

Self Employment Part I: SSDI Benefits



John Benbow
ERI/WDBN




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Self Employment Introduction

SSA deals with self employment income (SEI) differently than wages:

- Counts only net earnings from self employment: Net Earnings from Self-Employment (NESE)
- Obtains documentation from beneficiary's own records to verify SEI in most cases
- Determines TWP service months and SGA differently
- Has certain work incentives that apply to only self-employment income




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SEI Definition

Employment versus self employment:
Key factor is the right to control the details and the means of the service provided.

Work is a trade or business when the individual:

- 1) Demonstrates good faith intention of making profit or producing income, and
- 2) Engages in the activity on a regular basis, and
- 3) Presents him/herself as being engaged in the selling of goods or services




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SEI Definition

Deriving income from a trade or business is controlling factor, not nature or extent of services:


- Certain seasonal or limited term activities (for example, snow removal) may be considered self employment
- Illegal activities may be self employment
- If work activity does not provide income and is done to further or improve the enterprise itself, activity may be considered a hobby rather than self-employment

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SEI Calculation for SSDI

Once SSDI beneficiary's income is determined to be SEI:

- Add up total gross income for taxable year (including income from all trades and businesses)
- Subtract all normal and allowable expenses
- Multiply the result by .9235 (100% - 7.65% = 92.35%) to yield net earnings (NESE)

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SEI Trial Work Period

Nine (9) months using expanded definition of TWP service month:

- Beneficiary's net earnings for activity exceeds TWP monthly amount (\$700 in 2009),

OR

- Beneficiary spends at least 80 hours engaged in the trade or business during a month.

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SEI Trial Work Period

Countable income:


- SSA uses NESE, normally taken from beneficiary's income tax return or other records – may average earnings over a period of work

Service hours:

- Any in which beneficiary provides service or produces product for gain (excludes startup activities)

Note: SSA normally uses form 820 to gather SEI information from a beneficiary.

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SEI Work Review/CDR


At end of TWP SSA:

- Reviews SEI work activity and NESE
- Determines appropriate SGA test
- Applies that test to see if work is SGA

For the SGA SSA uses countable income: business expenses deducted first, and then work incentives may further reduce NESE: Impairment Related Work Expenses, and Unincurred Business Expenses, Averaging, Unpaid Help.

New businesses often do not have net profit in the startup phase and so do not exceed the SGA level for some time.


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I. Countable Income Test

- Used at the end of the TWP for a beneficiary who has received SSDI for at least 24 months.
- SSA compares beneficiary's countable monthly SEI to SGA earnings guidelines for that year.
- If monthly countable SEI averages more than SGA guideline amount (\$980 in 2009), SEI is SGA unless evidence shows that he/she did not render significant services in month.


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SEI SGA: Other Tests

Other situations when a finding of SGA needed and the Countable Income Test does not apply:

- Initial eligibility (at application), or
- Beneficiary entitled less than 24 months, or
- After SGA benefit cessation during Extended Period of Eligibility (EPE) or the initial reinstatement period for Extended Reinstatement (EXR)


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SEI SGA: Other Tests

In these situations, SSA applies the following three (3) tests in the order given:

- II. Is the person performing significant services **AND** deriving substantial income from the trade or business.
- III. Is the work comparable to that of an unimpaired individual in the community?
- IV. Is the work clearly worth more than the SGA level?

SSA will consider all three tests before determining that beneficiary's self employment is not SGA.


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II. Significant Services and Substantial Income Test

Significant Services:

- One-person business: services presumed to be significant.
- More than one person: beneficiary is contributing significantly to operation of business if:
 1. spending more than forty-five (45) hours per month managing business and employees, or
 2. contributing more than one-half the time required to manage the business.

NOTE: SSA must consider nature of work, e.g. if services highly skilled, work may be substantial even if performed 45 hours or less per month

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II. Significant Services and Substantial Income Test

Substantial Income:

- Countable SEI averages more than SGA amount,

OR


- Countable SEI does not average over SGA but livelihood derived is comparable to:
 1. what beneficiary earned as sole means of livelihood prior to impairment, or
 2. what a non-disabled person in same community earns engaged in same or similar business as means of livelihood.

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III. Comparability of Work Test

If SSA cannot find SGA based on significant services and substantial income, then comparability test will be used next:


- Is beneficiary's work activity comparable to non-disabled persons in community engaged in same or similar business as means of livelihood? If so, beneficiary may be engaging in SGA.
- Factors considered: hours of work involved, skills required, energy output, duties, and responsibilities

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IV. Worth of Work Test

If SGA not found using comparability test, value or worth test used: work may be considered substantial if reasonably worth more than SGA amount when:

- Considered in terms of its value to the business, or
- Compared to the salary that an owner would pay an employee for such duties in that type of business setting.

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SEI SSDI Work Incentives

Unincurred Business Expenses

- Contributions to the beneficiary's business by someone other than the beneficiary - expense would be approved by IRS if the beneficiary or the business paid for it.
- In-kind use of office space, telephones, office equipment, and even personnel time (e.g. receptionist) may also be deducted.

Unpaid Help


- Assistance provided to beneficiary by family members, friends, or anyone else who helps without pay - use prevailing wage rate in community for similar services.

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Other SSDI Work Incentives


Ones used for both wages and SEI under SSDI:

- Impairment Related Work Expense (IRWE)
- Unsuccessful Work Attempt (UWA)
- Averaging Income
- Extended Period of Eligibility (EPE)
- Expedited Reinstatement (EXR)
- Extended Period of Medicare Coverage (EPMC)

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Blind SSDI Beneficiaries

- For SSDI beneficiaries with blind diagnosis, SSA uses higher SGA level (\$1640 in 2009) to determine if income is substantial for SSDI.
- SSA evaluates self-employment activity of blind beneficiaries only in terms of SGA, so the comparability and value of work tests do not apply to blind beneficiaries.

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More Information



Presented by Wisconsin's Disability Benefits Network (WDBN)

- POMS Chapters RS 018, RS 021, DI 105
- John Benbow, Employment Resources, Inc.:
benbow@eri-wi.org
- More about WDBN online:
www.eri-wi.org/WDBN.htm



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