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A JOURNEY THROUGH THE MAZE OF SOCIAL SECURITY BENEFITS & WORK

The Case of Julie and How a Benefits Specialist Would Counsel Her Along the Way

Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) beneficiaries have long faced major barriers when they considered working. They feared that any work activity would trigger continuing disability reviews and that work would be held against them during that review. In addition, beneficiaries who qualified for both SSDI and SSI had to be familiar with the rules of each program.

This article will, by using a case scenario, walk through the issues a young woman, with a spinal cord injury caused by an automobile accident at age 16, might face on the road to self support. We will trace her ups and downs, over a period of nearly 12 years, as she transitions from dependent's benefits as a child to SSDI and SSI benefits as a young adult. In stages, we will follow her as she goes through the early years of life on benefits, her attempts to work, her college experience, her euphoria once finding employment after college, and then the effects of her disability on her work. At each stage, we will analyze what can be

expected to happen with her benefits and how a Benefits Planning, Assistance and Outreach (BPA&O) project's benefits specialist might assist her so she can make informed choices about which path to go down.

To present this full scenario and the benefits rules in an understandable format, we have expanded our usual seven-page newsletter by four additional pages. Readers may want to read through the article more than once, however, to fully appreciate the interplay of the various SSDI and SSI rules.

JULIE'S INJURY AT AGE 16: 2001

Julie incurred a spinal cord injury in a car accident at age 16. At that time she was already receiving a Social Security dependent's benefit since her father was an insured worker who died when she was 10 years old. See Technical Assistance Corner, page 114, for a discussion of Social Security dependent's benefits.

Resources and SSI Benefits For Children: After Julie's accident, her mother filed an SSI ap-

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plication but Julie was not found eligible because she had significant deemed resources from her mother and stepfather and a \$100,000 cash settlement related to Julie's car accident.

Here's how the SSI resource rules work. The value of resources belonging to certain parents/step-parents is counted as a resource of the child whether or not the resource is actually available to the child, subject to applicable exclusions and limits. Resources include cash, other liquid assets or any real or personal property that an individual owns and can convert to cash for support and maintenance.

To be eligible for SSI, an individual may have up to \$2,000 and a couple may have up to \$3,000 in resources. Children under age 18 may have \$2,000 in resources. Now the rules for parent-to-child deeming get tricky. Only the countable resources of a parent or a step-parent living in the same household of a child are considered. All the countable resources over the resource limit for an individual (\$2,000), if one parent lives in the household, or a couple (\$3,000), if two parents live in the household, are deemed available to the child.

This means that two sets of exclusions apply: one for the parent(s) and one for the child, except for the home (one per family). Other children in the household are also allowed to have up to the resource limit for an individual (\$2,000 each). Finally, pension funds of the parent(s) are not deemed to the child. In Julie's case, the deemed resources were substantial and made her ineligible for SSI at least through her 18th birthday.

JULIE'S TRANSITION TO THE ADULT WORLD: 2003

In 2003, when Julie turned 18, the Social Security Administration (SSA) conducted a disability determination and found her disabled. The dependent's check became an SSDI Disabled Adult Child (DAC) benefit (also known as Childhood Disability Benefits) of \$378 per month effective with the month she became 18. Julie was eligible for DAC benefits under her father's earnings record as he had died and she became disabled prior to age 22. Julie would also have been eligible for DAC benefits if her father had retired or become disabled.

Before Julie turned 18, her parents used the insurance settlement to make significant home modifications to accommodate Julie's disability. In June of 2003, shortly after Julie graduated from high school, her parents used the remainder of the settlement to pay off their mortgage and then deeded the home over to Julie. Julie continued to reside in the home, but her parents bought a condo for themselves and moved out. Julie used her SSDI benefits to pay for

her own food, clothing and shelter. Her attendant care is provided by a local agency and paid for by Medicaid.

Since Julie was not working and had no other form of unearned income or resources, Julie's parents wondered whether she should once again apply for SSI. They visited their local BPA&O specialist and asked whether Julie will now be eligible for SSI and if so, how much Julie's SSI payment would be.

