

## Chapter 6 —

**SOCIAL SECURITY DISABILITY INSURANCE****Introduction**

The disability insurance benefit program authorized under Title II of the Social Security Act enables workers who have become disabled and are unable to continue working to receive monthly cash benefits and Medicare insurance. As explained in the first section, to qualify for Social Security benefits, individuals must have insured status (i.e., sufficient past work in Social Security covered employment), be determined medically disabled, and must not be working or, if working, earning less than the SGA level. Eligibility for Social Security may also be established for child with a disability. Childhood beneficiaries are individuals who are 18 or older, who have become totally and permanently disabled before age 22, and who are dependents of insured workers who are disabled, retired or deceased.

The Social Security program is not based on economic need; therefore there are no restrictions on unearned income limitations to be entitled to it as there are for SSI. The dollar amount of income support received by Social Security beneficiaries on a monthly basis is dependent on the level of contributions made to the program, which varies significantly from person to person. There are no provisions for gradual reductions in Social Security cash benefits as earnings increase, as is the case with the SSI program. Social Security beneficiaries will either receive the full amount of their Social Security benefit per month or receive no income support at all. Please refer to *Flowchart #1* on page 67 for a visual guide to Social Security.

**Trial Work Period (TWP)**

Unless medical recovery is an issue, individuals receiving Social Security based on disability are entitled to a nine-month TWP, which provides opportunities to test work skills while maintaining full benefit checks regardless of any income earned. The TWP is a work incentive and begins the first month that individuals are entitled to SSDI benefits or file applications for disability benefits (whichever is later). Effective January 2003, only months during which an individual earns over \$570.00 or works over 80 hours in self-employment are service months and count as TWP months. In 2002, \$560.00 and in 2001 \$530 per month counted as a TWP month. Prior to January 2001, months in which individual earned over \$200 a month or worked more than 40 hours in self-employment counted as a TWP month. The TWP ends only if individuals have performed nine months (not necessarily consecutive) of trial work within a rolling period of 60 consecutive months. TWP months must be carefully tracked; as the 36-month extended period of eligibility (EPE) begins immediately after the nine-month TWP. For SSDI beneficiaries, SSA counts the gross monthly income earned in the calendar month, rather than what was received, based on pay dates. Individuals are entitled to a TWP for each period of disability.

With the most recent rule changes annual increases to the amount of earnings that can count as a TWP, are linked to the national average wage index.

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**Substantial  
Gainful Activity  
(SGA)  
Determination**

When individuals have accumulated nine months of trial work, a continuing disability review (work CDR) is conducted by SSA. The purpose of the review is to determine whether or not the work is SGA. Unlike the SSI program, work activity remains a major factor in considering whether disability under the law continues. A decision of SGA implies that individuals are performing significant mental or physical duties for profit, and are, therefore, demonstrating the ability to work in spite of their disabling impairment. This determination is made by the claims representatives or ESR and is based on the average monthly income. If individuals are determined to be engaging in SGA, they "cease" eligibility for cash benefits they will receive full benefit checks for an additional three months (the first month of SGA after the end of TWP (cessation month) and the two following months), and then the cash benefits will stop. This 3-month period is called the "grace period" and may occur at any time after the end of TWP. If individuals are determined not to be engaging in SGA, they will continue to receive full benefit checks.

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**Impact of  
Work Incentives  
on SGA  
Determination**

There are work incentives available to individuals who receive Social Security that will allow them to continue receiving cash benefits while they test their ability to work and sustain work. The work incentives are to assist the individual in becoming more self-sufficient as they pursue an employment goal. With averaging, the Claims Representative may average the earnings of a period of work that may have a peak or two above the Substantial Gainful Activity guideline. If the average is below the SGA guideline, then the person isn't performing SGA, even if some part of that time their gross earnings were over the guideline. In order to average, the period of work must be fairly consistent, thus large fluctuation in earnings, may not be averaged together. If a person has zero earnings in a month, that zero month will not go into the average. The work can only be averaged during a period when the same SGA level applies. Thus, after 2000, earnings may not be averaged over more than one year. To arrive at the countable earnings used to determine if work is SGA, the dollar amount of IRWEs, special conditions, unincurred business expenses, and subsidies, which have been approved by SSA, are subtracted from the gross monthly earnings. Once the dollar amount of the IRWEs and subsidies are excluded, if countable earnings are below the SGA level, individuals will be eligible for Social Security cash benefits. (The definition and criteria for using subsidies and IRWEs are provided in Chapters 7 and 8.) While the PASS work incentive does not apply to Social Security, many expenses that are paid for under a PASS also meet criteria for exclusion as an IRWE. These expenses can be counted as a PASS for SSI payment calculation purposes and simultaneously be calculated as an IRWE in the SGA determination for Social Security.

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**Unsuccessful  
Work Attempt**

The final tool is an Unsuccessful Work Attempt. Work for less than three months that exceeds the guideline, and ends because of the person's disability may not demonstrate that ability to perform SGA. If the SSA considers this work to be a Unsuccessful Work Attempt, the person's benefits are not ceased.

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**SGA  
Determination  
Process**

If the period of work is between three and six months, it may also represent an unsuccessful attempt to work. In between three and six months, it may also represent an unsuccessful attempt to work. In these situations, however, the person's work must have another factor involved, such as frequent absences, or the removal of special circumstances. Once the person's benefits have been ceased, an Unsuccessful Work Attempt is no longer in the CR's toolbox.

