

SOCIAL SECURITY ADMINISTRATION/DEPARTMENT OF VOCATIONAL REHABILITATION PROGRAM

AUTHORITY

Social Security Act

*For the purpose of this manual, use of the terms **must** or **shall** reflect requirements of Federal law or regulation or state administrative regulation and must be adhered to strictly.*

The Department of Vocational Rehabilitation has been presented a challenge to provide a more effective rehabilitation program to Social Security Disability Insurance and Supplemental Security Income (SSDI/SSI) beneficiaries and recipients. As part of this initiative, the Disability Determination Services, Department for Social Insurance refers individuals found eligible for disability benefits to the Department. Some SSDI/SSI beneficiaries or recipients are self-referred, or may be referred by other sources. The Department helps these eligible consumers develop an Individual Plan for Employment to assist them in returning to work.

Costs incurred by the Department to help these eligible individuals return to employment may be recovered by the Department. Under the authority of the 1981 Amendments to the Social Security Act, the Social Security Administration is authorized to reimburse the Department of Vocational Rehabilitation for cost of services provided on a case by case basis. Only when Vocational Rehabilitation services have resulted in a beneficiary or recipient performing a "Substantial Gainful Activity" (SGA) for a continuous period of nine months are these costs recovered.

THE VR ROLE IN REFERRAL OF ALLOWED SSDI/SSI RECIPIENTS

Social Security Allowed Referrals

All Disability Determination Services' SSI/SSDI referrals must be contacted by assigned DVR Counselors. Once a referral has been received an appointment is to be scheduled to discuss services and take an application if requested. If the letter is returned by the Postal System as address unknown, at least one attempt should be made by telephone to contact the referred individual. A completed Referral Response Form and the SSA-831-C3 should be returned to the SSI/SSDI Program Coordinator's office within 60 days. Individuals who do not apply for or are not currently being served by DVR are then released to a statewide pool of alternate

providers. Other SSA approved vendors are then able to contact these individuals for assistance in returning to work.

When referrals are received of current or recent DVR consumers it is not necessary to schedule an appointment. The counselor should simply complete the appropriate area of the referral response form and return it with the SSA-831-C3 form to the SSI/SSDI Program Coordinator's office.

Confidentiality of SSI/SSDI Information

In some cases, it is possible that the Department counselor may receive SSI/SSDI entitlement, non-entitlement, or termination information prior to an applicant's receipt of an official notice. Therefore, the counselor should be careful to avoid premature disclosure of this information to the individual.

SSDI/SSI Beneficiary Status

The counselor should verify each individual applicant's Social Security Benefit status. The SSI/SSDI beneficiary block should be marked appropriately on all Department forms. The documentation may be a copy of the SSA-831/SSA-833, copy of the award letter, or a progress note documenting a call to the local Social Security District Office. Frequently, the individual receives survivor's or some other type of Social Security benefits, and the counselor incorrectly marks the status as "allowed". The individual may be receiving benefits as a Disabled Adult Child or Disabled Widow or surviving divorced widow on a wage earner's (W/E) number. It is NOT appropriate to mark the beneficiary block as allowed in this instance. The SSDI/SSI status refers ONLY to the individual who is considered disabled and receives benefits.

Medical Re-Examination Date/Diary Date

Many individuals are qualified for Social Security Disability Insurance benefits or Supplemental Security Income by reason of impairments that are expected to improve substantially in the future. Such claims are scheduled (the Diary Date) for medical re-examination when appropriate. This information is found in Item 17 on the SSA-831 and item 23 of the SSA-883 or SSA-832.

Use Of Medicare/Medicaid And Other Medical Insurance

All SSDI beneficiaries who have received benefits for two years (or longer) are eligible for Medicare benefits. SSI recipients are eligible for Medicaid immediately

upon entitlement to SSI payment. Medicare/Medicaid and other medical insurance shall be utilized in the same manner as any other available comparable benefit.

Social Security District Office and DVR Coordination

The importance of having close coordination and working relationships with local Social Security District offices cannot be overemphasized. Department consumers should be referred to the local Social Security District Office for any assistance in connection with their disability claims. They also need to report events such as recovery from impairments, return to work, termination of work, etc. that may have a bearing on their claims. Contact with the local Social Security District Office should be made when Vocational Rehabilitation staff needs information that is not available from the individual or DDS. The medical information is not available from the local Social Security District Office.