Julie's parents instincts are right on target. Once Julie turns 18, the parents' income and resources are no longer deemed available to her. Additionally, Julie's home, though a resource, is excluded as she lives in it. The BPA&O specialist explains this to the parents and informs them that since Julie now lives on her own and receives no in-kind support, has no current earnings, and has no unearned income other than \$378 in SSDI benefits, she should be eligible for SSI. As Julie lives alone, the maximum SSI she would receive in 2003 would be the federal benefit rate of \$552 plus an \$87 state supplement for a total of \$639. From that total, SSI will subtract \$358 of unearned SSDI benefits as SSI disregards the first \$20 of unearned income ($\$378 - 20 = \358), thus providing Julie with an SSI check of \$281 ($\$639 - 358 = \281) and automatic Medicaid.

SSI Calculation (Age 18)

Unearned income	\$ 378
General income exclusion	- 20
Countable income	\$ 358
2003 NY Living Alone Rate	\$ 639
Total countable income	- 358
Adjusted SSI payment	\$ 281

JULIE'S TRIAL WORK PERIOD: AUGUST 2003-APRIL 2004

In August of 2003, Julie begins working as a receptionist 20 hours per week at \$8.00 per hour. She wants to know how earning \$688 per month ($20 \times 8 \times 4.3$) would affect her cash benefits and Medicaid. First, let's look at the effect of her earnings on her SSDI check. Since Julie has never worked since she started receiving DAC benefits, she is entitled to a trial work period (TWP).

Trial Work Period Principles

This nine-month period allows SSDI beneficiaries to test their ability to work without losing benefits. (The SSI program has no TWP). During the nine TWP months, the individual will be allowed to get both a paycheck and an SSDI check no matter what the amount of earnings. The nine months need not be consecutive. Once an individual has used up nine TWP months within any 60-month period, the TWP is over.

Between 1990 and 2000, a TWP “services month” was any month in which gross earnings were \$200 or more. This was increased to \$530 effective January 2001. Starting with 2002, this amount has increased each year based on increases in the National Wage Index. If the index remains the same or goes down, the amount considered to be a TWP month will remain at the previous year’s level. Effective January 2003, the TWP was increased to \$570. In January 2004, SSA increased it to \$580.

Back to Julie’s case: Julie worked her first TWP month in August 2003. This is the first month

she worked as an SSDI beneficiary and earned more than the TWP services month amount (\$570 in 2003).

Julie continues to work and earn \$688 per month through 2003 and all of 2004. She worries about her SSDI benefits. Since Julie earns at least \$570 in gross wages for five months in 2003 and then earns at least \$580 in gross wages for the first four months of 2004, she completes her TWP in nine consecutive months, August 2003 to April 2004. During the nine TWP months, Julie will continue to get her SSDI check.

SSDI Calculation Chart

Year: 2003	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Countable Earnings	0	0	0	0	0	0	0	688	688	688	688	688
Benefit Status								TWP	TWP	TWP	TWP	TWP

Year: 2004	Jan	Feb	March	April
Countable Earnings	688	688	688	688
Benefit Status	TWP	TWP	TWP	TWP

EFFECT OF EARNINGS DURING TWP ON JULIE’S SSI

When Julie begins to earn \$688 per month she will lose her SSI benefit. You will recall that Julie was receiving \$378 in SSDI (i.e., unearned income) and, as a result, her SSI check was \$281. Now, we must add her earned income into the equation.

Earned income is income from work, including gross wages, salary and tips. It also includes net earnings from self-employment. Sheltered workshop wages are classified as earned income and must be considered in determining SSI income eligibility and benefit amount.

SSI will disregard the first \$65 of earned income (\$85 if there is no unearned income) and 50 percent of remaining earned income. What is left is subtracted from the base rate.

Julie’s SSI calculation: First, the unearned income is budgeted. Julie has \$358 of countable unearned income. Second, the earned income, \$688, is budgeted. The first \$65 is not counted, leaving \$623 in countable wages. Next, this is reduced by

\$311.50, half of the remaining gross wages. Thus, Julie has \$311.50 of countable earned income. Third, the countable unearned and countable earned income are added together to arrive at the total countable income. In Julie’s case, the countable unearned income of \$358 and the countable earned income of \$311.50 add up to \$669.50 of countable income. That figure is then subtracted from the appropriate SSI rate. In Julie’s case, as she lives alone, that figure in 2003 was \$639. As \$669.50 is greater than \$639, Julie would no longer be eligible for an SSI check. When the Federal Benefit Rate increased by \$12 in 2004, Julie was still ineligible for SSI as her countable income of \$669.50 is still greater than the \$651 living alone rate in New York.

