Introduction

The benefit program authorized under Title II of the Social Security Act enables individuals who have become disabled and are unable to work to receive monthly cash benefits and Medicare insurance. As explained in the first section, to qualify for Social Security benefits, individuals must be determined medically disabled, and must not be working or, if working, earning less than the SGA level. They must also have insured status (i.e., sufficient past work in Social Security covered employment) or 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, or be the disabled widow or widower (50 years of age or older) of a deceased spouse.

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 Title II benefits or file applications for disability benefits (whichever is later). Effective January 2006, only months during which an individual earns over $620 or works over 80 hours in self-employment are service months and count as TWP months. In 2005 $590, in 2004 $580, in 2003 $570, in 2002 $560, 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 Title II 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. Subsidy and IRWEs are not considered during the TWP.

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.
Application of the New TWP and EPE

John’s case: John was awarded SSDI benefits in 1990 based on a back injury. His monthly Title II check was $600 in 1990 and higher in 2001 based on cost of living adjustments. In 1993, John 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, John 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, John 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, John 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.

John worked his first TWP month in January 1993. This is the first month he worked as a Title II 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 John 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, John completes his TWP in June 1999.

NOTE: Under pre-2001 rules, this would be John’s only TWP. He would only get a second TWP if he lost Title II, 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 John to qualify for a new TWP after he has received reinstated benefits for 24 months.

John’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. John 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 John 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.) John is entitled to Title II 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, John 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 Title II check during the April through December 2000 period.

Starting in January 2001, John will start getting Title II checks again. This is because the SGA amount was increased to $740 and John's monthly earnings remained at $720. He will get Title II 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, John 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, John will continue to be ineligible for Title II through the end of his EPE (i.e., through June 2002).

Since John stopped working within 60 months, he became eligible for EXR in January 2001, because his wages were now below the SGA amount, it was within 60 months of his last month of entitlement to Title II (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 John 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 John 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 John received an Title II check. This issue should be clarified when SSA issues EXR instructions in its Program Operations Manual System or POMS.)

The facts indicate that John 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, John is eligible for EXR benefits for all of 2003 and 2004, a 24-month period. A new TWP and EPE: When John returns to work in January 2005 he will be entitled to a new TWP. This is because John 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 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
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 2006 monthly premium for Medicare Part B is $88.50 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.*

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<td>$0 if individual or spouse has 40 or more quarters of Medicare covered employment</td>
<td>$88.50</td>
<td>Part A Hospital Insurance</td>
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<td>$395 paid only by individuals who are not otherwise eligible for premium-free hospital insurance and have less that 30 quarter of Medicare covered employment</td>
<td>Part A Hospital Insurance Deductible</td>
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<td>Part A Hospital Insurance</td>
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<td>$238 per day for the 61st–90th day each benefit period</td>
<td>$124 per year (You pay 20% of the Medicare approved amount for services after you meet the $124 deductible)</td>
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<td>$476 per day for 91st –150th day for each lifetime reserve day</td>
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<td>$216 for those having 30–39 quarters of Medicare covered employment</td>
<td>Skilled nursing (coinsurance)</td>
<td>$119 per day for the 21–100th day each benefit period</td>
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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).

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 begin? _____end? _____
3. How much of his/her Title II check will the person receive in September 2004? _____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?
Flowchart 1: Social Security / TWP

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

1. Receives Benefits (Title II + Medicare)
2. Goes to Work
3. Trial Work Period (9 months within rolling 60 consecutive month period)
   - Receives wages + full benefits
   - Starts with first month earnings over allowed limits.
4. 9 months of earnings meeting TWP/income criteria
5. End of TWP
6. Extended Period of Eligibility
7. Extended Medicare Coverage

In the 10th month, continuing disability review. Look at SGA. Still medically disabled?

Regular Employment
- Jan '02 $600
- Oct '02 $620
- Nov '02 $610
- Dec '02 $590
- Jan '03 $600
- Feb '03 $620
- Mar '04 $800
- Apr '04 $810
- Dec '05 $700

Self Employed
- Jan '02 81 hrs
- Oct '02 88 hrs
- Nov '02 89 hrs
- Dec '02 81 hrs
- Jan '03 88 hrs
- Feb '03 81 hrs
- Mar '04 95 hrs
- Apr '04 91 hrs
- Dec '05 87 hrs

2006 = $620

$560/80hr. rule
$570/80hr. rule
$580/80hr. rule
$590/80hr. rule
Flowchart 2: 
Extended Period of Eligibility

Extended Period of Eligibility (for persons still medically disabled) 
36 consecutive months
• Begins the first month after the 9th TWP month
• Receives no cash benefits for months earning over SGA (2006 = $860/$1,450) after the 3 month grace period
• If work stops or earnings drop below SGA, receive benefits and any earnings.

Flowchart:

- 36 months
- Cessation
- Not SGA
- Month SGA

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<th>Month</th>
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- Grace Period

- End of EPE (36th month of EPE)

- No SGA
  - Social Security Benefits Continue

- Earned SGA
  - First month of SGA after EPE benefits discontinued

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

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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.