

# **Employment Supports Under Social Security Disability, Medicare, Supplemental Security Income and MassHealth in Massachusetts<sup>1</sup>**

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Many people with disabilities are ready, able and willing to work, at least to some extent. They recognize that work is valued in society, and they find that working enhances self-respect as well as financial and personal autonomy. Also, work income above a specified level earns the individual a “quarter of coverage” for Social Security purposes, potentially increasing future disability and retirement benefits. (For 2013, the amount is \$1,160 per quarter.) Working people may even qualify for the earned income tax credit.<sup>2</sup> On the other hand, a person with disabilities who wants to work even on a limited or trial basis must consider the extent to which work and work income may jeopardize eligibility or level of benefits. Many are concerned about the loss of cash benefits, or impact on subsidized housing. For others, the loss of medical benefits, such as prescription medication coverage under MassHealth (Medicaid), is more critical. Since many residential programs provided by the Department of Developmental Services for people with intellectual impairments are funded through MassHealth, even residential supports may be at risk from excess earnings.

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<sup>1</sup> Authored by Attorney Donald N. Freedman. Updated February 15, 2012. Limits are those in effect on for 2013, but are subject to change. The discussion of Social Security Disability and Medicare should apply in any state. However, benefits under Medicaid and to a lesser extent under Supplemental Security Income vary from state to state; this paper reflects Massachusetts benefit amounts and income limits under the Medicaid program, where it is called MassHealth. A primary resource used in the preparation of this paper (aside from sections relating to MassHealth) was the Social Security Administration “Red Book.” The Red Book serves as a general reference source about the employment-related provisions of Social Security Disability Insurance and the Supplemental Security Income Programs for individuals with disabilities, and also for educators, advocates, rehabilitation professionals, and counselors who serve people with disabilities. The most recent edition of the Red Book is available on-line at [www.socialsecurity.gov/redbook](http://www.socialsecurity.gov/redbook).

<sup>2</sup> For more information on this and other special pertinent federal income tax provisions IRS Publication 907, “Tax Highlights for Persons with Disabilities.” The update for use in preparing 2012 federal income tax returns is available online. <http://www.irs.gov/publications/p907/index.html>

Despite the complexities, these are matters that can properly be taken into account in planning for work. The Social Security Administration, as well as the Commonwealth of Massachusetts, has in recent years made efforts to encourage people to return to work by limiting or delaying loss of benefits for people who try. Many so-called “employment support” provisions under Social Security Disability Insurance Benefits (SSDI), Supplemental Security Income (SSI), Medicare and MassHealth are intended to lessen the effects of these cash and benefit disincentives. The purpose of this paper is to outline the more important of these provisions as they would apply to individuals in Massachusetts who are able to work to some extent despite severe physical or mental impairments.

## 1) Social Security Disability Insurance.

- a) **Overview.** Eligibility for SSDI cash benefits is based on your having a severe medical condition, which interferes with your ability to work. If you receive SSDI cash benefits and also work, how much you earn from your work is taken into account in determining whether or not you are still disabled and entitled to benefits.
- b) **SGA Earnings.** Generally, if you have monthly gross work earnings of \$1040 in 2013 (\$1,740 if you are blind) or more, Social Security will determine that you are capable of “Substantial Gainful Activity” and therefore not entitled to cash benefits. (“Gross work earnings” means your wage or salary before any deductions, including deductions for taxes.)
- c) **Impairment-related work expenses.** Even if your gross work earnings are \$1040 or higher, you may nonetheless retain eligibility for cash benefits if you have “Impairment-Related Work Expenses.” These are items or services that you need because of your disabling condition and that enable you to work. For example, regularly prescribed drugs necessary to control your disabling condition are deductible; however, drugs for routine and preventative care are not. Attendant care services performed in the workplace or at home helping you prepare for work are deductible; however, attendant care services on non-workdays, or helping you with non-work activities, are not deductible.
- d) **Subsidies and special conditions.** The \$1040 level is intended to be reflective of the value of earnings, which may be less than actual earnings – a worker may be paid the same as others but for fewer or simpler tasks; or maintaining employment may necessitate extra expenses such as job coaching; or may be feasible only as the result of special personal relationships; or may be in a special work environment, such as a sheltered workshop or specially structured work station. The term “subsidy” relates

to special help provided by your employer. The term “special conditions” generally relates to help provided by outside agencies, such as a job coach.

- e) **Trial work period.** The Trial Work Period provisions allow you to test your ability to work for nine months (that need not be consecutive). During the Trial Work Period, you will receive full SSDI cash benefits regardless of high earnings, as long as you still have a disabling condition. The Trial Work Period continues until you accumulate nine months in which you earned at least \$750 per month (for 2013) in a rolling sixty-consecutive-month period.
  - f) **Unsuccessful work attempts.** Earnings (even if above the Trial Work Period or Substantial Gainful Activity levels) are disregarded if in conjunction with an “unsuccessful work attempt,” that is, an effort to work that you are able to maintain for only a short time (less than 6 months) and that fails due to either your disabling condition or the elimination of subsidies or special conditions that were necessary for you to work.
  - g) **Extended period of eligibility.** Benefits will usually stop after a successful Trial Work Period. However, for the next 36 months after the end of the Trial Work Period, you can, if your condition again prevents you from working, become eligible again for benefits without filing a new application. Also during this period, if your income fluctuates, you will be entitled to full SSDI cash benefits for any month in which your work earnings are below the SGA level due to your disabling condition.
  - h) **Re-application within five years.** If your benefits end because of your work, but within the next five years you again have to stop work because of your disabling condition, you can re-apply for benefits without the five-month waiting period that is required for a new application.
- 2) **Medicare.**
- a) **Overview.** Medicare eligibility for people receiving SSDI benefits starts after SSDI benefits have been received for 24 months.
  - b) **Continuation of Medicare coverage.** If you have received SSDI and Medicare benefits, you can continue to receive Medicare if you go back to work, even if your cash benefits stop, as long as you are still medically disabled. Medicare can continue at no cost for 93 months starting the month after the last month of your Trial Work Period; and then for a premium indefinitely.

