

Social Security

A Publication of the Social Security Section of the State Bar of Michigan

Winter 2003
Editor: Lewis Seward

Message from the Chairman

Michigan Becomes a "Ticket to Work" State

With little or no fanfare, Michigan was added to the list of states that are now participating in the "Ticket To Work and Self-Sufficiency Program." The program works in conjunction with an "Employment Network" which is usually MRS, although this is not always the case. Check your local District Office for the designated "Employment Network." And yes, you do receive an actual ticket. Since the program is voluntary, if the claimant decides later they are not interested or are not able to work, there are no penalties and supposedly no heightened review such as a CDR.

Tickets are being automatically mailed out to Disability-SSI claimants by Social Security number. The first batch went out in November 2002 and they are sending batches out monthly until everyone is covered. You do not need to wait to be mailed a ticket however. Just call the number listed at the end of the article.

The way the process works is the "Employment Network" works with the claimant to develop goals to return a claimant back into the work force. The goals become the plan that explains the services that the Network will provide and the claimant's rights on terminating the program or working with a different "Employment Network."

One of the interesting developments in the "Ticket To Work" Act is that claimants using a ticket will be exempt from a CDR by DDS, (20 CFR 411.165). Also of interest is if the claimant has been receiving benefits for at least 24 months, SSA will not conduct a CDR based on work activity alone (although they will still review cases for earnings if the claimant is SGA). Also, if claimants are SGA and using a ticket, this will not trigger a CDR.

The "Ticket To Work Program" has a "Benefit-Planning Assistance and Outreach Program. This provides claimants with information and advice about voc

rehab, employment services, selecting an employment network and how the work incentive rules dovetail with the "Ticket To Work Program." Michigan Protection and Advocacy is the designated agency in Michigan to offer this service. They will also explain the extended benefits so they are available when a claimant returns to SGA such as Medicare and Medicaid insurance. As you know, access to affordable health care insurance is a major impediment toward the claimant returning to work.

For more information or to direct your client towards this new program, call the organization coordinating the "Ticket To Work Program" at 1-866-968-7842 or Michigan Protection and Advocacy in Lansing at 1-800-292-5896.

Lewis Seward

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What is Effective Ambulation

1.00(B)(2)(b) explains that in ambulating effectively, the individual must be capable of sustaining a reasonable walking pace over a sufficient distance and be able to carry out activities of daily living. The individual cannot ambulate effectively if he/she needs to use a hand-held device such as a walker, two crutches or *two canes* that limit the functioning of *both* upper extremities (in other words one cane or one crutch will not suffice here but read on).

This same section provides examples of ineffective ambulation which obviously is not meant to be an all-inclusive list, i.e., walk at a reasonable pace on rough or uneven surfaces. However, there is no definition for "reasonable pace." Adjudicators must use their own judgment. It may help to look at the examples under SSR96-9p, i.e., if a medically required hand-held assistive devices needed only for prolonged ambulation, walking on uneven terrain or ascending or descending slopes, the unskilled sedentary occupational work base will not ordinarily be significantly eroded.

An individual who must use a hand-held assistive device to aid in walking or standing is always limited to sedentary

work. On the other hand, the occupational base for an individual who must use such a device for balance because of significant involvement of both lower extremities may be significantly eroded.

At first blush the new listing seems to suggest a two-cane rule. However, if someone uses one cane or crutch but is otherwise unable to ambulate effectively, the claimant can still equal or meet a listing. The key is the inability to ambulate effectively, not the use of assistive devices that establishes a listing level severity.

Regarding the factor of uneven surfaces, this could be broken sidewalks, curbs, a field, the woods, etc.

Other examples of ineffective ambulation are an inability to: (a) travel to and from a place of employment or school without companion assistance; (b) use standard public transportation; (c) carry out routine ambulatory activities such as shopping and banking; and (d) climb a few steps at a reasonable pace with the use of a single handrail.

For more information on this subject, John Morovitz, M.D. from DDS will be talking on this subject to our group on January 24, 2003.

Sign up for the Section ListServ by visiting our website at www.michbar.org

V. A. Benefits Workshop Registration

A V.A. Benefits Workshop will be conducted on Friday, May 9, 2003, at the Bavarian Inn, Frankenmuth, Michigan between 1:00 p.m. and 6:00 p.m. in the 101st Airborne Hospitality room.

The topics to be covered in this workshop will be:

- How to obtain your V.A. claims file and other records.
- Claims for an increase in benefits.
- Claims for new benefits.
- Reopening a claim previously denied
- P.O.W. benefits.
- Total Disability based on Unemployability . . . Age and good looks don't matter.
- Hearing loss & Tinnitus.
- Gunshot and shrapnel wounds.
- Cold injuries and trenchfoot.
- Post Traumatic Stress Disorder.
- D.I.C.; what you need to do now so the widow's benefit is payable later.
- CUE; Clean and Unmistakable Error claims since the new statute.