SSI Calculation (August 2003)

Unearned income	\$ 378.00
General income exclusion	- 20.00
Countable unearned income	\$ 358.00
Gross earned income	\$ 688.00
Earned income exclusion	- 65.00
Remainder	623.00

WHEN TO CALL OUR TOLL-FREE LINE FOR TECHNICAL ASSISTANCE

Our State Work Incentives Support Center offers a statewide, toll-free number to call for information and technical assistance on a wide range of issues involving benefits and work. The staff of Neighborhood Legal Services is available to take calls concerning any of the topics you see discussed in these newsletters. For example, if a caller seeks information about any of the information discussed in this article, you can call us at 1-888-224-3272 for more information on these issues.

Divide by 2	311.50
Countable earned income	\$ 311.50
Add countable unearned income	+ 358.00
Total countable income	\$ 669.50
2003 NY Living Alone Rate	\$ 639.00
Minus total countable income	- 669.50
Adjusted SSI payment	\$ 0.00

What about her Medicaid? Section 1619(b) allows automatic Medicaid to continue if a person loses SSI due to wages. If the person is still disabled and would be eligible for SSI if the wages were not counted, Medicaid should continue. In New York, the 2003 and 2004 income limits were \$34,136 and \$34,765, respectively, in wages per year. (Stay tuned to this newsletter for the 2005 income limits.) The income limit can be higher if medical expenses are high enough. Thus, in Julie's case, she loses her SSI cash benefit but retains her Medicaid pursuant to 1619(b) as her annual earnings are well below the threshold amount.

JULIE'S EXTENDED PERIOD OF ELIGIBILITY: MAY 2004-APRIL 2007

Julie continues to work and earn \$688 per month after she exhausts the trial work period. She wants to know what happens to her benefits beginning May 2004.

Extended Period of Eligibility Principles

The extended period of eligibility (EPE), like the TWP, applies only to SSDI beneficiaries. It does not apply to SSI recipients because substantial gainful activity (SGA) is not a factor in SSI payments. The EPE is sometimes referred to as the re-entitlement period.

The 36-month EPE immediately follows the ninth TWP month. The 36 months run consecutively whether the individual is working or not. During these 36 months, the SSDI beneficiary can move in and out of benefits status depending upon monthly earnings.

Here is how the EPE works. The first month during the EPE that the individual has gross earnings above the SGA limit will be considered the "benefit cessation month." In all cases, the individual will continue to receive SSDI for the benefit cessation month and the following two months. These three months are known as the "grace period."

Following the grace period, and for the remainder of the EPE, the right to an SSDI check will depend on monthly wages:

- ◆ when countable wages are above the 2004 SGA level of \$810 (as adjusted in year 2005 and later), the individual will not get an SSDI check
- ◆ when countable wages are below \$810, the individual will get an SSDI check

Impairment related work expenses and subsidies will be subtracted from gross monthly wages to determine countable wages (this will be discussed in a future newsletter).

Upon completion of the EPE, if a person is not performing SGA (i.e., not earning more than \$810 in 2004), their SSDI benefits will continue. Historically, a person who performed SGA after the EPE would lose entitlement to SSDI. If countable wages later go below the SGA amount, it would take a new application to re-establish eligibility. This has changed under the new, expedited reinstatement provisions summarized below.

Application of the EPE: Julie's Case

As noted above, Julie begins work in August 2003 and earns \$688 per month (all figures refer to gross wages) between August 2003 and December 2004. In January 2005, she increases her hours, gets a raise, and earns \$1032 per month throughout all of 2005 and for the first four months of 2006. In late April 2006, Julie is laid off and earns no money between May and December 2006. Julie's EPE began in May 2004 (i.e., immediately following her ninth TWP month). Her 36-month EPE will run from May 2004 though April 2007.

Julie is clearly eligible for SSDI between May 2004 and December 2004. Her gross wages of \$688 per month were less than the SGA amount in effect at that time and her eligibility continued. (Remember: The SGA level increased to \$810 effective January 2004. We will assume that the SGA level remains the same for the remainder of Julie's disability period.)