There are Work Incentive liaisons established in Social Security District Offices to facilitate good cooperation and working relationships with DVR. Get to know your Work Incentive Liaison. This person is an invaluable resource to you in your casework.

GUIDE TO SOCIAL SECURITY DISABILITY AND SSI WORK INCENTIVES

Most people want to work. It is important for disability beneficiaries to understand that they can still receive benefits while they try to work. The Social Security Administration work incentives make it possible for people with disabilities receiving Social Security Disability Income (SSDI) or Supplemental Security Income (SSI) to work and still receive monthly cash payments plus Medicare or Medicaid. Some incentives are different for SSDI and SSI beneficiaries. For additional materials on work incentives, refer to your SSA/VR 2002 Red Book on Employment Support. You can also access up to date information from the following Social Security site as follows:

<http://www.ssa.gov>

<http://www.ssa.gov/work/ResourcesToolkit/workincentives.html>

Another resource for helping beneficiaries with work incentives is Benefits Plus. Benefits Plus counselors will work with beneficiaries individually to explain these incentives and how they relate to a specific individual. This program can be contacted at 888-813-8497 (voice) or 888-813-8652 (TTY). Beneficiaries may also feel more secure in verifying this information with their local Social Security office.

Substantial Gainful Activity (SGA):

SGA is the performance of significant duties over a reasonable period of time in work for remuneration. “Significant duties” implies not only that the duties are useful in accomplishment of a job or the operations of a business, but also that they have a degree of economic value. Generally, work that results in substantial earnings would establish ability to engage in SGA. The SSA earnings criteria for determining SGA for beneficiaries of Social Security Disability Insurance Benefits and for recipients of Supplemental Security Income follow. Earnings which average more than \$780 a month are deemed to demonstrate the ability to engage in SGA in the absence of evidence to the contrary.

Social Security Disability Income (SSDI) Work Incentives

Trial Work Period – A 9-month period, not necessarily consecutive, during which a Social Security beneficiary’s earnings will not affect his or her benefit. The 9 months of work must occur within a 60-month period. Any month in which \$560 is earned counts as one month of the total nine months in the trial work period.

If a self-employed person has earnings that are equal to or less than the dollar amount for this Trial Work Period, it could be considered that a month of Trial Work has been performed if the self-employed person works more than 80 hours a month in his or her business.

Extended Period of Eligibility – For at least 3 years after a successful trial work period, a Social Security beneficiary may receive a disability check for any month that his or her earnings are below the substantial gainful activity level. In 2002, these SGA levels are \$780.

Continuation of Medicare – If Social Security disability payments stop because a person has earnings at or above the substantial gainful activity level, but the person is still considered to have an eligible disability, Medicare will continue after the trial work period. Effective October 2000, premium-free Medicare hospital insurance can continue for at least 93 months (7 years, 9 months) after the end of the trial work period.

Impairment-Related Work Expenses – Certain expenses for things an individual with a disability needs because of his/her impairment in order to work may be deducted when counting earnings to determine if the person is performing substantial gainful activity.

Recovery During Vocational Rehabilitation – If a person recovers while participating in a vocational rehabilitation program that is likely to lead to becoming self-supporting, benefits may continue until the program ends. These are known as 501 cases. Contact the SSI/SSDI Coordinator for help with these situations.

Supplemental Security Income (SSI) Work Incentives

Continuation of SSI – SSI recipients who work may continue to receive payments until countable income exceeds SSI limits.

Continuation of Medicaid Eligibility – Medicaid may continue for SSI recipients who are no longer eligible for cash payment due to their employment. This individual must have been eligible for SSI for one month, still be disabled, and need Medicaid to work. See the Red Book for additional criteria.

Earned Income Exclusion – When an SSI beneficiary returns to work the first \$65 of earnings in a month plus one-half of the remainder is not counted against their benefits. The process for calculating income is found in the Red Book.

Plan For Achieving Self-Support – An SSI recipient may set aside income and resources for up to 48 months toward an approved plan for achieving self-support (PASS).

Impairment-Related Work Expenses – Certain expenses for things a person with a disability needs because of his/her impairment in order to work may be deducted when counting earnings to determine if a person is eligible and to figure the payment amount.

Recovery During Vocational Rehabilitation – If a person recovers while participating in a vocational rehabilitation program that is likely to lead to becoming self-supporting, benefits may continue until the program ends.