An unsuccessful work attempt is an effort on the part of a beneficiary to do substantial work (in employment or self-employment) which they stopped or reduced to below the SGA level after six months or less because of one of the following criteria:

- their disability/impairment; or
- removal of special conditions related to their impairment upon which further performance work is required.

SSA will not count earnings during an unsuccessful work attempt when they make an SGA decision for initial SSI or SSDI eligibility, or when they decide if disability continues or ceases because of work under the SSDI program.

In making SGA determinations, the SSA claims representatives or ESR will contact SSDI beneficiaries. In some cases, the review will be handled by mail or telephone, but in most cases it will be conducted in the local SSA office. The claims representatives or ESRs need information from the individual's employer and/or may refer the case for a medical determination to determine whether the individual continues to have a disabling condition. The claims representative will request information from the individual and their employer regarding extra support and supervision supplied, and special accommodations and arrangements made, to enable individuals to obtain and maintain employment. This form is called the Work Activity Report and is available online or available at the local social security office. Communication should occur, with all parties submitting information to ensure accurate presentation of employment situations.

Claims representatives and Employment Support Representatives handle scheduling of most work CDRs. Files for Social Security beneficiaries under SS are maintained at the Office of Disability Operations (ODO) in Baltimore, Maryland. NOTE: Some work CDRs are handled in ODO or PSCs. When a nine-month TWP concludes, ODO will forward files to the local SSA office. The case representatives must have the files in order to conduct the review. If the nine months of accumulated TWP have not been consistently reported, there will probably be a delay in conducting the CDRs, as SSA will be unaware that the TWP is ending. Implications of such a delay are as follows:

- For individuals receiving only Social Security who are performing SGA, a delayed CDR may mean that their cash benefits are not terminated promptly, resulting in an overpayment. *NOTE: SSA operates on a “no-fault” basis; even though an overpayment may be caused by them, the overpayment is still due to be repaid.* *NOTE: SSA notified beneficiaries of overpayments, but beneficiaries have a right to request waiver of overpayments due to no fault and inability to repay.* Overpayment also occurs as a result of unreported earnings in some cases.
- For individuals receiving Social Security and SSI who are performing SGA, a delayed CDR may mean that their Social Security is not terminated promptly, resulting in overpayment. Also, a delay in adjusting the dollar amount of SSI upward will occur due to the decrease in unearned income in the form of the ceased Social Security benefit.

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### TWWIA CDR Protections

Effective January 1, 2001, the SSA will not be able to initiate a Continuing Disability Medical Review while an SSI recipient or SSDI beneficiary is using a “Ticket” under the Ticket to Work and Self-Sufficiency program. This protection is discussed in greater detail in Chapter 21.

Extending CDR protections further, effective January 1, 2002, work activity by an SSDI beneficiary who has received SSDI for at least 24 months cannot be used as a basis for conducting a medical CDR. However, as in the prior protection, earning at or above the SGA level may make the individual’s benefits subject to termination. However, work CDRs will still be conducted. Also, any previously scheduled medical CDRs will still be conducted unless the beneficiary is exempt due to participation in the ticket program.

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### Extended Period of Eligibility (EPE)

At the conclusion of the nine-month TWP, as long as individuals continue to have their original disabling condition, a 36-month EPE will begin in the month following the ninth TWP month. During these 36 consecutive months, individuals will receive benefit checks when their earnings are below SGA (see Flowchart 2 on page 68).

During the EPE, individuals are due payment (disability benefits) for any month they do not work, or when work and earnings fall below the SGA level. During this period, it is not necessary to file a new application for benefits to resume. Social Security cash benefits are paid during the EPE only for the months in which countable earnings are below the SGA level.

For individuals who are self-employed, individual determinations of what quantifies SGA during EPE will be established. The claims representatives or ESR will make this individualized determination by considering: how many hours of work were performed; who performed the services; net and gross earnings; subsidies; and other particulars.

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**Expedited Reinstatement of Benefits**

*(excerpted from The Benefits Planner, Cornell University, Fall 2001)*

Consistency and accuracy in reporting to SSA monthly fluctuations in earnings between SGA and non-SGA levels is critical in avoiding overpayment or underpayment of Social Security benefits.

When the 36-month EPE ends, if the beneficiary is engaged in SGA, benefits are terminated and the case file is closed. This could occur immediately following the EPE or at any point thereafter, depending on when SGA occurs.

Under pre-2001 law, a person who performed SGA after the EPE would lose SSDI benefits. If the person later lost his or her job or had wages reduced below the SGA level, he or she would have to reapply to re-establish SSDI eligibility. This prospect of a new application, with the uncertainty of whether a new decision maker would find the individual disabled (especially in light of recent work activity), made many individuals pause at the notion of taking a chance at work that might not be successful in the long term. The new expedited reinstatement (EXR) program should make more SSDI beneficiaries willing to try working, despite a severe disability, knowing they may re-establish eligibility if their work is not sustained because of their impairment(s). NOTE: Under EXR criteria, individuals must have become unable to continue performing SGA because of their impairment(s) and must be under a disability based on the application of the medical improvement review standard (MIRS).

