

back on Social Security after your trial work period is over depend on how long you've been working and whether Social Security thinks you are still disabled.

For the first 39 months after your trial work period is over, you will have what is called an "extended period of eligibility." During this period, as long as you are still disabled, you can get your SSDI check back any month when you make under \$900. It can be because you got sick, or because you quit for some other reason, or just because your work hours got reduced.

For the next five years after your extended period of eligibility ends, you can still ask to get your benefits reinstated if you get sick again. Social Security will give you "provisional benefits" for up to six months while they review your case to see if you are still disabled. If you are disabled, you will get your benefits back.

6. IF I GO BACK TO WORK, HOW WILL SOCIAL SECURITY DECIDE IF I AM STILL DISABLED?

To decide if you are still medically disabled, Social Security does something called a "Continuing Disability Review," or CDR. Sometimes you get a CDR even if you don't go back to work; Social Security will review your case every five to seven years no matter what. Starting in 2002, Social Security will no longer do a special CDR just because you go back to work. The exception is if you have been receiving Social Security benefits for less than two years, in which case Social Security may still do a

CDR if you return to work.

During a CDR, Social Security will look at your medical records to decide if you are still disabled. Some people with HIV will clearly still be disabled. You may still have CMV or peripheral neuropathy or one of the other conditions that Social Security always considers severely disabling. But other people may have a harder time providing that they are still disabled. If you originally got benefits because of severe fatigue, night sweats and sinusitis, for example, and those conditions have improved so that you really are functioning a lot better, then Social Security might conclude that you are no longer disabled under their rules.

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UNDERSTANDING YOUR LEGAL RIGHTS: RETURNING TO WORK WITH HIV/AIDS (SSDI)



This is one in a series of pamphlets designed by the Alabama Disabilities Advocacy Program. All are designed to help you understand your legal rights in Alabama. Currently, other pamphlets in this series include the following:

Working with HIV/AIDS

Returning to Work with HIV/AIDS

HIV/AIDS and Privacy on the Job

Getting Hired with HIV/AIDS

HIV/AIDS and the FMLA

This guide is intended as an overview of HIV-related Alabama and federal law. As with any legal matter, it is always a good idea to consult an attorney concerning the particular circumstances of your case.

1. IF I GO BACK TO WORK WHILE RECEIVING SSDI BENEFITS, DO I HAVE TO TELL SOCIAL SECURITY?

Yes. You should always report your earnings to Social Security. Social Security rules say you should report any changes in your income within 10 days. Talk to a claims representative before you start working, so you will know what and when you have to report.

2. I AM ON SSDI. IF I GO BACK TO WORK, WILL I LOSE ALL MY SSDI BENEFITS?

No. Or at least not right away. Social Security gives people on SSDI a “trial work period” for nine months. You can receive your entire SSDI check during your trial work period. For 2007, any month you earn more than \$640 will be counted as one of the nine months of your trial work period. This amount increases a little each year. Also, the nine months don’t have to be all at the same time. Your trial work period can be any nine months you work during a five-year period.

3. WILL I LOSE MY SSDI BENEFITS AT THE END OF MY TRIAL WORK PERIOD?

You will be able to keep your SSDI benefits for three months after your trial work period ends. But after that, if you continue working and you make more than \$900 (for 2007), your SSDI check will stop. However, if you make less than \$900 a month and you are still disabled, your SSDI will continue. The amount you can earn without losing SSDI increases a little each year.

4. WILL SOCIAL SECURITY COUNT ALL OF MY EARNINGS, OR ARE THERE SOME DEDUCTIONS?

Social Security counts the gross

monthly wages you earn (your pay *before* taxes) minus the expenses you have to pay to keep your job. Here are the expenses SSA will subtract from your gross wages:

- *Subsidies*: If your employer pays you and you are not really doing the work that would be required of someone else doing your job, (because your employer wants to be nice to you) your “earnings” could be considered as a subsidy and the money would not be counted as income.
- *Business Related Expenses*: People who are self-employed can deduct the reasonable cost of business-related expenses from monthly gross earnings.
- *Impairment Related Work Expenses (IRWEs)*: These are expenses that are necessary to go to work and stay on the job. These include most drugs and medical services. IRWEs can also include items such as personal attendant care, modifications to your home and special transportation. All IRWEs can be deducted from your gross monthly earnings. Social Security must approve any IRWE deductions.

5. CAN I GET BACK ON SSDI IF I LOSE MY JOB AFTER THE TRIAL WORK PERIOD?

The rules on how easily you can get