January 2005, when Julie earns \$1032 per month, will be considered her “benefit cessation month.” This is the first month of SGA during her EPE. (Again, we assume that the SGA level stays at \$810 for the duration of this example.) Julie is entitled to SSDI benefits for January, February and March 2005 -- the benefit cessation month and two more months (i.e., her three-month grace period).

Starting in April 2005, Julie will get checks only when her countable wages are below the SGA amount. Since her gross earnings were \$1032 per month throughout the remainder of 2005 -- more than the 2005 SGA amount of \$810 for purposes of this exercise -- she will not receive an SSDI check during the April through December 2005 period.

Julie will not receive a check for January through April of 2006 either. During those four months, Julie continued to earn \$1032, well above the SGA level for 2006.

Starting in May 2006, Julie will start getting SSDI checks again, as she is still in her EPE, which runs from May 2004 through April 2007. Since she was out of work and earned nothing, Julie’s income was below the SGA level. Remember, during the EPE, Julie will get checks only when her countable wages are below the SGA level. She will get SSDI checks for May through December 2006 as her earnings remained below the SGA level when she was out of work and earned nothing.

SSDI Calculation Chart

Year: 2003	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Countable Earnings	0	0	0	0	0	0	0	688	688	688	688	688
Benefit Status								TWP	TWP	TWP	TWP	TWP

Year: 2004	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Countable Earnings	688	688	688	688	688	688	688	688	688	688	688	688
Benefit Status	TWP	TWP	TWP	TWP	EPE Payment Continues	EPE Paid	EPE Paid	EPE Paid	EPE Paid	EPE Paid	EPE Paid	EPE Paid

Year: 2005	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Countable Earnings	1032	1032	1032	1032	1032	1032	1032	1032	1032	1032	1032	1032
Benefit Status	EPE Grace Paid	EPE Grace Paid	EPE Grace Paid	EPE No SSDI	EPE No SSDI	EPE No SSDI	EPE No SSDI	EPE No SSDI	EPE No SSDI	EPE No SSDI	EPE No SSDI	EPE No SSDI

Year: 2006	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Countable Earnings	1032	1032	1032	1032	0	0	0	0	0	0	0	0
Benefit Status	EPE No SSDI	EPE No SSDI	EPE No SSDI	EPE No SSDI	EPE Paid Again	EPE Paid Again	EPE Paid Again	EPE Paid Again	EPE Paid Again	EPE Paid Again	EPE Paid Again	EPE Paid Again

JULIE'S SSI DURING THE EPE: APRIL 2005-APRIL 2006

As Julie is working, earning \$688, and receiving her DAC check of \$378 through December 2004, Julie is not eligible for SSI during that period. In April 2005, when her income remains at \$1032 and she receives no SSDI check, Julie will become entitled to SSI again. Because she still received 1619(b) Medicaid, Julie maintained her connection to the SSI program.

The budgeting to ascertain whether Julie would be eligible for any SSI goes as follows: Julie has earnings of \$1032 per month. Since she has no unearned income, the \$20 general disregard is deducted from the earned income ($\$1032 - 20 = \1012). Now, the next \$65 is not counted, leaving \$947 in countable wages. Next, the countable income would be reduced by \$473.50, half of the remaining gross wages. Thus, Julie has \$473.50 of countable earned income. The countable earned income of \$473.50 is then subtracted from the appropriate SSI rate. Let's assume that rate remains \$651. Julie would be eligible for \$177.50 per month in SSI beginning in April 2005 and through April 2006. This is very important. Notice that by keeping her connection to the SSI program through 1619(b) Medicaid, once Julie became ineligible for SSDI due to income, her SSI kicked back in again.