***The EXR Criteria***

Effective January 2001, a person who performs SGA after the EPE and had his or her benefits terminated and later has wages reduced below SGA levels because of his or her impairment(s) or health condition will be reinstated to SSDI, without a new application, if the individual:

- was eligible for SSDI;
- lost SSDI due to performance of SGA;
- requests reinstatement within 60 months of the last month of entitlement (the earliest that someone could have had benefits terminated and be eligible for reinstatement is February 1996), or, if the request is filed after 60 months, the individual establishes good cause for missing the 60-month deadline;
- has a disability that is the same as (or related to) the physical or mental disability that was the basis for their original claim; and
- that disability renders the individual incapable of SGA based on application of the medical improvement standard.

If an individual believes he or she meets the EXR criteria, the individual should contact SSA and say that he or she wants to request reinstatement. This includes individuals who, in the last five years (since February 1996), stopped receiving benefits due to SGA and who, since their last month of SSDI entitlement, also stopped performing SGA because of their impairment(s) or health condition... SSA has issued "Field Instructions," outlining the criteria and procedures to be followed by local offices. The instructions also include an EXR request form.

If the SSDI beneficiary satisfies the EXR criteria, both his or her benefits and the benefits of dependents can be reinstated. SSDI dependent's benefits, including benefits for dependent children and spouses, can be reinstated if the dependent satisfies all the eligibility criteria as a dependent (this includes having a new medical determination if the dependent's entitlement is based on being disabled.) A previously entitled dependent does not have to file a new application to qualify for reinstated benefits. New dependents will have to file an application to qualify for reinstated benefits.

### ***Provisional Benefits Pending Reinstatement Decision***

While the EXR request is pending, the individual is eligible for up to six consecutive months of provisional benefits. Provisional benefits are payable when EXR is requested. The individual may also be eligible for Medicare coverage while receiving provisional benefits, if not already covered for such benefits. Provisional benefits may be suspended under current rules (e.g., prisoner suspension), and performing SGA will terminate provisional benefits. Early reports are that SSA is processing these requests quickly and individuals have received provisional benefits within weeks of the EXR request.

What happens if SSA later determines that the individual was not entitled to reinstatement? Must they repay the provisional benefits received? SSA's Field Instructions state that any resulting overpayment cannot be recovered unless SSA determines that the individual knew or should have known that he or she did not meet the EXR criteria.

### ***A New Trial Work Period and Extended Period of Eligibility***

For years, SSDI beneficiaries were told they would get one TWP and one EPE. The TWP and EPE could be exhausted for good at very low levels of earnings. In fact, the EPE could be exhausted whether the person was working or not. This has changed under the new EXR program.

After being paid 24 months (need not be consecutive) of reinstated benefits (including any months for which provisional and retroactive payments were actually received), the beneficiary gets: a new TWP; a new EPE; and another 60-month period in which to request EXR if benefits are terminated again due to SGA. As demonstrated in Jerry's case, the chance for a new TWP and EPE, fortunately, allows the person to work through the peaks and valleys of their continuing disability.

### *Application of the New TWP and EPE*

**Jerry's case:** Jerry was awarded SSDI benefits in 1990 based on a back injury. His monthly SSDI check was \$600 in 1990 and higher in 2001 based on cost of living adjustments. In 1993, Jerry goes to work part-time doing lighter work. He earns \$400 per month between January and June 1993 when he re-injures his back and stops working. He does not work again until 1998. He starts work in October 1998 and works the remainder of 1998 through December 1999 earning \$650 per month. In 2000, he gets a raise and earns \$720 per month throughout all of 2000 and for the first four months of 2001. In late April 2001, Jerry is laid off and earns no money between May and October 2001. In November 2001, he goes back to work and earns \$1,000 per month between November 2001 and December 2002. On New Year's Day of 2003, Jerry aggravates his injured back taking down holiday decorations. He must stop working and remains out of work for the entire year, January to December 2003. In January 2004, Jerry returns to work on a lighter schedule. He has gross monthly earnings of \$500 between January and December 2004. In January 2005, he increases his hours of work and has gross monthly earnings of \$1,000 between January and December 2005.

Jerry worked his first TWP month in January 1993. This is the first month he worked as an SSDI beneficiary and earned more than the TWP services month amount (\$200 in 1993). Between January and June 1993, he used up six TWP months. When Jerry went to work in October 1998, he had no TWP months within the last 60 months (i.e., between November 1993 and October 1998). This means his TWP started over. Since he then earns at least \$200 in gross wages for nine consecutive months, October 1998 to June 1999, Jerry completes his TWP in June 1999.

*NOTE: Under pre-2001 rules, this would be Jerry's only TWP. He would only get a second TWP if he lost SSDI, reapplied, and was awarded benefits on the new claim and had a new five-month waiting period. Effective 2001, the new expedited reinstatement provisions, discussed later in the article, allow Jerry to qualify for a new TWP after he has received reinstated benefits for 24 months.*

Jerry's EPE began in July 1999 (i.e., immediately following his ninth TWP month). His 36-month EPE will run from July 1999 through June 2002. Jerry is clearly eligible for SSDI between July 1999 and December 1999. His gross wages of \$650 per month were less than the SGA amount in effect at that time and his eligibility continued. (Remember: The monthly SGA level increased from \$500 to \$700 effective July 1999 and remained at that level through the end of 2000.) January 2000, when Jerry gets a raise up to \$720 per month, will be considered his "benefit cessation month." This is the first month of SGA during his EPE. (Again, the SGA amount of \$700, effective July 1999, continued throughout 2000.) Jerry is entitled to SSDI benefits for January, February and March 2000 — the benefit cessation month and two more months. This is his three-month grace

period. Starting in April 2000, Jerry will get checks only when his countable wages are below the SGA amount. Since his gross earnings were \$720 per month throughout the remainder of 2000 - more than the 2000 SGA amount of \$700 — he will not receive an SSDI check during the April through December 2000 period.

