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>
<b>Total</b>	<b>\$907</b>

**Calculation of SSI check:**

\$2,085	
<u>-20</u>	(general income exclusion)
\$2,065	
<u>-65</u>	(earned income exclusion)
\$2,000	
<u>-1,000</u>	Additional 50% exclusion
\$1,000	
<u>-907</u>	Blind work expenses
\$93	Countable income
\$761	Base SSI rate
<u>-93</u>	Countable income
\$668	<b>Monthly SSI check</b>

As this example illustrates, Maria can earn well above the SGA level for the blind (\$1,640 in 2010) and still retain a substantial SSI check.

Since she continues to get SSI she will also continue to get Medicaid automatically.

BWEs allow some individuals to earn a significant monthly wage without seeing a reduction in their SSI checks. For example, if Maria earned \$1,485 gross per month, her countable income, before deducting for BWEs, would be \$700 per month. Subtracting her \$907 in BWEs reduces her countable income to \$0 and her SSI check will be the full living alone rate of \$761 per month.

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 the 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 Glenda, 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. After deducting the usual business-related expenses, Glenda's self-employment income is reduced to \$24,000 per year or \$2,000 per month.*



*Glenda 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 software; 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, Glenda 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 Glenda'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	200
<b>Total</b>	<b>\$856</b>

[www.NYMakesWorkPay.org](http://www.NYMakesWorkPay.org)

**Calculation of SSI check:**

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

Despite \$2,500 in revenue, Glenda is able to reduce her countable monthly income for SSI purposes to just over \$100. She has done this by using traditional business deduc-

tions, 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.

**Conclusion**

Individuals who are statutorily blind are covered by many special rules that can provide much greater incentives for work than exist for other disabilities. Many individuals acquire blindness after getting approved and receiving SSDI or SSI benefits for other disabilities, and will need to be proactive so that SSA classifies them as statutorily blind. Without the blindness classification, the individual cannot benefit from these special rules.

**New York Makes Work Pay Partnering Organizations**

New York Makes Work Pay is a Comprehensive Employment System Medicaid Infrastructure Grant (Contract No. #1QACMS030318) from the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services to the Office of Mental Health on behalf of New York State. It is a joint effort of the Burton Blatt Institute at Syracuse University and the Employment and Disability Institute at Cornell University with the collaborative support of the Employment Committee of the New York State Most Integrated Setting Coordinating Council to develop pathways and remove obstacles to employment for New Yorkers with disabilities.



Cornell University  
ILR School  
Employment and Disability Institute



# WORKING

*Working* is the newsletter of the New York Makes Work Pay Initiative.

**Editors:**

James R. Sheldon, Jr. J.D.

Neighborhood Legal Services, Inc.

Edwin J. Lopez-Soto, J.D.

Employment and Disability Institute  
Cornell University

Thomas P. Golden, M.S., C.R.C.

Employment and Disability Institute  
Cornell University

## Contact Us

.....  
Employment and Disability Institute

201 Dolgen Hall, Ithaca, NY 14853-3901

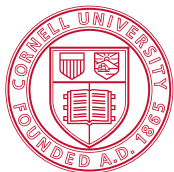
Voice: 607.255.7727

Fax: 607.255.2763

TTY: 607.255.2891

Web: [www.NYMakesWorkPay.org](http://www.NYMakesWorkPay.org)

Email: [NYMakesWorkPay@cornell.edu](mailto:NYMakesWorkPay@cornell.edu)



**Cornell University**

ILR School

Employment and Disability Institute

New York Makes Work Pay

201 Dolgen Hall

Ithaca, NY 14853-3901