SSI Calculation: April 2005-April 2006

Unearned income	\$ 0.00
Gross earned income	\$ 1032.00
General income exclusion (not used above)	- 20.00
Remainder	1012.00
Earned income exclusion	- 65.00

Remainder	947.00
Divide by 2	<u>473.50</u>
Countable earned income	473.50
Add countable unearned income	<u>0.00</u>
Total countable income	\$ 473.50
SSI base rate	\$ 651.00
Minus countable income	- 473.50
SSI Payment	\$ 177.50

JULIE'S RETURN TO SCHOOL: SEPTEMBER 2006

In May 2006, when Julie is laid off, she decides she wants to do more with her life than be a part-time receptionist! She is interested in opening up a bookkeeping service out of her home where she has the potential to earn \$35,000 per year. She plans to begin classes in September 2006. The educational program typically lasts two years, but Julie plans to take three years to complete the program due to her disability. Tuition, fees, supplies, and books will cost a total of \$21,000 over the 3-year period. Julie applies for a PELL grant and is found eligible for tuition assistance of \$3,000 per year. She takes out a student loan to cover the remaining costs. She also estimates that door-to-door van transportation to and from school will cost \$700 per month. New York's Office of Vocational and Educational Services to Individuals with Disabilities (VESID) agrees to cover her transportation costs and assistive technology valued at \$1,200. NOTE: Julie should also approach VESID for additional help with her tuition, which VESID is authorized to fund in many cases.

As the chart below shows, since Julie is not working when her EPE ends in April 2007, she will continue receiving SSDI benefits as she completes her educational program.

SSDI Calculation Chart

Year: 2007	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Countable Earnings	0	0	0	0	0	0	0	0	0	0	0	0
Benefit Status	EPE Paid Again	EPE Paid Again	EPE Paid Again	EPE Paid Again	Post EPE Paid	Post EPE Paid	Post EPE Paid	Post EPE Paid	Post EPE Paid	Post EPE Paid	Post EPE Paid	Post EPE Paid

Year: 2008	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Countable Earnings	0	0	0	0	0	0	0	0	0	0	0	0
Benefit Status	Post EPE Paid	Post EPE Paid	Post EPE Paid	Post EPE Paid	Post EPE Paid	Post EPE Paid	Post EPE Paid	Post EPE Paid	Post EPE Paid	Post EPE Paid	Post EPE Paid	Post EPE Paid

Year: 2009	Jan	Feb	March	April	May	June
Countable Earnings	0	0	0	0	0	0
Benefit Status	Post EPE Paid	Post EPE Paid	Post EPE Paid	Post EPE Paid	Post EPE Paid	Post EPE Paid

THE EFFECT ON JULIE'S SSI WHEN LAID OFF: MAY 2006-JUNE 2009

When Julie is laid off in May 2006, she is still in her EPE. As she has no more earned income but once again has unearned income, the amount of her SSI check will change again. SSI will subtract \$358 of SSDI benefits as SSI disregards the first \$20 of unearned income ($\$378 - 20 = \358), thus providing Julie with an SSI check of \$293 ($\$651 - 358 = \293). We are still assuming that Julie's SSDI and SSI checks remain at the 2004 levels. NOTE: If Julie qualified for unemployment insurance benefits (unearned income), that combined with her SSDI would probably make her ineligible for SSI. She would be eligible for SSI after her unemployment benefits ceased.

JULIE'S RETURN TO WORK AFTER THE EPE

Upon graduating in June 2009, Julie decides to work with a private firm rather than hang a shingle. She secures a full-time job earning \$42,000 a year and begins this job in early July 2009. She continues to earn at that level throughout the remainder of 2009 and 2010. What will this employment do her SSDI check?

Julie's EPE ended at the end of April 2007. She continued receiving SSDI benefits thereafter as her earnings were below the SGA level. Now, in July 2009, she will not be eligible for SSDI checks because she is performing SGA after her EPE (see chart below).

SSDI Calculation Chart

Year: 2009	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Countable Earnings	0	0	0	0	0	0	3500	3500	3500	3500	3500	3500
Benefit Status	Post EPE Paid	Post EPE Paid	Post EPE Paid	Post EPE Paid	Post EPE Paid	Post EPE Paid	Post EPE Not Paid	Post EPE Not Paid	Post EPE Not Paid	Post EPE Not Paid	Post EPE Not Paid	Post EPE Not Paid

Year: 2010	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Countable Earnings	3500	3500	3500	3500	3500	3500	3500	3500	3500	3500	3500	3500
Benefit Status	Post EPE Not Paid	Post EPE Not Paid	Post EPE Not Paid	Post EPE Not Paid	Post EPE Not Paid	Post EPE Not Paid	Post EPE Not Paid	Post EPE Not Paid	Post EPE Not Paid	Post EPE Not Paid	Post EPE Not Paid	Post EPE Not Paid

EXPEDITED REINSTATEMENT OF SSDI: JANUARY 2011

In January of 2011, Julie must stop working due to residual pain from her automobile accident and remains out of work for the entire year, January to De-

ember 2011. In January 2012, Julie returns to work on a lighter schedule. She has gross monthly earnings of \$500 between January and December 2012. In January 2013, she increases her hours of work and has gross monthly earnings of \$1,000 between January and December 2013.