Starting in January 2001, Jerry will start getting SSDI checks again. This is because the SGA amount was increased to \$740 and Jerry's monthly earnings remained at \$720. He will get SSDI checks for January through April as his earnings remained below \$740. He will also get checks for the months of May through October 2001 when he was out of work and earned nothing. Starting in November 2001, Jerry earned \$1,000, which is more than the SGA amount. This means he will not get checks for November or December 2001. Since his wages remained over SGA throughout 2002, Jerry will continue to be ineligible for SSDI through the end of his EPE (i.e., through June 2002).

Since Jerry stopped working for health reasons, he became eligible for EXR in January 2003, because his wages were now below the SGA amount, it was within 60 months of his last month of entitlement to SSDI (i.e., within 60 months of October 2001), and the other EXR criteria are met (i.e., has the same or related impairment and is disabled based on the application of the MIRS criteria). We assume that Jerry would have applied for EXR as early as January 2001, or as soon as it became apparent that he would not return to work right away. We expect that Jerry would be eligible for up to six months of provisional benefits while his EXR request was being processed.

(NOTE: One can argue that the 60-month time limit for EXR applications begins after the last month of the EPE rather than after the last month Jerry received an SSDI check. This issue should be clarified when SSA issues EXR instructions in its Program Operations Manual System or POMS.)

The facts indicate that Jerry had no earnings during 2003 and his wages during 2004 were \$500 per month, well below the SGA level. In addition, having been found to meet the EXR medical criteria, Jerry is eligible for EXR benefits for all of 2003 and 2004, a 24-month period. A new TWP and EPE: When Jerry returns to work in January 2005 he will be entitled to a new TWP. This is because Jerry received reinstated benefits for at least 24 months. Since he made at least the TWP amount each month, his new TWP would run from January through September 2005. His new EPE would start in October 2005 and run for 36 months through September 2008. The same EPE rules would apply as did in the earlier years.

## Medicare Coverage

Medicare provides medical insurance coverage to Social Security beneficiaries. Individuals with disabilities must complete a five-month waiting period from the month of disability onset before Social Security benefits begin. An additional 24-month waiting period (Medicare Qualifying Period) *after* disability cash benefits begin is required before individuals are entitled to



receive Medicare coverage. It is not required that the 24 months be accumulated consecutively. Individuals may accumulate 12 months of the 24-month period before losing Social Security entitlement due to earnings over SGA. If individuals re-establish entitlement for Social Security at a later date, they will need to complete only the final 12 months of the 24-month waiting period before Medicare coverage begins. In addition, if Social Security beneficiaries complete the 24-month period prior to losing Social Security and become entitled again for Social Security within five years (or seven years for childhood disability beneficiaries), a new 24-month period is not required. If entitlement for Social Security disability benefits is re-established after five years, but is based on the same or directly related disabling impairment, a new 24-month Medicare waiting period is not required.

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### Two Part Medicare

Medicare has two parts: hospital insurance and medical insurance.

#### Hospital Insurance (Part A)

Hospital insurance, like the Social Security program, is financed through part of the FICA payroll tax and helps pay for inpatient hospital care and certain follow-up care. This part of the Medicare program is automatic for Social Security beneficiaries upon completion of the 24-month waiting period.

#### Medical Insurance (Part B)

Medical insurance helps pay for doctor's services and a variety of other medical services and supplies that are not covered by hospital insurance. Unlike hospital insurance, medical insurance is voluntary and is financed in part by the monthly premiums of individuals who enroll. Enrollment occurs automatically for those receiving Social Security at the time when hospital insurance entitlement begins. Those choosing to buy medical insurance coverage will have their monthly premiums deducted from their monthly Social Security cash benefits. If beneficiaries' Social Security cash benefits are suspended for some reason (i.e. SGA month in the 36-month EPE period), they are billed on a quarterly basis for the Part B premium

**Medicare Premiums**

Individuals who are disabled and working who have lost eligibility for premium free HI due to SGA may enroll in Medicare Part A (hospital insurance) by paying a monthly premium. Individuals who elect to purchase the hospital insurance (Part A), may enroll in Medicare Part B (medical insurance). The 2003 monthly premium for Medicare Part B is \$58.70 per month.

