



Iowa Department of Human Services

Terry E. Branstad
Governor

Kim Reynolds
Lt. Governor

Charles M. Palmer
Director

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GENERAL LETTER NO. 8-C-95

ISSUED BY: Bureau of Financial, Health and Work Supports
Division of Adult, Children and Family Services

SUBJECT: Employees' Manual, Title 8, Chapter C, **NONFINANCIAL ELIGIBILITY**,
pages 13, 87 through 90, 92, and 93, revised.

Summary

Chapter 8-C is revised to change the income level that represents substantial gainful activity from \$1,090 to \$1,130 per month, effective January 1, 2016.

Effective Date

Changes to the substantial gainful activity amounts are effective January 1, 2016.

Material Superseded

This material replaces the following pages from Employees' Manual, Title 8, Chapter C:

<u>Page</u>	<u>Date</u>
13	October 8, 2010
87-90, 92, 93	January 30, 2015

Additional Information

Refer questions about this general letter to your area income maintenance administrator.

Level 1: Primary Documents	Verifies both citizenship and identity
<p>Documentation issued by a federally recognized Indian Tribe showing membership or enrollment in or affiliation with that Tribe.</p> <p>(Examples include Tribal enrollment or membership cards, a certificate of degree of Indian blood issued by the Bureau of Indian Affairs, or a Tribal census document.)</p>	<p>Until federal regulations are issued on satisfactory documentation for Tribes having an international border whose membership includes non-U.S. citizens, members of cross-border Tribes may use Tribal enrollment or membership documents for purposes of proving both citizenship and identity.</p> <p>The list of federally recognized Indian Tribes is maintained at http://www.justice.gov/otj/federal-resources</p>
Level 2: Secondary Documents	Verifies citizenship only
<p>U.S. public birth certificate showing birth in:</p> <ul style="list-style-type: none"> ◆ One of the 50 states or the District of Columbia ◆ American Samoa ◆ Swain’s Islands ◆ The U.S. Virgin Islands on or after January 17, 1917 ◆ The Northern Mariana Islands after November 4, 1986 ◆ Guam on or after April 10, 1899 ◆ Puerto Rico on or after January 13, 1941* <p>* Puerto Rican birth certificates issued before July 1, 2010, are acceptable proof of citizenship only for persons whose eligibility for Medicaid was first determined based on an application received before October 1, 2010.</p>	<p>The state, commonwealth, territory, or local jurisdiction may issue the birth record document.</p> <p>This includes a successful match with Iowa birth records through the Birth Certificate Verification (BCV) system.</p> <p>The birth record must have been recorded before the person was 5 years old. Birth certificates recorded after age 5 can be used only as Level 4 documentation.</p> <p>Contact the SPIRS help desk for assistance in:</p> <ul style="list-style-type: none"> ◆ Determining whether the person is a collectively naturalized U.S. citizen if the document shows that a person was born in Puerto Rico, Guam, the Virgin Islands, or the Northern Mariana Islands before the dates listed, or ◆ Obtaining a new birth certificate issued on or after July 1, 2010, if an applicant born in Puerto Rico provides a birth certificate issued before July 1, 2010, for an application received on or after October 1, 2010.

Comment:

Mr. J, age 50, applies for Medicaid on the basis that he is disabled. Mr. J's countable resources are over \$2,000, he is single, he has no dependent children, and he is not employed. The worker determines that Mr. J may be eligible only for the Medically Needy coverage group based upon disability.

Mr. J provides proof that he has applied for SSDI and that disability was denied by the SSA four months earlier. The worker initiates a disability determination because the Department cannot rely on an SSA denial of disability for Medically Needy applicants.

The following sections give further instructions on:

- ◆ [Determining substantial gainful activity for an employee](#)
- ◆ [Determining substantial gainful activity for a self-employed person](#)
- ◆ [Submitting medical evidence to DDS](#)

Substantial Gainful Activity for an Employee

Legal reference: 20 CFR 416.974 and 441 IAC 75.1(39)"a"(1)

The first test of disability determination is evaluation of "substantial gainful activity" (SGA). SGA means the performance of "significant" physical or mental activities in work for substantial pay or profit.