EXR Principles

The expedited reinstatement (EXR) program has allowed more SSDI and SSI beneficiaries attempt to work, despite a severe disability, knowing they may re-establish eligibility if their work is not sustained because of their impairment(s). Effective January 2001, a person who performs SGA after the EPE, and had his or her benefits terminated and later has wages reduced below SGA levels because of an impairment(s) or health condition, will be reinstated to SSDI, without a new application, if the individual:

- ◆ was eligible for SSDI;
- ◆ lost SSDI due to performance of SGA (i.e., in 2004 by earning more than \$810 per month or \$1,350 if legally blind);
- ◆ requests reinstatement within 60 months of the last month of entitlement, or establishes good cause for missing the 60-month deadline;
- ◆ has a disability that is the same as (or related to) the physical or mental disability that was the basis for their original claim; and
- ◆ that disability renders the individual incapable of SGA based on application of the medical improvement standard.

If an individual believes he or she meets the EXR criteria, the individual should contact SSA and request reinstatement. This includes individuals who in the last five years stopped receiving benefits due to SGA and who, since their last month of SSDI entitlement, also stopped performing SGA because of their impairment(s) or health condition. If the beneficiary satisfies the EXR criteria, both their benefits and the

benefits of dependents can be reinstated. SSDI dependent's benefits, including benefits for children and spouses, can be reinstated if the dependent satisfies all the eligibility criteria as a dependent (this includes having a new medical determination if the dependent's entitlement is based on being disabled.) A previously entitled dependent does not have to file a new application to qualify for reinstated benefits. New dependents, however, will have to file an application to qualify for reinstated benefits.

Provisional Benefits Pending Reinstatement Decision

While the EXR request is pending, the individual is eligible for up to six consecutive months of provisional benefits. Provisional benefits are payable when EXR is requested. The individual may also be eligible for Medicare coverage while receiving provisional benefits, if not already covered for such benefits. Provisional benefits may be suspended under current rules (e.g., prisoner suspension), and performing SGA will terminate provisional benefits. Reports are that SSA is processing these requests quickly and individuals have received provisional benefits within weeks of the EXR request.

What happens if SSA later determines that the individual was not entitled to reinstatement? Must they repay the provisional benefits received? SSA's policy states that any resulting overpayment cannot be recovered unless SSA determines that the individual knew or should have known that he or she did not meet the EXR criteria.

A New Trial Work Period and Extended Period of Eligibility

For years, SSDI beneficiaries were told they would get one TWP and one EPE. The TWP and EPE could be exhausted for good at very low levels of earnings. In fact, the EPE could be exhausted whether the person was working or not. This has changed under the new EXR program.

After being paid 24 months (need not be consecutive) of reinstated benefits (including any months for which provisional and retroactive payments were actually received), the beneficiary gets: a new TWP, a new EPE, and another 60-month period in which to request EXR if benefits are terminated again due to SGA. As demonstrated in the continuation of Julie's case, the chance for a new TWP and EPE, fortunately, allows the person to work through the peaks and valleys of their continuing disability.

Julie's EXR, New TWP and EPE

EXR Eligibility: Since Julie stopped working for health reasons, she became eligible for EXR in January 2011, because her wages were now below the SGA amount, it was within 60 months of her last

CONTACT INFORMATION FOR BENEFITS PLANNING, ASSISTANCE AND OUTREACH SERVICES

In each region of the state, a project is available to assist SSI and SSDI recipients who need to understand how working will affect their benefits (including Medicaid or Medicare). The Benefits Planning, Assistance and Outreach (BPA&O) project for your region will also help recipients understand how they can use any of the special work incentives available to them. For BPA&O contact information in your region of the state, call the State Work Incentives Support Center, toll free, at 1-888-224-3272.

month of entitlement to SSDI (i.e., within 60 months of July 2009), and the other EXR criteria are met (i.e., has the same or related impairment and is disabled based on the application of medical improvement criteria). We assume that Julie would have applied for EXR as early as January 2011, or as soon as it became apparent that she would not return to work right away. We expect that Julie would be eligible for up to six months of provisional benefits while her EXR request was being processed.