*NOTE: The amount received each month is the net amount; the gross Social Security benefit is this amount plus the Part B premium.)*

Part A Hospital Insurance Monthly Premium	Part B Medical Insurance Monthly Premium	Original Medicare Plan Deductible and Coinsurance Amounts	
\$0 if individual or spouse has 40 or more quarters of Medicare covered employment	\$58.70	Part A Hospital Insurance	Part B Medical Insurance
\$316 paid only by individuals who are not otherwise eligible for premium free hospital insurance and have less than 30 quarter of Medicare covered employment		Deductible \$840 per benefit period	Deductible: \$100 per year  (You pay 20% of the Medicare approved amount for services after you meet the \$100 deductible)
		Coinsurance: \$210 per day for the 61 <sup>st</sup> –90 <sup>th</sup> day each benefit period  \$420 per day for 91 <sup>st</sup> –150 <sup>th</sup> day for each lifetime reserve day	
\$174 for those having 30–39 quarters of Medicare covered employment		Skilled nursing (coinsurance) \$105 per day for the 21–100 <sup>th</sup> day each benefit period	

Excerpted from: [www.medicare.gov/Basics/Amounts2003.osp](http://www.medicare.gov/Basics/Amounts2003.osp).

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**Extended  
Medicare  
Coverage  
Pre-TWWIA**

Social Security beneficiaries who lose benefit entitlement due to performance of SGA, but continue to be disabled, are eligible for extended Medicare coverage. The extended coverage is for a minimum of 39 months following the conclusion of the nine-month TWP. The 39-month period is derived from adding the original 15-month EPE reinstatement period (pre-1987) to the 24-month pre-TWWIA extended Medicare coverage. Beneficiaries who are still in their Medicare 24-month qualifying period could have less than 39 months if they returned to work shortly after their month of entitlement. This is more the exception than the rule.

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**Extended  
Medicare  
Coverage  
Under TWWIA**

Section 202 of TWWIA further extends Medicare coverage for most SSDI beneficiaries who work. Beneficiaries will get an additional 4 ½ years coverage beyond the current limit (for a total of 8 ½ years including the TWP). This incentive became effective October 1, 2000. Under this provision, insurance can generally continue for 78 months with the first month of SGA occurring after the 15<sup>th</sup> of the month of the EPE. This is why under TWWIA, Medicare coverage extends for at least 93 months (15 months of EPE and 24 months pre-TWWIA extension and 4 ½ years TWWIA extension).

Specifically, where SSDI benefits end because of SGA following a TWP, Medicare coverage ends based on one of the following:

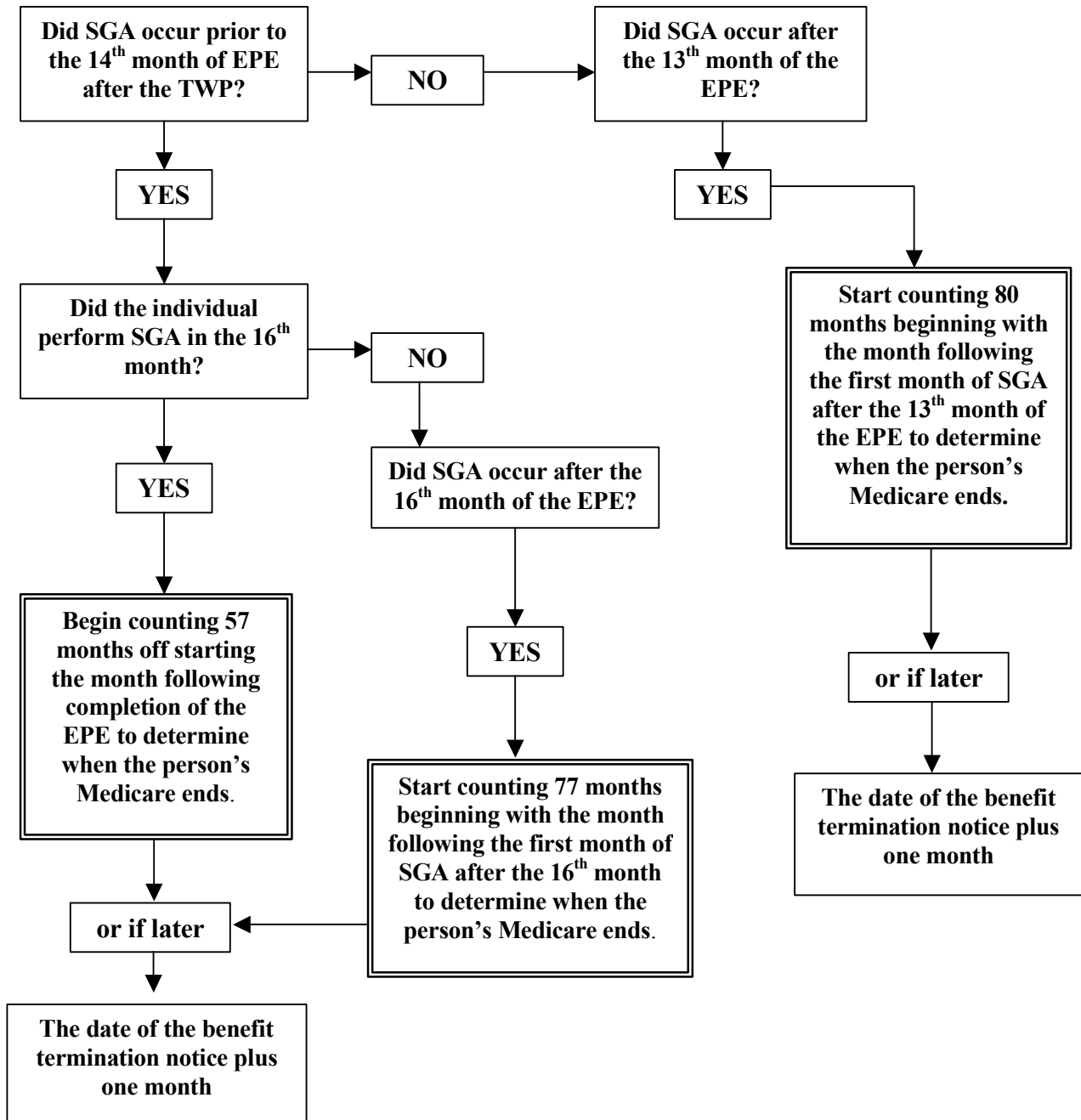
1. If the first month of SGA following the end of the TWP occurs prior to the 14<sup>th</sup> month of the EPE and the individual performed SGA in the 16<sup>th</sup> month of the EPE, D-HI extends for 78 months after the 15-month EPE. D-HI ends the last day of the 57<sup>th</sup> month following the end of the 36-month EPE.
2. If the first month of SGA following the end of TWP occurs prior to the 14<sup>th</sup> month of the EPE and the individual does not engage in SGA in the 16<sup>th</sup> month of the EPE, D-HI ends with the last day of the 77<sup>th</sup> month following the first month of SGA occurring after the 16<sup>th</sup> month, and terminates on the first day of the 78<sup>th</sup> month.
3. If the first month of SGA following the end of the TWP occurs after the 13<sup>th</sup> month of the EPE, D-HI ends with the last day of the 80<sup>th</sup> month following the first month of SGA occurring after the TWP, and terminates on the first day of the 81<sup>st</sup> month..

