
Medicaid Disability Manual

do work at the substantial gainful activity level, the following factors shall be considered on the basis of medical and vocational evidence:

- (1) **Nature of Work** - The performance of duties by the individual which involve the use of his/her skills or experience, supervision and responsibility, or contribute substantially to the operation of a business is evidence indicating that an individual has the ability to engage in substantial gainful activity.
- (2) **Adequacy of performance** - The adequacy of an individual's performance of assigned work is also evidence as to whether or not he/she has the ability to engage in substantial gainful activity. An individual's failure, due to his/her impairment, to perform ordinary or simple tasks satisfactorily without more supervision or assistance than is usually given other people doing similar work may constitute evidence of an inability to engage in substantial gainful activity. Performance of work that involves minimal duties that make little or no demands on the individual and are of little or no use to his/her employer does not demonstrate ability to engage in substantial gainful activity.
- (3) **Special employment conditions** - Work performed under conditions of employment which makes special provision for an employee's impairment (for example, work in a sheltered workshop or in a hospital by a patient) may provide evidence of skills and abilities that demonstrate an ability to engage in a substantial gainful activity, whether or not such work in itself constitutes substantial gainful activity.
- (4) **Time spent in work** - The amount of time spent in work is important but shall not be the sole basis for determining whether an individual is able to do substantial gainful activity. Evaluation as to whether the work is substantial and gainful is made regardless of whether the individual spends more or less time at the job than workers who are not impaired and are doing similar work as a regular means of livelihood.
- (5) **Earnings from work**
 - (a) **General** - The amount of gross earnings from work activities (minus appropriate impairment-related work expenses as set forth in Section E.1.b.(5)(e) may establish that the individual has the ability to engage in substantial gainful activity. Generally, activities which result in substantial earnings would show that the individual is able to do substantial gainful activity. However, the fact that the earnings are not substantial does not necessarily show that an individual is not able to do substantial gainful activity. Where an individual is forced to discontinue work activities after a short time due to an impairment, the earnings from such work do not demonstrate ability to engage in substantial gainful activity.
 - (b) **Subsidized earnings** - If an individual's earnings are being subsidized, the amount of the subsidy is not counted when

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determining whether or not work is substantial gainful activity.

Where work is done under special conditions (e.g., an impaired person who does simple tasks under close and constant supervision), only the part of the pay which is actually "earned" is considered. An employer may set a specific amount as a subsidy after figuring the reasonable value of the employee's services. If the employer does not set the amount of the subsidy, a decision by the agency shall be made as to the reasonable value of the work.

- (c) **Earnings at a monthly rate in excess of \$1180** - An individual whose average monthly earnings from work activities are more than \$1180 shall be deemed to demonstrate the ability to engage in substantial gainful activity in the absence of evidence to the contrary. Effective January 1, 2018, the SGA level was increased from \$1170 to \$1180.

Federal regulations provide for an annual automatic cost of living adjustment (COLA) to this amount. An individual is generally considered not to be engaged in SGA if his/her earnings are less than the SGA level, unless there is evidence to the contrary.

- (d) **Factors considered when an individual is self-employed** - The earnings or losses of a self-employed individual often reflect factors other than the individual's work activities in carrying on his/her business. For example, a business may have a small income or may even operate at a loss even though the individual performs sufficient work to constitute substantial gainful activity. Thus, less weight shall be given to such small income or losses in determining a self-employed individual's ability to engage in substantial gainful activity and greater weight shall be given to such factors as the extent of his/her activities and the supervisory, managerial, or advisory services rendered by the individual.

- (e) **Impairment-related work expenses** – Impairment-related work expenses which, due to an individual's impairment(s), are expended to enable the individual to work shall be deducted in determining an individual's countable earned income and in deciding if he/she has done substantial gainful activity. These expenses must be paid by the disabled individual. No deduction will be allowed to the extent that payment has been or will be made by another source. The costs are deductible even though the items and services are also needed to carry out daily living functions unrelated to work.

The following are deductible impairment-related work expenses:

- (i) Assistance in traveling to and from work or, while at work, assistance with personal functions (e.g., eating, toileting), or with work-related functions (e.g., reading, communicating)
- (ii) Assistance at home with personal functions, (e.g., dressing, administering medications) in preparation for going to and returning

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from work. Payments made to a family member for attendant care services may be deducted only if such family member, in order to perform the services, incurs an economic loss by terminating his/her employment or by reducing the number of his/her work hours.

- (iii) Medical devices such as wheelchairs, hemodialysis equipment, canes, crutches, inhalators and pacemakers
- (iv) Prosthetic devices, such as artificial replacements of arms, legs and other parts of the body
- (v) Work-related equipment, such as one-hand typewriters, telecommunication devices for the deaf, Braille devices, and specially designed work tools
- (vi) Residential modifications, in the form of changes to the exterior of the home to permit the individual to get to his/her means of transportation (e.g., exterior ramps, railings, pathways)
- (vii) For an individual working at home, modifications to the inside of his/her home in order to create a working space to accommodate an impairment (e.g., enlargement of a doorway leading into the office, modification of work space to accommodate problems in dexterity)

For a self-employed person, any cost deducted as a business expense cannot be deducted as an impairment-related work expense.

- (viii) Devices or appliances which are essential for the control of a disabling condition, either at home or in the work setting, and are verified as medically necessary (e.g., electric air cleaner for an individual with severe respiratory disease who cannot function in a non-purified air environment)
- (ix) Drugs or medical services, including diagnostic procedures, needed to control the individual's impairment

The drugs or services must be prescribed or used to reduce or eliminate symptoms of the impairment or to slow down its progression. The diagnostic procedures must be performed to ascertain how the impairment(s) is progressing or to determine what type of treatment should be provided for the impairment(s). Some examples of deductible drugs and medical services are: anticonvulsant drugs, antidepressant medication for mental disorders, radiation treatment or chemotherapy, corrective surgery