



SOCIAL SECURITY AND OTHER PUBLIC BENEFITS

 **SPECIAL NEEDS**
LAW GROUP OF MASSACHUSETTS, PC
Compassionate advice for all stages of life

Annette M. Hines, Esq.

20 Speen Street, Suite 101
Framingham, MA 01701
www.SpecialNeeds-Law.com
508-861-3453

WHAT IS HAPPENING IN LIGHT OF COVID-19?



- ✧ SSA has suspended all face to face service at its field offices throughout the country until further notice – what does this mean for you?
- ✧ Your payments will NOT be affected
- ✧ In-person appointments will still be available for people with severe disabilities and certain others, SSA is encouraging everyone to go online to transact business with the agency. www.ssa.gov
- ✧ Sign up for your online account at www.ssa.gov/onlineservices/
- ✧ Call the toll free line 800-772-1213 or call your local office located here: <https://secure.ssa.gov/ICON/main.jsp>

COVID-19 CONTINUED

🌀 What can you do online?

- Apply for retirement, disability and Medicare benefits
- Check the status of your application or appeal
- Request a replacement card

🌀 For a complete list: www.ssa.gov/coronavirus/

🌀 Phone services will still be available to people in dire need, but please expect LONG wait times:

- If you did not receive your check
- If you are currently homeless or at risk of being homeless
- If your benefits were suspended and can now be reinstated

🌀 In person appointments still available only if you meet “severe disability” criteria – again explained more fully here www.ssa.gov/coronavirus/

COVID-19 CONTINUED



- ✧ If you had an appointment scheduled, SSA employees may be calling you from their home or personal phones so it will ring up without caller ID or private.
- ✧ Many people report that they are not receiving calls at all and are waiting to hear what to do next.
- ✧ BEWARE of scams where callers impersonate SSA workers.

FEDERAL FINANCIAL BENEFITS

⌘ Supplemental Security Income (SSI)

- Means tested: Limited Income and assets

⌘ Social Security Disability Insurance (SSDI)

- Not means tested but subject to work credits or parents' eligibility



SSI

Who is eligible?

- Blind, Aged or Disabled

Must have limited assets

- Deeming

Must have limited income

- Dollar for Dollar Reductions

Be a US citizen or meet alien status criteria



SSI IS VERY LIMITED

☞ We now have two payments in Massachusetts: SSI and SSP

- Disabled Individual, Living alone \$897.39
- Disabled Individual, Sharing expenses \$813.40
- Disabled Individual, Home of another \$609.58

☞ Blind, payments go up

☞ Married, payments go down

☞ Please see attached chart as an example



COMPARISON OF SSA PROGRAMS

SSI

- Elderly, blind, disabled with low income and resources
- No work history required to qualify
- Monthly cash benefits received on the 1st. Max \$783 (2020) for individual.
- State supplement
- Automatically eligible for MassHealth standard
- Income and assets affect benefits
- Reduction of benefit for receipt of cash, housing expenses, food
- Transfer penalties

SSDI

- Blind or disabled workers or disabled adult children or widow/er of retired or deceased worker
- Need sufficient work credits/quarters to qualify
- Monthly cash benefits NOT received on the 1st
- Medicare eligibility after 24 months
- No income or asset test, but earned income can mean you are not disabled

DISABILITY DEFINED

- ⌘ Mental or physical impairment
- ⌘ Expected to last at least 12 months or result in death
- ⌘ Must directly affect a person's ability to work at "substantial gainful activity" (adults)
- ⌘ Must directly affect the child's ability to reach age-appropriate developmental milestones or to engage in age-appropriate activities of daily living (children)



INCOME LIMITS

Income is separated out into two kinds

- Working Income
- NonWorking Income

Income is counted in the month it is received

If it has not been spent, the following month it is a countable resource/asset



INCOME — IMPACT ON BENEFITS

Working Income

- Encouraged to work
- First \$20 of any income disregarded
- Next \$65 of Working Income disregarded
- Then every dollar of work reduces the SSI payment by \$0.50

Example: If you would have a \$500 SSI payment every month but you earn \$385 from work; you will receive an SSI payment of \$350 plus your work income of \$385.