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Beneficiaries will be eligible for the extension under TWWIA if they:

- are starting to work for the first time since their entitlement; or
- are in a TWP; or
- are in an EPE that began after June 1997; or
- are in an EPE that began prior to June 1997 and still has premium-free coverage that was not due to terminate until after 9/30/2000, and fraud or similar fault is not an issue.

**TWWIA Extended Medicare Coverage Decision Tree**



**NOTE: In all three cases, Medicare would end the last day of the month as specified above and terminate the first of the following month.**

**Examples/Exercises**

#1: Application of Rule #1

*You just received a call from an individual who tells you that their TWP ended in 12/98. They reported working at SGA every month since their TWP ended and don't anticipate working at a lesser level. They want to know at what point their Medicare coverage will end.*

Begin by recording all the relevant and pertinent information below—making sure to record the TWP ending date, beginning of EPE and months in which the individual worked at SGA. The example is illustrated below.

Year	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec
1998												TWP Ended
1999	1 EPE Starts SGA	2 SGA	3	4	5	6	7	8	9	10	11	12
2000	13 SGA	14	15	16	17	18	19	20	21	22	23	24
2001	25 SGA	26	27	28	29	30	31	32	33	34	35	36 EPE Ends/SGA
2002	1 Benefits End	2	3	4	5	6	7	8	9	10	11	12
2003	13	14	15	16	17	18	19	20	21	22	23	24
2004	25	26	27	28	29	30	31	32	33	34	35	36
2005	37	38	39	40	41	42	43	44	45	46	47	48
2006	49	50	51	52	53	54	55	56	57 Med Ends			
2007												

You will note that the individual's TWP ended 12/98, putting the start date for their EPE in 1/99. They have earned SGA every month since 12/98 and if SGA were to continue the EPE would be expected to end 12/01, with cash benefits terminating on 1/1/02. (Benefit cessation cannot be earlier than the last day of the month with benefit termination occurring the first day of the next month.) Given that benefit termination would not occur until after 9/30/00, the TWWIA provisions apply. Given that the individual earned SGA prior to the 14<sup>th</sup> month of the EPE and again in the 16<sup>th</sup> month, the first rule applies. The 15<sup>th</sup> month of the EPE is 3/00 and you should begin counting 78 months into the future to identify that this individual's Medicare coverage would cease on 9/30/06 with a termination on 10/1/06.

#2: Application of Rule #2

If in Example #1 the individual did not earn at or above the SGA level in the 16<sup>th</sup> month of the EPE but did in the 18<sup>th</sup> month (6/00), the 77 count down would begin in 7/00 with benefits ceasing on 12/11/06 and terminating 1/1/07. The table below outlines this calculation.

Year	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec
1998												End TWP
1999	1 EPE Begins	2 SGA	3 SGA	4 SGA	5 SGA	6 SGA	7 SGA	8 SGA	9 SGA	10 SGA	11 SGA	12 SGA
2000	13 SGA	14 SGA	15 SGA	16 No SGA	17 No SGA	18 SGA	—————▶					
2001	7	8	9	10	11	12	13	14	15	16	17	18
2002	19	20	21	22	23	24	25	26	27	28	29	30
2003	31	32	33	34	35	36	37	38	39	40	41	42
2004	43	44	45	46	47	48	49	50	51	52	53	54
2005	55	56	57	58	59	60	61	62	63	64	65	66
2006	67	68	69	70	71	72	73	74	75	76	77 Medicare Ends	78 Medicare Terminates
2007												

#3: Application of Rule #3

If the individual had not earned SGA prior to the 13<sup>th</sup> month of their EPE, but earned SGA the 18<sup>th</sup> month, the individual's Medicare would continue until the last day of the 80<sup>th</sup> month following that first month of SGA. The table below details this rule.