Students with Disabilities – Tuition, books, and other expenses related to getting an education may not be counted as income for recipients who attend college or another training program. Students have an earned income exclusion of \$1,320 per month with a maximum yearly exclusion of \$5,340. The student must be under age 22, not married or head of household, and regularly attending school.

PRESUMPTIVE ELIGIBILITY FOR SOCIAL SECURITY REFERRALS

With the Reauthorization of the Rehabilitation Act, there is a presumptive eligibility of SSI/SSDI recipients. A consumer who signs the DVR-2 “signifies my intent to work after completion of Vocational Rehabilitation Services.” Any applicant who

receives SSI/SDI would be presumed to be eligible (refer to eligibility section for details). It is necessary to verify that the individual receives these benefits (refer to SSDI/SSI Beneficiary Status Section for procedures).

The recipients are also presumed to have a disability that is significant provided that the individual intends to achieve an employment outcome consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual. Only by clear and convincing evidence that the individual cannot benefit from services and after a period of trial work can this presumption be overcome (refer to Trial Work Experience in this Manual).

A waiver is not an option for presumptive eligibility applicants. If adequate information is available to determine eligibility, it is not necessary to wait to accept a case on presumptive eligibility. However, it is still necessary to verify eligibility for benefits and the disability on which these benefits are based.

Presumptive Eligibility does not presume these individuals meet the *most significant* disability category. Casework documentation, including self-report, substantiates the appropriate priority category based upon functional limitations.

THE VR ROLE IN THE REFUSAL PROCESS

Overview Of The Refusal Process

The refusal process begins with the referral of a beneficiary for VR services. The Department for Disability Determination (DDD) as well as Social Security Field Offices (SSAFO) refer possible candidates for rehabilitation to the counselor. The process then becomes dependent on the counselor's evaluation of each referred individual. The counselor determines if the individual can benefit from VR services, or if a Trial Work Experience is needed. When offering an individual services, the counselor should encourage the individual to participate by helping the individual to overcome any obstacles. This includes information about the suspension policy as well as work incentives. A refusal should be reported only after such efforts have failed.

Once a refusal has been reported, the Social Security Regional Office (SSARO) then assumes overall responsibility for the refusal process. The SSARO coordinates the development of the refusal case, determines if good cause exists, and initiates any suspension actions. The SSA Field Office supports the SSARO's efforts by obtaining and developing any evidence requested.

THE VR ROLE IN REPORTING FAILURE OF AN SSDI/SSI BENEFICIARY TO COOPERATE WITH VOCATIONAL REHABILITATION

The Department has a responsibility under the law to notify SSA when a beneficiary or recipient's lack of cooperation with the Department constitutes a "refusal" of services or whether the beneficiary or recipient has "good cause" for such a refusal. It is the counselor's discretion to determine when or if such a report will be made. The Department need not, and should not, make a judgement as to whether the beneficiary/recipient's failure to cooperate constitutes refusal of Department services, even if it appears obvious that such is the case. The Department need only report to SSA the efforts undertaken to gain the beneficiary/recipient's cooperation and the response or lack of response on the part of the beneficiary/recipient. This "Failure to Cooperate" report is done on the SSA Form SSA-1408U4.

Types of Refusal

A VR refusal issue can arise at any point in the VR process beginning from the time the counselor first attempts to contact the person through the person's refusal to undertake job placement after completing VR services. Different issues are involved at different stages of this process; thus, two types of refusal should be reported:

Failure to Respond Refusal

The referred person fails to respond to the counselor's significant attempt at contact. Significant attempt is more than just a single routine attempt at contact for which the counselor gets no response. It is more than one letter or telephone call. It may include several letters, telephone calls, and attempts at personal contact. It should include an attempt to contact the person at the address to which benefit checks are being sent. (The counselor may want to contact the local SSAFO to determine the address to which payments are being made.) It is assumed that the counselor will make a significant attempt at contact if the counselor has interest in the person and has reason to believe the person may benefit from VR services.

Failure to Participate Refusal

There are two types of situations in which this type of refusal may occur.

- a. The consumer has applied for vocational rehabilitation services, signed the DVR-2 application implying willingness to return to work, but the person either refuses to participate in the development of an Individualized Plan for Employment (IPE) or to sign the IPE.