The facts indicate that Julie had no earnings during 2011 and her wages during 2012 were \$500 per month, well below the SGA level. In addition, having

been found to meet the EXR medical criteria, Julie is eligible for EXR benefits for all of 2011 and 2012, a 24-month period.

A new TWP and EPE: When Julie's earnings increase in January 2013, she will be entitled to a new TWP. This is because Julie received reinstated benefits for at least 24 months. Since she will earn over the TWP amount in 2013 (as adjusted for wage inflation), her new TWP would run from January through September 2013. Her new EPE would start in October 2013 and run for 36 months through September 2016. The same EPE rules would apply as did in the earlier years.

SSDI Calculation Chart

Year: 2011	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Countable Earnings	0	0	0	0	0	0	0	0	0	0	0	0
Benefit Status	EXR Paid Again	EXR Paid Again	EXR Paid Again	EXR Paid Again	EXR Paid Again	EXR Paid Again	EXR Paid Again	EXR Paid Again	EXR Paid Again	EXR Paid Again	EXR Paid Again	EXR Paid Again

Year: 2012	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Countable Earnings	500	500	500	500	500	500	500	500	500	500	500	500
Benefit Status	EXR Paid Again	EXR Paid Again	EXR Paid Again	EXR Paid Again	EXR Paid Again	EXR Paid Again	EXR Paid Again	EXR Paid Again	EXR Paid Again	EXR Paid Again	EXR Paid Again	EXR Paid Again

JULIE'S MEDICAID ELIGIBILITY: 2009

In July 2009, when Julie earns \$3,500, she loses both her SSDI and SSI checks. She also becomes ineligible for 1619(b) Medicaid, as her earnings will undoubtedly be above the income threshold, \$34,765 (unchanged from the 2004 level for our purposes) and her medical expenses are not high enough to establish a higher individualized eligibility threshold. Since Julie will be ineligible for 1619(b) due to excess income for more than 12 months, she will lose her connection to the SSI program. How will she meet her medical expenses, as her private insurance plan does not cover home health care services and durable medical equipment is only partially covered?

The Medicaid Buy-in Saves The Day For Julie

Lucky for Julie, New York has a Medicaid Buy-In for Working People with Disabilities (MBI-WPD) program. It covers workers over the age of 16 and

under the age of 65 who meet the definition of disability. To be eligible for the program, an individual must:

- ◆ Have a disability as defined by the SSA
- ◆ Be at least 16 but not yet 65 years of age
- ◆ Be engaged in paid work (includes part-time and full-time work)
- ◆ Have a gross income that may be as high as \$47,580 for an individual and \$63,492 for an eligible couple (as of January 1, 2004)
- ◆ Have non-exempt resources that do not exceed \$10,000

Since Julie's earnings, \$42,000, are below the \$47,580 level and she meets all the other criteria, she will qualify for New York's MBI-WPD program. (See the two-part Medicaid Buy-In article in our Summer 2003 and Fall 2003 issues of *The Benefits Planner*.)

DOES EXR APPLY TO SSI?

Most SSI recipients who lose benefits due to higher wages will retain an SSI connection through the 1619(b) Medicaid provisions. When they once again become eligible for SSI through reduced wages, they can go back to cash benefit status without the need to use the EXR rules.

The most likely user of the EXR provisions would be the SSI recipient who, like Julie, loses cash benefits because of wages or a combination of wages and unearned income, then either loses or fails to establish 1619(b) Medicaid eligibility. When that individual remains ineligible for either cash or 1619(b) Medicaid benefits for 12 consecutive months, they will lose their connection to SSI. This means a new application would be required, under pre-2001 rules, to re-establish eligibility for cash benefits if wages were sufficiently reduced and the other SSI requirements are met. Effective January 2001, that individual can most likely use the EXR provisions to re-establish eligibility for SSI. All EXR requirements, as discussed above, apply to the individual seeking reinstatement of SSI. In addition, the individual must

meet all SSI eligibility requirements related to income and resources.