### 3) Supplemental Security Income

- a) **Overview.** Earned income affects SSI in two ways. Almost any work income affects your level of benefits. See the following paragraph for details. Also, at some point, earnings may be so high that Social Security views the earnings as evidence that you are no longer disabled or entitled to benefits at all.
- b) **Earned Income Exclusion.** Social Security disregards \$65 per month of earned income, plus one half of the remainder. For example, if your SSI benefit level is \$824.39 (the 2013 benefit level for a disabled individual living alone), and you earn \$600 per month in gross work earnings, Social Security would disregard \$65 plus half the balance of \$535, or \$267.50, for total disregards of \$332.50. The balance of your income, \$267.50, would be applied against your SSI, reducing it to \$556.89. Your total income, from work (\$600) and SSI (\$556.89), would be \$1,156.89.
- c) **Impairment-related work expenses.** As with Social Security Disability, an additional deduction is available from actual earnings for expenses that relate to both your impairments and work. See section 1, paragraph c, above.
- d) **Student Earned Income Exclusion.** In addition, if you are under age 22, not married, and regularly attending school, Social Security will not count (for 2013) up to \$1,730 per month of work earnings, up to a yearly maximum of \$6,960.
- e) **Plan for Achieving Self Support (PASS).** Under complicated prior-approval procedures, you may be allowed to disregard work earnings, which are used or saved for specific and time-limited work-related goals. Similarly, under a PASS you may be permitted to save or accumulate income without regard to the normal \$2,000 asset ceiling for SSI. For example, if you could handle a part-time delivery job for more pay than you are currently making, but don't have the car you need for the job, you could apply to Social Security for a PASS to enable you eventually to purchase a car. A PASS, for example, could permit you to keep your work earnings without the usual deduction from your SSI benefits, and could allow you to save up for the car, beyond the usual \$2,000 asset limit for SSI.
- f) **Property Essential to Self-Support.** Social Security will disregard the value of things you need to work, such as tools and equipment, and possibly even rental property, in determining whether you meet the asset limits for SSI.

- g) **Special SSI eligibility for people who work – Section 1619(a).** If you have received SSI benefits and are now earning more than the SGA level (\$1040 for 2013) despite still being disabled, you may still be eligible for SSI (and MassHealth) based on this special provision (which essentially serves the same function as the Trial Work Period and Extended Benefits Period under Social Security Disability). The usual earned income rules apply, including the earned income exclusion and the deduction for impairment-related work expenses. While in some months your income may be so high as to reduce your cash benefits to zero, the advantage of the program is that in other months, if your income is lower, you would still be eligible for SSI cash benefits. The annual income cap for eligibility for this program varies from state to state; in Massachusetts, the level for 2013 is \$38,936 (or \$39,785 if blind).
- 4) **MassHealth (Medicaid)**
- a) **Overview.** As long as you are on SSI, you are automatically eligible for MassHealth (Medicaid). In addition, even if your work earnings together with your other income are too high for you to continue to receive SSI cash benefits, many working people with disabilities can continue to receive MassHealth benefits under one or the other of the following work-incentive programs.
  - b) **Continued Medicaid eligibility – Section 1619(b).** Your MassHealth can continue under this provision even if your income is too high for SSI if: (1) you have been on SSI; (2) you are still medically disabled; (3) your countable assets do not exceed \$2,000; (4) you need MassHealth in order to work; and (5) your gross earned income does not exceed \$38,936 (or \$39,785 if blind).
  - c) **CommonHealth.** In Massachusetts, we also have the advantage of a special financial eligibility category of MassHealth, called CommonHealth. Under CommonHealth, a former SSI or MassHealth recipient who continues to meet disability criteria except that she is gainfully employed for at least 40 hours per month is eligible for MassHealth. There is no asset limit on eligibility for persons under age 65.<sup>3</sup> There is no income limit on eligibility, although a monthly premium on a sliding scale is required of persons with work and non-work income exceeding about \$16,335 per month, starting at \$15 per month. At income levels even moderately above this level, the premium is still very modest.

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<sup>3</sup> The state has from time to time proposed an asset limit on MassHealth eligibility for persons under age 65. Implementation has been postponed several times, and the nature and extent of the limit is not certain, e.g., whether working disabled people would be exempted from the limit, whether Individual Retirement Accounts would be exempted, etc. You should watch developments regarding the possible asset limit on MassHealth eligibility closely.