- ◆ "Significant physical or mental activities" are useful in a job or business and have economic value. Self-care, household tasks, unpaid training, therapy, school attendance, clubs, and social programs **are not** considered SGA.
- ◆ Work may pay either in cash or in kind.
- ◆ The current earnings threshold for determining "substantial" activity is \$1,130.

A person who is engaged in SGA despite physical or mental limitations is not disabled (unless the person would qualify under MEPD).

Comment:

There is no SGA if the person's former job made many job accommodations or the person became more incapacitated and cannot find another similar job. Loss of work detrimental to health does not result in SGA.

There may be SGA if the person worked for longer than six months despite the impairment, lost the job, and applied for Medicaid in the same month. If there is reasonable doubt, do not consider the person engaged in SGA.

Procedure:

To determine SGA for an employed person, calculate the person's countable income by averaging gross income over the time the income was earned after the disability occurred. EXCEPTION: Do not consider the earned income limits under SGA for eligibility under the Medicaid for Employed People with Disabilities (MEPD) coverage group.

Use the following procedure to determine if an employed client's countable monthly income demonstrates SGA:

Step	Action
Determine average monthly earnings.	Count earnings from employment and self-employment. Determine seasonal income by averaging income over the season to arrive at a monthly countable income. See 8-E, INCOME POLICIES FOR SSI-RELATED COVERAGE GROUPS .
Determine excluded earnings.	Do not count: <ul style="list-style-type: none"> • Earnings of volunteers under the Small Business and Domestic Volunteer Acts. • Employer subsidies to an impaired person that are not earned through the person's productivity. Ask the employer to determine the subsidy. If the employer cannot calculate the subsidy, compare the work to similar work of an unimpaired person, and the value of that work by the prevailing wage scale.
Determine deductions.	Deduct work expenses related to the person's disability. See 8-E, Deduction for Impairment-Related Work Expenses .
Compare remainder to \$1,130 per month.	When the countable earnings exceed \$1,130 per month, the applicant does not meet the first requirement of being disabled under SSA standards. Deny Medicaid as not disabled. See When the Department Denies Disability . When the countable earnings are less than \$300 per month, complete a disability determination, as the client is not engaged in SGA. When countable earnings are \$300 to \$1,130 per month, proceed to the next tests.

Step	Action
Do the Comparability Test.	Compare the client's work to that of unimpaired people in the area. Look at time, energy, skills, responsibility, pay, and hours. If the work is the same as that done by unimpaired people, the client has SGA and is not disabled.
Do the Worth Test.	<p>Determine if the client's work activity is worth more than \$1,130 per month. If so, the client is engaging in SGA, even if the client's work activity is not comparable to that of an unimpaired person.</p> <p>The value of work in the military must be compared to similar work in a nonmilitary setting. Military wages may continue and the client may be placed on limited duty.</p> <p>Ask your area income maintenance administrator or the DHS SPIRS Help Desk to contact the Bureau of Financial, Health, and Work Supports to determine the actual value of the work.</p>

Comment:

Mrs. P applies for Medicaid based on disability. She states that her disability is fibromyalgia. The worker evaluates Mrs. P's employment status for SGA.

Mrs. P continues to work at the same job with the same duties (meeting the Comparability Test), but her medical condition has caused her to reduce her work schedule from 40 hours per week to 20 hours per week, which has cut her earnings in half (the Worth Test). Her hourly wage is \$15.00 per hour. Her average monthly pay is \$1,290.00.

The worker determines that Mrs. P does not meet the SGA test for disability for most Medicaid coverage groups because she continues to do the same work and her earnings were over \$1,130.

However, because Mrs. P is still employed, she appears to be eligible for MEPD. The worker makes a referral to DDS for a disability determination; noting on the *Disability Transmittal* to skip the step of determining SGA.