In January 2011, Julie can avail herself of the EXR provisions and become eligible for SSI once again. The same criteria that apply for SSDI apply to SSI. What will this mean with respect to Julie's SSI benefit?

In all of 2011, Julie has no earnings. As she has no more earned income but once again has unearned income, she will become eligible for an SSI check again. SSI will subtract \$358 of unearned SSDI benefits as SSI disregards the first \$20 of unearned income ($\$378 - 20 = \358), thus providing Julie with an SSI check of \$293 ($\$651 - 358 = \293). We are still assuming that Julie's SSDI and SSI checks remain at the 2004 levels.

In 2012, Julie returns to work and earns \$500 per month. The new SSI calculation is done in the same manner as previously explained and laid out in the examples. First, the unearned income is budgeted ($\$378 - 20 = \358). Second, the earned income is budgeted ($\$500 - 65 = \$435 \div 2 = \$217.50$). Third, the countable unearned income and the countable

The Technical Assistance Corner

Question: *I am a 41 year old widow with one child, age 13. My son has cerebral palsy and uses a wheelchair. Currently, we each get a Social Security check on the earnings record of my deceased husband. My son gets \$300 and I get \$300 as his parent. I work part-time and earn \$800 per month in gross wages. I have heard conflicting information about what will happen with these benefits as my son gets older. Will I lose my benefits when my son turns 16? Will he lose his benefits when he turns 18?*

Answer: Ordinarily, a parent who is getting Social Security survivor's benefits as the caretaker of a child will lose the right to those benefits when that child (or the youngest child, if there are two or more children) turns 16. If that child has a disability, as yours does, the parent's survivor's benefits can continue so long as that child keeps getting benefits and you are providing essential services for that child. So, your Social Security benefits could continue indefinitely. For example, if he remains at home during college, your benefits could continue. Keep in mind that if you start making more money at your job (i.e., more than \$11,640 in 2004), you can expect a gradual reduction in your monthly check (a \$1 reduction for every \$2 of gross pay).

Children getting Social Security survivors benefits will continue to get benefits until age 18 or until age 19 if the child is still in high school or elementary school. In your son's case, since he has a disability, you can expect his benefits to be converted at age 18 to Social Security Disability Insurance (SSDI) benefits as a Disabled Adult Child (DAC). These DAC benefits are often referred to as Childhood Disability Benefits. The rate of payment would probably be the same as he is getting now, subject to annual cost-of-living increases. He could continue to receive benefits, in most cases, until he works at the substantial gainful activity level following a trial work period.

By the way, you did not ask but it appears that your son could be eligible for Supplemental Security Income (SSI) based on the income figures you have given us. Your combined incomes are low enough that he would probably be entitled to an SSI check of about \$180 per month if your resources are within the program's limits. Keep in mind that if he qualifies for SSI he will be automatically eligible for Medicaid.

The NY State Work Incentives Support Center will provide statewide services, including: training through traditional means and through use of the latest technology for distance learning; a toll-free technical assistance line, 1-888-224-3272 (English and Spanish); and a quarterly newsletter, *The Benefits Planner*. To subscribe to the Center's listserv, send your name and email address to tpg3@cornell.edu. To request a print copy of this newsletter, contact the toll-free number above.



In Our Upcoming Issues ...

- ◆ Social Security Administration Funds Two Demonstration Projects to Serve Transition Aged Youth
- ◆ How the Projects in New York City and Erie County will Assist Youth with Disabilities in their Movement from School to Work

If you have special needs and would like *The Benefits Planner* sent in a special format, would like our Spanish version or would like the newsletter delivered by email, please call our toll-free technical assistance line, 1-888-224-3272.

Welcome to *The Benefits Planner*, a Quarterly Newsletter of the NY State Work Incentives Support Center

This newsletter will provide valuable information on how work for persons with disabilities affects government benefits, with an emphasis on the Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI) work incentives. Each newsletter will contribute to an ongoing dialogue on topics related to benefits and work. Back issues will appear on the Cornell University website, www.ilr.cornell.edu/ped and on the Social Security section of the Neighborhood Legal Services website, www.nls.org.

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