State of California—Health and Human Services Agency

Department of Health Services

California
Department of
Health Services

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MEDI-CAL ELIGIBILITY PROCEDURES MANUAL LETTER NO.: 290

TO: ALL HOLDERS OF THE MEDI-CAL ELIGIBILITY PROCEDURES MANUAL

SUBJECT: ARTICLE – 22 C—DETERMINING SUBSTANTIAL GAINFUL ACTIVITY

Enclosed are updated pages for Article 22C-2, Determining Substantial Gainful Activity (SGA). This update provides information that a determination of SGA for individuals applying for the 250 percent program is not required.

Filing Instruction:

Remove Pages:	Insert Pages:
Article 22C-2, pages 1 and 2	Article 22C-2, pages 1 through 3

If you have any questions regarding the procedure changes or the 250 Percent Working Disabled program, please contact Ms. Vicki Partington at (916) 552-9496 or E-mail Vparting@dhs.ca.gov. Questions regarding Article 22 of the Medi-Cal Eligibility Procedures Manual should be directed to Mr. Terry Durham at (916) 552-9483 or Tdurham@dhs.ca.gov.

Original signed by

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Enclosures

22 C-2 – DETERMINING SUBSTANTIAL GAINFUL ACTIVITY

1.   **BACKGROUND**

Section 435.540 of 42 Code of Federal Regulations (CFR) requires Medi-Cal to use the Supplemental Security Income (SSI) definition of disability to decide whether a client is eligible for Medi-Cal disability.

To be considered disabled, SSI requires that an individual be:

"unable to engage in **Substantial Gainful Activity** (SGA), due to a medically determined physical or mental impairment, which is expected to result in death, or which is expected to last for a continuous period of 12 months".

A client who performs SGA is not disabled according to SSI definitions, even if a severe physical or mental impairment exists.

Note: Individuals applying for or enrolled in the 250 Percent Working Disabled (WD) program must meet the SSI definition of disabled except that they may engage in SGA. When submitting disability packets to the State Program – Disability and Adult Programs Division (SP-DAPD), include "250 Percent Working Disabled program" on the MC 221 Disability Transmittal form. For more information regarding the 250 Percent WD program, see Section 5R of this manual.

2.   **THE CURRENT SGA AMOUNT**

Since the SGA amount is now based on the federal average wage index, the dollar amount may be adjusted annually.

*   Using the new formula, the SGA amount has increased to $810 per month effective January 1, 2004.

NOTE: Since the SGA amount may change annually, future revisions to the manual regarding the actual SGA amount will only be reflected in this section. All other references to the SGA amount will only state "Current SGA Amount" and no dollar figure will be noted.

3.   **WHEN TO USE THESE PROCEDURES**

These procedures will be used when a client:

*   files for Medi-Cal disability, states on the MC 223 that he or she is working, and has gross earnings of more than the current SGA amount per month, or

*   meets the criteria for Presumptive Disability (PD), but earns over the current SGA amount per month. PD should <u>not</u> be approved until an SGA determination is made.

NOTE: These procedures <u>**do not**</u> apply to clients who are blind, enrolled in the 250 Percent WD program, or to beneficiaries who return to work after disability has been

approved. If an SGA evaluation was not performed because the client alleged blindness, SP-DAPD found that the client was disabled but not blind, an SGA evaluation must be performed before eligibility as a disabled person can be established.

4. PROCEDURES

A. SGA DETERMINATIONS

The EW shall determine whether a client is performing SGA when a client has earned income over the current SGA amount per month. The EW shall:

1. *Obtain:*	Client's gross monthly earnings (if irregular, earnings should be averaged.) Earnings derived from In-Home Supportive Services are treated as earned income.
2. *Determine:*	Whether there are impairment-related work expenses (IRWIs) or subsidies that can reduce earnings below the SGA amount. (A discussion of IRWIs and subsidies follows.)
3. *Deny:*	If disability "net countable earnings" are over the current SGA amount.
4. *Submit:*	A full disability packet to SP-DAPD, including an MC 220, MC 221, and MC 223, only if "net countable earnings" are at or below the current SGA amount.
5. *Alert:*	Is sent by SP-DAPD via a DAPD Pending Information Update Form (MC 222) when a disability packet was sent to SP-DAPD and the client is subsequently found to be engaging in SGA. SP-DAPD will stop case development and return case to the county of origin.

Work Activity Report form (MC 273, Exhibit 2) should be provided to clients whose earnings are over the current SGA amount to help in making SGA determinations.

B. IMPAIRMENT-RELATED WORK EXPENSES

Impairment-related work expenses (IRWEs) are certain expenses that are incurred and paid by an impaired client to enable him/her to work.

1. SGA Determination

IRWEs can be deducted from gross earnings to arrive at "net countable earnings".

If "net countable earnings" are over the current SGA amount, deny the application. For self-employment, IRWIs can be deducted from net income, if not already from gross income as a business expense.

Example: The current SGA amount is $810. The client earnes $1,100 per month and has $200 worth of IRWEs for special transportation costs to go to work and for medications needed to control a seizure condition. In this example the net countable earnings are $900 per month ($1100-$200). The client is performing SGA and the application is denied, because net countable earnings ($900) are more than the current SGA amount.