The materials prepared for this program will be available at the meeting for those that pre-register for \$30.00. This is a workshop for the primary benefit of the members of the Michigan Chapter, 101st Airborne Division Association. We have room and welcome other participants and those pre-registered first. Please register in advance so we can prepare sufficient copies of the materials. Contact me if you require any further information.

VA Benefits Workshop Registration

\$30 per attendee

Firm/Organization _____

Name _____

Address _____

City _____ State _____ Zip _____

Telephone _____ Fax _____

E-mail _____

**Please make your check payable to:
Veterans Legal Services of Michigan, Inc.**

Mail your check and registration form to:

Mr. Robert P. Walsh

Veterans Legal Services of Michigan, Inc.

142 West Van Buren Street

Battle Creek, Michigan 49017-3071

Telephone: (269) 962-9693 Fax: (269) 962-9592

E-Mail: rpwalsh@voyager.net

www.thesurfacereport.com

Fast Facts

SSI Withholding - DOA

The SSI attorney fee withholding that was nearly unanimously passed by the House and Senate died when the House did not take up the Senate version of H.R 4070 before it adjourned in November. The Senate introduced an amendment that would allow fee withholding for non-attorneys. This addition destroyed the momentum of the Bill as there was a significant amount of controversy regarding unqualified non-attorney representatives. There was also a concern that non-attorney representatives are not subject to the same stringent requirements as attorneys regarding rules of professional conduct and sanctions for those violations.

NOSSCR is now regrouping on this thorny issue. We will need your help in contacting your local Congressman once a new Bill is introduced. Stay tuned.

Winter Seminar

Our Winter Seminar will be held at the State Bar Building on Friday, January 24, 2003 starting at 10 a.m. In the morning, we will cover the latest trends and developments with our practice. Hopefully we will also have some information from NOSSCR on their plan to resurrect the SSI Fee Withholding and revisit the User Fee issue.

In the afternoon, our speaker will be John Morovitz, M. D., a practicing physician for 25 years and DDS physician reviewer for 18. The topic will be Practical Application of the New Musculoskeletal Listings as well as the two new rulings on Obesity and Interstitial Cystitis. He will speak at approximately 1 p.m. I am sure you will have plenty of questions for Dr. John.

SOCIAL SECURITY SECTION

2003 SSI Break-Even Chart

As this is such a widely used reference, listed below is the Table of Deeming Break-Even Points:

Effective January 2003	Parent to Child				Spouse to Spouse	
	EARNED		UNEARNED		EARNED	UNEARNED
	One Parent	Two Parents	One Parent	Two Parents		
0						
Reduction Begins	\$1,229	\$1,783	\$ 592	\$ 869	\$ 639	\$ 297
Payment Stops	\$2,335	\$2,887	\$1,144	\$1,421	\$1,743	\$ 849
1						
Reduction Begins	\$1,506	\$2,060	\$ 869	\$1,146	\$ 916	\$ 574
Payment Stops	\$2,610	\$3,164	\$1,421	\$1,698	\$2,020	\$1,126
2						
Reduction Begins	\$1,783	\$2,337	\$1,146	\$1,423	\$1,193	\$ 851
Payment Stops	\$2,887	\$3,441	\$1,698	\$1,975	\$2,297	\$1,403
3						
Reduction Begins	\$2,060	\$2,614	\$1,423	\$1,700	\$1,470	\$1,128
Payment Stops	\$3,164	\$3,718	\$1,975	\$2,252	\$2,574	\$1,680
4						
Reduction Begins	\$2,337	\$2,891	\$1,700	\$1,977	\$1,747	\$1,406
Payment Stops	\$3,441	\$3,995	\$2,252	\$2,529	\$2,851	\$1,957
5						
Reduction Begins	\$2,614	\$3,168	\$1,977	\$2,254	\$2,024	\$1,682
Payment Stops	\$3,718	\$4,272	\$2,529	\$2,806	\$3,126	\$2,234
6						
Reduction Begins	\$2,891	\$3,445	\$2,254	\$2,531	\$2,301	\$1,959
Payment Stops	\$3,995	\$4,549	\$2,808	\$3,083	\$3,405	\$2,511

All rates assume an Fla of A or C, that all children have no income, and only one eligible child is in the household. The chart does not apply when there is a combination of earned and unearned income. REDUCTION BEGINS when income exceeds amounts shown. PAYMENT STOPS with amounts shown. Reference: SI 01320ff