The Office of Employment Support (OES) was established in 1999. The mission of OES is:

1. To plan, implement, and evaluate Social Security Administration (SSA) programs and policies related to the employment of the Social Security Disability programs (Title II) and Supplemental Security Income (SSI) beneficiaries with disabilities.

2. To promote innovation in the design of programs and policies that increase employment opportunities for Social Security beneficiaries.

3. To educate the public about the SSA and other public programs that support employment and about organizations that provide employment-related services.

4. To join with other public and private entities to remove employment barriers for people with disabilities.

The Division of Employment Policy is comprised of three teams:

1. **Employment Policy Team**: Leads operational policy development and implementation for all work-related provisions under the Title II and SSI programs.

2. **Employment Support Service Delivery Team**: Manages pilot, evaluation and implementation of a new field position. It leads testing of new service delivery software, procedures, materials and related outreach materials and leads crafting of communications plans, forums and materials in coordination with SSA’s Office of Communications.

3. **Program Innovations Team**: Manages research and demonstration projects under section 234 and 1110 of the Social Security Act, grants and cooperative agreement programs. It evaluates and makes recommendations about requests for SSA to waive title II and title XVI requirements; evaluates unsolicited grant and cooperative agreement proposals; SSI youth with disabilities.
An individual shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work.”

The basic conditions for the disability requirement include the following:

- Individuals must have a disability that can be documented by a qualified medical examiner. Individuals must also meet or equal a certain level of disability;
- The disability must be expected to last 12 or more months or be expected to result in death;
- Individuals cannot be working at the time of application or, if working, cannot be earning more than the SGA level of $860 for individuals with a disability other than blindness or $1,450 if they are blind; and
- Per separate statutory definition, individuals who are blind and applying for SSI do not need to meet an SGA test but rather a test to ascertain level of blindness.

Based on this definition of disability, a sequential evaluation process involving five distinct steps is applied by the Disability Determination Service in making the disability decision. The Social Security regulations pertaining to the sequential evaluation process require that the steps of the process be followed in specific order and allow for the process to terminate if at any step a determination of “disabled” or “not disabled” can be made.

1. **Is the person working at a substantial level?**

Step one of the sequential evaluation process addresses whether the person is engaging in substantial gainful work activity, or SGA. SGA is defined as the performance of significant physical or mental duties for pay or profit and in 2006 is generally determined to be gross earnings in excess of $860 a month for individual with a disability other than blindness and $1,450 for a person who is blind. Individuals engaging in work at or above the SGA level are considered to be demonstrating the ability to do substantial work in spite of their disabling condition and are consequently determined to be not disabled under Social Security law.

Prior to January 2001, earnings between $300 and $700 per month may have been considered a gray area and deemed to be SGA — known as the secondary SGA level. This was based on comparison of the earnings of
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.

A CDR must be done at a minimum of every three years for recipients of SSI under age 18 whose conditions are likely to improve. CDRs must be done not later than 12 months after birth for babies whose disability is based on their low birth weight. The Social Security Administration may also do CDRs for recipients under age 18 whose conditions are not likely to improve.

Any person who was found eligible for SSI as a child in the month before they turned 18 must have their eligibility for SSI redetermined as an adult. The redetermination will be done following the individual’s 18th birthday using rules for adults filing a new benefits application. In 1997, the 12-month rule for conducting “age 18” redeterminations was repealed; now, SSA may conduct the redetermination at any point following the individuals 18th birthday. This could be done during a CDR or conducted at other points at SSA’s discretion. Once completed, an individual who is not determined eligible for benefits as an adult will receive two more months of cash benefits from the date of the determination. However, overpayment may be considered after the ineligibility date for adult benefits is determined, should the individual continue to receive cash benefits beyond the two-month grace period in certain situations.

Section 5113 of the Omnibus Budget Reconciliation Act of 1990 extended eligibility for “Section 301” payments to individuals whose disability ceased because of medical recovery during participation in an approved VR program expecting to result in employment. On August 10, 1999, the Office of Employment Support Programs of the Social Security Administration provided further clarification in field memorandum file number EM-99079. This stated that the procedure for determining continued payment of benefits under “Section 1631(a)(6)” of the Social Security Act applies to all “age 18” redetermination and continuing disability review cases.

In 2005, section 301 continued payment protection extended to any student who was receiving services under the auspices of an Individualized Education Plan (IEP). In order to receive these continued payments after a disability termination decision; the student must be between the ages of 18 and 21 and be actively participating in the IEP. Post IEP services will also qualify provided the student is below the age of 22.
This liberalization assumes that the IEP will result in the student’s independence from benefits if the plan is allowed to be completed. Temporary, disability related interruptions are allowed provided that participation and progress are resumed no more than 3 months after the interrupting event.

Sections 225(b) and 1631(a)(6) provide for a continuation of SSI and/or Title II benefits respectively to individuals who have medically recovered but who are participating in approved vocational rehabilitation programs. Note that section 101(b) of the Ticket to Work and Work Incentives Improvement Act of 1999 (P.L. 106-170) amends the sections of the Social Security Act referenced above by removing “vocational rehabilitation program” language and replacing it with “a program consisting of the Ticket to Work and Self-Sufficiency Program under section 1148 or another program of vocational rehabilitation services, employment services or other support services.” The information below pertaining to this provision has not yet been amended to reflect these new changes. However, the proposed rules to implement this expanded definition will be published in the Federal Register at a later date and incorporated into a later edition of this curriculum.

These provisions allow individuals who have medically improved and are no longer considered disabled to continue receiving SSDI and SSI benefits if:

- They are participating in approved vocational rehabilitation programs at the time their disability ceases; and
- SSA has determined that the beneficiaries’ continued participation in the vocational rehabilitation programs will increase the likelihood of permanent removal from the disability benefit rolls.

Because of a law effective November 1, 1991, individuals can be participating in public or private approved vocational rehabilitation programs, not just state programs, to have benefits continued. Medicare, Medicaid, and state supplement eligibility also continue.

To establish eligibility, beneficiaries should work with their SSA claims representatives and vocational rehabilitation counselors. Form SSA-4290 or the Individual Plan for Employment (formerly IWRP) will be used to gather the necessary information. Information considered includes: current vocational rehabilitation status; specific vocational objectives; the programs progress toward completion; and when the program will be completed.

If SSA determines that continued participation in rehabilitation programs will not increase the likelihood that individuals will be permanently removed from the disability rolls, benefits will be terminated the month following this decision. Additionally, if individuals stop participating in the program for more than 30 days, benefits will cease and will not resume.