Year	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec
1998												End TWP
1999	1 EPE Begins	2 Non SGA	3	4	5	6	7	8	9	10	11	12
2000	13	14	15	16	17	18 SGA	1	2	3	4	5	6
2001	7	8	9	10	11	12	13	14	15	16	17	18
2002	19	20	21	22	23	24	25	26	27	28	29	30
2003	31	32	33	34	35	36	37	38	39	40	41	42
2004	43	44	45	46	47	48	49	50	51	52	53	54
2005	55	56	57	58	59	60	61	62	63	64	65	66
2006	67	68	69	70	71	72	73	74	75	76	77	78
2007	79	80 Medicare Ends	81 Medicare Terminates									

Final Comments

Be careful when assisting individuals in determining Medicare cessation/termination. These rules are complex and the practitioner should always confirm their findings with SSA. Keep in mind; if the beneficiary's situation under the pre-TWWIA policy results in termination of coverage prior to 9/30/00, the beneficiary would not get extended coverage. Also keep in mind use of IRWE or subsidy could result in an individual's earnings being lower than SGA, which might assist individuals who miss qualifying for TWWIA extended coverage as a result of the ending of their EPE due to performance of SGA in the 36<sup>th</sup> month (refer to the section on EPE on page 52).



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**Medicare Buy-Back Option**

It is possible for individuals with disabilities to buy into the Medicare program once the extended Medicare coverage is exhausted. Specifically, PL 101-239, effective April 1, 1990, provides disabled beneficiaries who are under 65 years of age with the option of purchasing Medicare coverage. They must no longer be entitled to Medicare because of having earnings in excess of the amount and time permitted having exhausted their extended period of Medicare eligibility.

*Individuals who lost entitlement to Social Security disability benefits due to SGA, and whose Extended Medicare coverage has also terminated, may opt to enroll in premium free Medicare Part A (know as Premium-HI). In order to get Premium HI, individuals must first file an application for Premium-HI, and then a determination regarding medical improvement will be made. Working individuals with disabilities must still meet SSA disability guidelines in order to qualify for Premium –HI. See chart on page 58 for Premium HI rates. Note: An individual who has earned at least 30 quarters of coverage will have a reduced rate. Also, individuals who have limited income and resources may qualify for payment by their State. This is known as the Qualified Disability Working Individual provisions (QDWI) and is available through the Medicaid office.*

- Social Security beneficiaries earning over 200 percent of the poverty level are required to pay the full premium;
- For Social Security beneficiaries earning less than 200 percent of the poverty level, Medicaid is required to pay the entire Medicare premium (in most states).

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**Exercise Questions**

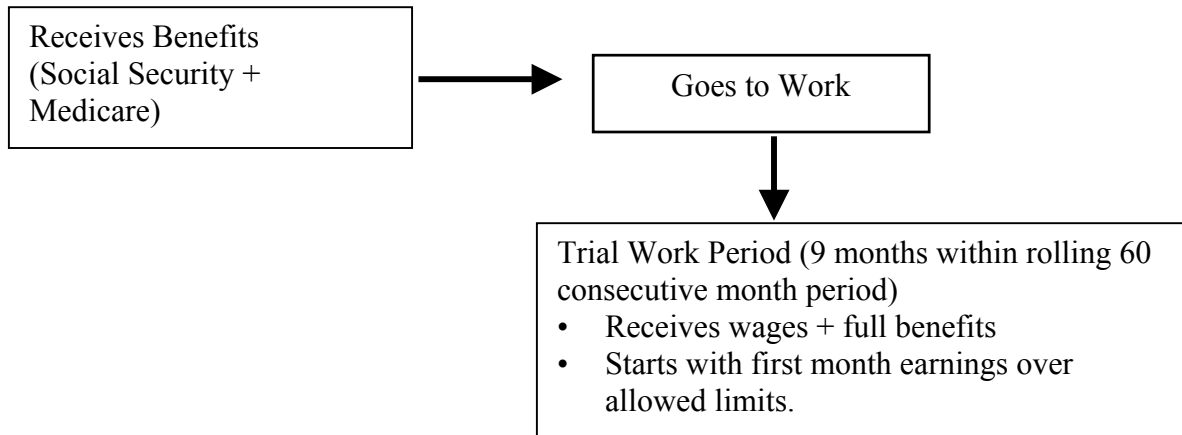
Use the attached chart to answer the following questions:

1. In what month/year does the TWP begin? \_\_\_\_\_ end? \_\_\_\_\_
2. In what month/year does the EPE being? \_\_\_\_\_ end? \_\_\_\_\_
3. How much of his/her SSDI check will the person receive in September 1998? \_\_\_\_\_ None \_\_\_\_\_ Half \_\_\_\_\_ All
4. What month/year would his/her extended medicare coverage cease? \_\_\_\_\_
5. What if the person were blind? What would the answers to the above questions be?