Substantial Gainful Activity for a Self-Employed Person

Legal reference: 20 CFR 416.975, 441 IAC 75.1(39)“a”(1)

Policy:

There are three tests for “substantial gainful activity” (SGA) for a self-employed person. If the person does not meet the criteria in **all three** tests, the person is **not** engaged in SGA, and a DHS disability determination must be done.

Name of Test:	What this means:
1. Significant services and substantial income a. Significant services	This test is met if significant services are combined with substantial income. When a person (with the exception of a farm landlord who rents farmland to another farmer) gives significant services by participating in the following: <ul style="list-style-type: none"> ◆ Gets a social security earnings credit on the federal income tax return. ◆ Advises or consults with the renter and inspects production periodically. ◆ Furnishes a large portion of the machinery and financing.
b. Substantial income	When a person has: <ul style="list-style-type: none"> ◆ Countable income over \$1,130 per month. ◆ Countable income that meets the community standard of livelihood for a self-employed person with a similar business.
2. Comparability of work	If work activities are comparable to that of an unimpaired person in the community engaged in the same or similar business, the person is engaged in SGA.
3. Work activity	If the value of the work is more than \$1,130 per month based on the amount an employer would pay any employee to do the same job, the person engages in SGA.

Test 2: Comparability of Work

Evaluate work activity using:

- ◆ Hours worked
- ◆ Skills
- ◆ Energy output
- ◆ Efficiency
- ◆ Duties
- ◆ Job responsibilities

Test 3: Work Activity

Evaluate by determining countable income:

- ◆ A person who earns more than \$1,130 per month meets the criteria for engaging in SGA, which results in not being considered disabled.
- ◆ See the procedures for [Substantial Gainful Activity for an Employee](#).

Comment:

Mr. Q applies for Medically Needy on the basis of disability. His wife is employed and her earnings put their joint income higher than the MEPD income limit of 250% of the federal poverty level.

Mr. Q explains that he is not able to work full time because of his heart condition, but he has a self-employment business building bookcases, which averages \$600 per month net income after business expenses are deducted. He pays his adult son \$50 per month to deliver the lumber to his home workshop and to deliver the finished bookcases.

The worker evaluates Mr. Q's self-employment for SGA by applying the three tests in order:

Test 1. Significant services **and** substantial income:

- ◆ Mr. Q is not able to do all the work for his business himself.
- ◆ Mr. Q earns less than \$1,130 per month.
- ◆ Mr. Q's income has dropped significantly from his previous full-time earnings.
- ◆ There is no one else in the local community who builds custom bookcases, so the worker cannot compare Mr. Q's income to the same type of work done by others.

Test 2. Comparability of work:

- ◆ Mr. Q formerly worked at least 40 hours per week and often more due to overtime assignments.
- ◆ Mr. Q currently has to take frequent rest breaks as he tires easily due to the heart condition. He works an average of ten hours per week.

Test 3. Work activity: Mr. Q earns less than \$1,130 per month.

The worker determines that Mr. Q does not engage in SGA, so he is referred for a Department disability determination.

Submitting Medical Evidence to DDS

Legal reference: 441 IAC 75.1(39)"a"(1), 75.20(2)"b"

Policy:

If the applicant does not meet the requirements for substantial gainful activity, then the Department must make a referral to the Bureau of Disability Determination Services (DDS) for a disability determination.

Comment:

DDS may request additional information from the applicant and may require the applicant to have a medical examination. DDS pays for medical information and transportation.

Procedure:

Use the *Disability Determination Checklist*, RC-0103 as a guide.

Submit to DDS:	Explanation:
Form 470-2465, <i>Disability Report for Adults</i> or Form 470-3912, <i>Disability Report for Children (under 18)</i>	The applicant or the applicant's representative completes the form, which includes a release of information. Check the report to make sure the correct person signed the form, as follows: <ul style="list-style-type: none"> ◆ If the release is for mental health information, only an applicant 18 years of age or older or a legal representative can sign the form. ◆ If the release is for substance abuse information, only the applicant can sign the form, regardless of age.