- b. The counselor has determined that VR services could contribute to the person's return to work. The person has agreed to services under an IPE, but then fails to participate or continue participation in VR services or undertake job placement if this is part of their IPE.

NOTE: It is not a refusal to participate when the consumer chooses a vocational objective that is below SGA.

Both types of refusal may result in suspension of benefits. Some people may initially be reported as "failure to respond" refusal and, after subsequent contact by the counselor, become a "failure to participate" refusal.

The counselor's role is critical because of the responsibility for starting the process by reporting VR refusal. The goal of the refusal process is to encourage participation in VR programs, not to suspend benefits. To help accomplish this goal, the counselor should make every effort to contact referred people believed to be able to benefit from VR services and to work with beneficiaries to the fullest extent possible to overcome any obstacles preventing participation in VR services and their successful job placement. A refusal should be reported only if the counselor has been unsuccessful in these efforts and believes that good cause does not exist.

If the counselor has a consumer who is not cooperating with VR, the counselor should first report this situation to the local Social Security Office for assistance in getting the consumer to cooperate. If, after 30 days, the consumer refuses to cooperate with VR, the SSA-1408U4 "Failure to Cooperate" report is to be completed and submitted to the SSA/DVR Coordinator.

SOCIAL SECURITY REIMBURSEMENT PROGRAM

The Social Security Administration will reimburse the Department for administrative and direct costs incurred helping an SSDI/SSI recipient return to work. Generally, the closing counselor will be sent a letter from the State Coordinator asking for the case to review and submit a claim to SSA for these expenses. In some instances, the closing counselor should notify the State Coordinator if the consumer has been at SGA for nine months. SSA will only reimburse if the Department's claim is filed no later than twelve months after the consumer has worked nine months at SGA. Therefore, it is very important to track a consumer's earnings. SSA does not base the reimbursement on the consumer's closure date with DVR. It is based solely on the date the individual has reached nine out of twelve months of continuous SGA and benefits are discontinued or significantly reduced.

NOTE: Helen Martin, the Department's SSI/SSDI VR Program State Coordinator sends letters requesting cases for review. Send the requested cases immediately. The reimbursement review and request must be sent to Social Security Administration

within a strict timeframe. The Department will lose these reimbursements if not submitted within this established timeframe. There are NO EXCEPTIONS.

TICKET TO WORK AND WORK INCENTIVES IMPROVEMENT ACT

To assist individuals with disabilities in their efforts to achieve self-sufficiency and social and economic independence, Former President Clinton signed into law the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 107-170) on December 17, 1999.

The Ticket to Work Incentives Improvement Act has four purposes:

- ◆ To provide health care and employment preparation and placement services to individuals with disabilities to reduce dependence on cash benefits.
- ◆ To encourage States to adopt the option of allowing individuals with disabilities to purchase Medicaid coverage that is necessary to enable them to maintain employment.
- ◆ To provide individuals with disabilities the option of maintaining Medicare coverage while working.
- ◆ To establish a Ticket to Work and Self-Sufficiency Program that allows Social Security disability and disabled or blind Supplemental Security Income recipients to seek the employment services, vocational rehabilitation services, and other support services needed to obtain, regain, or maintain employment and reduce dependence on cash benefit programs.

Ticket to Work and Self-Sufficiency Program

The goal of the Ticket to Work and Self-Sufficiency Program is to increase the number of Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) recipients who successfully return to work. The program encourages the provision of employment and vocational rehabilitation services by entities that have not traditionally served this population.

Most SSI/SSDI recipients between the ages of 18 and 64 will be eligible to receive “tickets” to obtain services from approved providers called Employment Networks or from Kentucky’s vocational rehabilitation providers: the Department of Vocational Rehabilitation and the Department for the Blind. Once services are rendered and the individual begins working at a level of pay sufficient for the individual to no longer receive cash benefits, the Employment Network is paid for each month employment is maintained at that level. Monthly payments range from approximately \$192 to

\$317 and can continue for up to 60 months. Employment Networks are **not** reimburse for the actual cost of services.

Vocational Rehabilitation can chose on a case-by-case basis to seek reimbursement through the Social Security Reimbursement Program rather than payment as an Employment Network.

Tickets have already been distributed in 13 states. Tickets are expected to be issued to approximately 240,000 Kentuckians who receive SSI or SSDI from November 2002 through March 2003.