- Net result: if you work, you have income of \$735, if you don't your income is only \$500. It benefits you to work.
- Work does not affect most state supplement payments.

INCOME – IMPACT ON BENEFITS

Non-Working Income

- First \$20 of any income disregarded
- All other types of income have different impact on your SSI benefit
- Long list of payments that are not income:
 - Tax refunds
 - AFDC payments
 - Veterans Benefits
 - State agency payments such as DDS in our state
 - Sheltered workshop payments, and so forth
 - Review the POMS (Program Operations Manual System) for a complete list
- Child Support payments – under 18 years old, there is 1/3rd disregard, then a dollar for dollar reduction; over 18, no disregard and a 100% dollar for dollar reduction in benefit
- Alimony payments – dollar for dollar reduction in benefit
- Investment income, pensions, annuities etc. – dollar for dollar reduction in benefit

ASSET LIMITS

- 
- ✧ \$2,000 individual and \$3,000 married couple
 - ✧ Review the POMS (Program Operations Manual System) for a complete list of countable and noncountable assets
 - ✧ Virtually all assets are countable; assets usually forgotten:
 - Retirement assets
 - UTMA and UGMA for your kids
 - Joint accounts
 - College savings accounts (529 plans and the like) are not assets of the child/beneficiary but they are assets of the person who set up the plan
 - Savings Bonds
 - Stock certificates, money in a safe deposit box and furniture and stuff
 - Vehicle – you are allowed to have one and not luxury
 - Home – exempt asset if it's yours

SSI CASH RELATED WORK INCENTIVES

☞ Student Earned Income Exclusion

- In 2020, for students under age 22 SSA will exclude up to \$1,900 per month of work income, but not more than \$7,670 per year

☞ Impairment Related Work Expenses

- Half of IRWE costs are given back in SSI payments
- Examples of expenses: service animal costs, specialized transportation, specialized equipment, even medical copays

☞ Blind Work Expenses

- 100% are given back in SSI payments
- Examples of expenses: service animal costs, visual and sensory aids, specialized transportation

☞ Plan to Achieve Self Support

PASS

- ✧ The applicant finds out what training, items, or services they need to reach a work goal.
- ✧ A PASS can include supplies to start a business, school expenses, equipment and tools, transportation, uniforms and other items or services you need to reach your employment goal.
- ✧ The applicant finds out how much these items and services will cost.
- ✧ PASS can help the participant save to pay these costs. PASS lets persons with disabling conditions set aside money for purchases, installment payments and down payments for things like a vehicle, wheelchair, or a computer if needed to reach their work goal.

SSDI WORK INCENTIVES

- ✧ Trial Work Period (TWP)
- ✧ Extended Period of Eligibility (EPE)
- ✧ Impairment Related Work Expenses (IRWE)
- ✧ Special Conditions
- ✧ Employer Subsidies
- ✧ Income Averaging
- ✧ Unsuccessful Work Attempt (UWA)




TRIAL WORK PERIOD

- Available to all SSDI recipients
- Unlimited earnings for 9 months and benefits are safe
- In 2020 TWP is \$910 per month
- 9 TWP months within a five year time period
- TWP months do not need to be consecutive
- Only entitled to one TWP per claim
- After TWP met, then Substantial Gainful Activity (SGA) is considered



SUBSTANTIAL GAINFUL ACTIVITY (SGA)

- 
- ☞ Monthly gross earnings threshold SSA uses to assess a beneficiary's work ability
 - ☞ SGA is considered after TWP
 - ☞ In 2020, SGA is gross monthly earnings of:
 - \$1,260 for disabled
 - \$2,110 for blind
 - If SGA is consistently met after TWP, benefits will likely be suspended

EXTENDED PERIOD OF ELIGIBILITY (EPE)

- ⌘ Safety net beginning the month after TWP
- ⌘ Lasts for three continuous years
- ⌘ Guarantees cash benefits if gross earnings are below SGA
- ⌘ SSDI case remains open during EPE no matter what!
- ⌘ Months SGA is met, cash benefits are suspended
- ⌘ One exception is made the first time SGA is met during or after EPE




SSDI CASE CLOSURE

Case closure can't occur until:

- EPE has ended
- Grace Period has been completed
 - First month SGA is met is called "Cessation Month"
- Gross monthly earnings are at or above SGA
- Case closure can occur ANYTIME an individual is found to be medically improved



IRWE FOR SSDI RECIPIENTS

- 
- ✧ Different than SSI recipient benefits
 - ✧ Full cost deducted from reported monthly gross earnings
 - ✧ Individual must pay out of pocket for expense
 - ✧ If countable earnings fall under SGA then benefits will be paid
 - ✧ Must provide receipts
 - ✧ Common expenses:
 - Service animals, specialized transportation, specialized equipment, medical co-pays

UNSUCCESSFUL WORK ATTEMPT

- ⌘ Unable to consistently earn SGA for 6 months or more
- ⌘ Must be due to disability or condition
- ⌘ SSA will disregard the work attempt
- ⌘ Can be used multiple times during one claim
- ⌘ Cannot be used during Cessation Month



EXPEDITED REINSTATEMENT (EXR)

- ⌘ Case must have closed due to work, not disability
- ⌘ Must reapply within 5 years of case closure
- ⌘ Must have same disability as before
- ⌘ Earnings must be below SGA due to disability
- ⌘ You can receive up to 6 months of benefits while determination being made



HOW DO I FIX THIS ASSET OR INCOME PROBLEM?

✧ Can I give assets away? – Yes, but you will be penalized for it

✧ Can I refuse income? - No

✧ How far back does SS look? – 3 years

- Note that SS can decide that if you owned assets at any time you were receiving benefits they could ask for repayment for every month you were over the asset limit – not a SNAPSHOT

✧ Can I transfer to Trusts ? – Yes, both assets and income streams can be transferred but the process will depend to some extent on state law



What is a trust?

- Like creating a company
- Governed by rules set out by you
- Holds and disburses assets for a beneficiary

Two Special Needs Trusts

- Third Party: Other People's Money
- First Party: Disabled Person's Money

THIRD-PARTY SNT

- ✧ Provides supplemental funds for living expenses not covered by other income sources
- ✧ May be established by the disabled individual, parents, grandparents, guardians or Probate Court
- ✧ “Living” SNT lets others contribute
- ✧ Trustee has discretion over distributions



WHAT IF THE DISABLED PERSON HAS ASSETS?

✧ Establish a First-Party SNT (d4A):

- Provides funds for living expenses not covered by other income sources
- Maintains eligibility for public benefits
- Must be established by parent, grandparent, legal guardian or the court
- Person under 65
- Estate Recovery for all Medicaid expenses



POOLED TRUSTS

- ✧ Can be third party or first party
- ✧ Qualifies for exceptions
- ✧ Pooled assets for management
- ✧ Limited costs
- ✧ Some estate recovery
- ✧ Some states do not allow over 65 first party pooled trusts



ABLE ACCOUNTS – WILL THEY BE HELPFUL?

✧ Yes, but limits to:

- Disabled prior to age 26
- \$15,000 per year from all parties; up to \$27,490 if beneficiary has working income
- Account balance over \$100,000 countable for SSI, but not for Medicaid
- One account per person
- Limited uses for distribution

✧ Federal law allows but not all states have implemented yet – but Massachusetts has one!

✧ Still has estate recovery

✧ Good solution under certain circumstances

- Prevents necessity of going to court to establish/fund
- Allows person to create and fund themselves
- Allows person to control asset if they are able

PUBLIC BENEFITS: HEALTHCARE

⌘ Medicaid (“MassHealth”) for people with disabilities under age 65

- Medicaid is an automatic benefit in approx. 40 states if you are eligible for SSI payments
- This is so important for people who require community care

⌘ What does it cover?

- Durable Medical Equipment
- Dental Treatment
- Co-pays for medicine and doctor/hospital
- PCA
- Nursing
- HCBS Waivers



HAVE QUESTIONS? ASK!

 **SPECIAL NEEDS**
LAW GROUP OF MASSACHUSETTS, PC
Compassionate advice for all stages of life

Annette M. Hines, Esq.

20 Speen Street, Suite 101
Framingham, MA 01701
www.SpecialNeeds-Law.com
508-861-3453