SSDI Exercise												
<b>1997</b>	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Countable Earnings	<b>0</b>	<b>0</b>	<b>150</b>	<b>205</b>	<b>210</b>	<b>190</b>	<b>300</b>	<b>150</b>	<b>170</b>	<b>220</b>	<b>225</b>	<b>0</b>
Benefit Status												
<b>1998</b>	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Countable Earnings	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>185</b>	<b>400</b>	<b>410</b>	<b>390</b>	<b>0</b>	<b>0</b>
Benefit Status												
<b>1999</b>	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Countable Earnings	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>210</b>	<b>150</b>	<b>300</b>	<b>320</b>	<b>290</b>	<b>340</b>	<b>330</b>	<b>400</b>
Benefit Status												
<b>2000</b>	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Countable Income	<b>410</b>	<b>505</b>	<b>390</b>	<b>400</b>	<b>410</b>	<b>420</b>	<b>530</b>	<b>540</b>	<b>525</b>	<b>600</b>	<b>580</b>	<b>78</b>
Benefit Status												
<b>2001</b>	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Countable Income	<b>100</b>	<b>120</b>	<b>100</b>	<b>170</b>	<b>180</b>	<b>165</b>	<b>220</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
Benefit Status												
<b>2002</b>	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Countable Earnings	<b>475</b>	<b>600</b>	<b>725</b>	<b>730</b>	<b>750</b>	<b>740</b>	<b>790</b>	<b>800</b>	<b>785</b>	<b>820</b>	<b>810</b>	<b>795</b>
Benefit Status												
<b>2003</b>	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Countable Income	<b>830</b>	<b>805</b>	<b>790</b>	<b>840</b>	<b>810</b>	<b>785</b>	<b>820</b>	<b>825</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

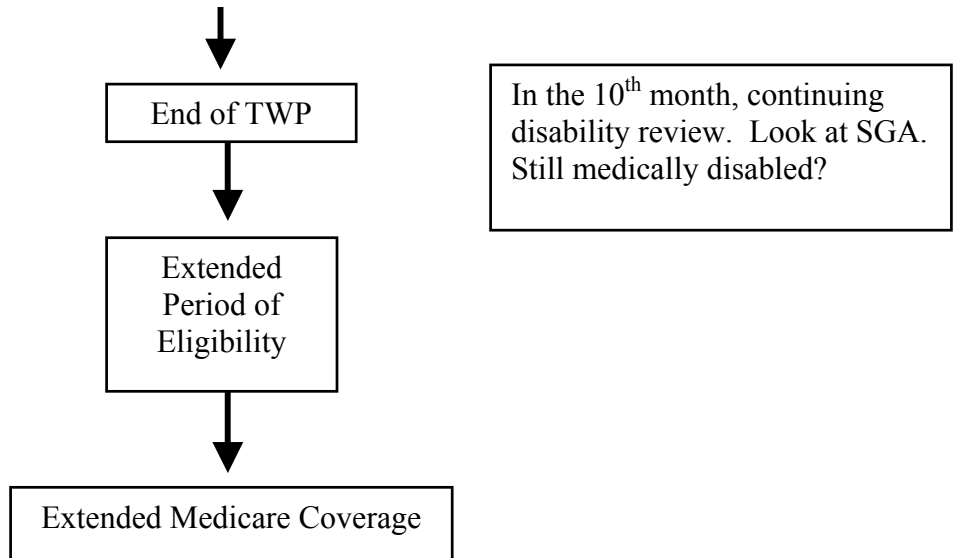
### Flowchart 1: Social Security / TWP

An example of how an individual might proceed through the Social Security system



	\$200/40hr. rule				\$530/80hr. rule		\$560/80hr. rule	\$570/80hr. rule	
Regular Employment	Jan '00 \$282	Oct '00 \$312	Nov '00 \$408	Dec '00 \$500	Jan '01 \$535	Feb '01 \$540	Mar '02 \$570	Apr '02 \$570	Sept '03 \$700
Self Employed	Jan '00 41 hrs	Oct '00 48 hrs	Nov '00 59 hrs	Dec '00 67 hrs	Jan '01 88 hrs	Feb '01 81 hrs	Mar '02 95 hrs	Apr '02 91 hrs	Sept '03 87 hrs

9 months of earnings meeting  
TWP/income criteria



### Flowchart 2: Extended Period of Eligibility

Extended Period of Eligibility (for persons still medically disabled)  
36 consecutive months

- Begins the first month after the 9<sup>th</sup> TWP month
- Receives no cash benefits for months earning over SGA (2003 = \$800/\$1,330) after the 3 month grace period
- If work stops or earnings drop below SGA, receive benefits and any earnings.



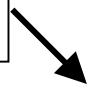
36 months

	Not SGA	Cessation Month SGA													
Wages:	\$500	\$820	\$805	\$780	\$860	\$805	\$820	\$390	\$500	\$600	\$650	\$860	\$810	\$805	\$850
+	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+
Benefits	SS	SS	SS	SS	0	0	0	SS	SS	SS	SS	0	0	0	0
Month:	1	2	3	4	5	6	7	8	9	10	11	12	13	14...	36

Grace Period



End of EPE  
(36<sup>th</sup> month of EPE)



No SGA

Earned SGA



Social Security Benefits Continue

First month of SGA after EPE benefits discontinued



If work cessation is because of disability within 60 months, can file for reinstatement of benefits

<sup>2</sup>Pursuant to *Conley v. Bowen*, 859 F.2d 261 (2d Cir. 1988), this is not true in New York, Connecticut and Vermont, the states within the jurisdiction of the U.S. Court of Appeals for the Second Circuit. Under the *Conley* holding, SSA cannot terminate benefits unless average monthly wages exceed SGA following the EPE. See Social Security Acquiescence Ruling (AR) 93-2(2), at 3-4; POMS DI 12718.001 *et seq.*