Understanding IRWEs

June 2013
Impairment Related Work Expenses

Effective December 1, 1980 the cost of certain items and services that a person with a disability needs in order to work can be deducted from earnings in determinations of SGA and when determining monthly SSI cash payments.
A working beneficiary may be eligible to claim IRWEs when he/she....

1. requires assistance (services, medical devices, etc.) because of a physical or mental impairment(s) in order to work, whether or not such assistance is also needed to enable the person to carry out normal daily functions; and

2. pays the cost of such assistance (has not been, cannot be, and will not be, reimbursed by any source for the expense) in cash (including checks, credit cards, or other forms of money); payment in kind is not deductible; and payment is within reasonable limits; and

3. pays for the item or service in a month the person is working or in anticipation of work.
Questions Social Security Must Answer When Developing IRWEs

• Does the alleged IRWE correlate with any impairment being treated by a health-care provider?; and

• Does the person need the item and/or service to work; and

• Has the person paid for the item and/or service; and

• When can the IRWE be deductible and how can the expenses be distributed?
Correlating IRWEs with impairments

• The IRWE items or services must correlate with the DDS' established medical basis of disability (primary or secondary disability); or

• The IRWE items or services correlate with any medically established impairment(s) being treated by a physician or health care provider.

• When the beneficiary’s alleged IRWE does not correlate with either the DDS diagnosis or medical records in the medical file, Social Security will ask the beneficiary to provide medical records or a statement from the treating physician or health care provider that establishes correlation.
Determining Need for IRWE

- The person’s functional limitations require him or her to have assistance (items or services) in order to work; and,
- The alleged expense meets the statutory definition of IRWE (i.e., attendant care services, durable medical equipment, prostheses, other equipment, similar items and services, or routine drugs or routine medical services necessary for the control of the disabling condition); and,
- The expense pertains to the person with a disability (not to another person); and
- The impairment(s) which requires the person with a disability to use a particular item or service correlates with a medically established impairment.
Procedure for Verifying Payment of IRWE – Questions Social Security Must Resolve

• For determinations of SGA, is payment made in a month the person with a disability is working? (Some exceptions made for certain durable goods purchased before work began.)
• For determinations of SSI countable earned income, is payment made in a month earned income is received?
• Does the payment pertain to an item that is used, or a service that is received, in a month in which the person with a disability is working?
• Is the payment within reasonable limits?
• Is the payment made by the person with a disability?
Documenting IRWEs

• The beneficiary must provide proof that he or she paid for the item or service. A verifying statement signed by the person (SSA-795) and copies of cancelled check(s), or paid receipt(s), etc., would be adequate to prove payment.

• Deduction of IRWE is not allowable to the extent that the beneficiary has been, could be, or will be, reimbursed for such expenses by any source.
Determining if the IRWE Cost is Reasonable

• The amount is within reasonable limits if it is no more than the prevailing charge for the same item or service.
• Prevailing charges are those which fall within the range of charges that are most frequently and widely used in a community for a particular item or service.
• The top of this range establishes the standard or normal cost that can be accepted as within reasonable limits for a given item or service.
• If Social Security determines that the cost paid is unreasonable, i.e., outside the range of prevailing charges, they will use the standard or normal cost that is established from the sources contacted.
Determining When IRWEs are Deducted and How Costs are Distributed

- Services are deductible if the services are received while the person is working. Deductions for services may be made even though a person must leave work temporarily to receive the services. The costs of any services received before the person begins working are not deductible.

- Items needed in order to work are deductible whether the item is purchased before or after the person with a disability begins working, if the person needs the item in order to work.
Recurring Monthly Expenses

• For recurring monthly services (therapies, medical services, attendant care, etc.), generally the total amount paid by the beneficiary (including sales tax) will be the deductible amount - as long as the cost is reasonable. Such costs are deductible only if the services are received while the person is working.

• In the case of durable equipment (respirator, wheelchair, etc.), the recurring cost is ordinarily paid over a period of time under some type of installment purchase plan. In addition to the cost of the purchased item, interest and other normal charges (e.g., sales tax) that the beneficiary pays on the purchase will be deductible.
Recurring Non-Monthly Expenses

A special rule applies in situations where a person with a disability pays recurring IRWEs less frequently than monthly, e.g., quarterly.

These expenses either may be deducted entirely in the month payment is made or allocated over the months in the payment period, whichever the person selects.
Nonrecurring Expenses

Part or all of a person's IRWE may not be recurring (e.g., the person with a disability makes a one-time payment in full for an item or service).

Such nonrecurring expenses either may be deducted entirely in 1 month, or may be prorated over a 12-consecutive month period, whichever the person chooses. The beneficiary should consider which method will provide more benefits, including the amount of SSI payment in SSI cases.
Down Payments

• A down payment on an IRWE may be deducted entirely in 1 month, or allocated over a 12-consecutive month period, whichever the beneficiary chooses.

• When the down payment is allocated over a 12-month period, Social Security makes the following calculation:
  – determine the total payment made over a 12-consecutive month period beginning with the month of down payment (i.e., the down payment plus the regular monthly payments that are made during that period) and
  – divide the total equally over the 12 months.
  – Beginning with the 13th month, deduct the regular monthly payment amount. If the regular monthly payments extend for less than 12 months, allocate the total amount payable (down payment plus monthly payments) over the shorter period.
Example of a Down Payment

Carl purchases a scooter to enhance his mobility on his new job. He pays a $500 down payment and then makes monthly installment payments of $200 a month for 9 months. Social Security calculates the IRWE deduction in the following manner:

1. Add the $500 down payment to the total amount of installment payments ($200 x 9 months = $1,800) for a total of $2,300
2. Divide the total cost of the scooter by 10 months (month of down payment plus 9 installment months which equals $230.
3. Deduct $230 in IRWE expense each month for 10 months.

NOTE: Carl could also just deduct the actual down payment in the month that expense is incurred and then deduct the actual installment payment each month afterward.
Another Down Payment Example

Joan starts working in October 2011, at which time she purchases special equipment at a cost of $4,800, paying $1,200 down. The balance of $3,600, plus interest of $540, is to be repaid in 36 installments of $115 a month beginning November 2011. Social Security calculates the IRWE deduction this way:

1. Add the down payment of $1,200 to 11 monthly installment payments of $115 ($1,265) for a total cost for the first year of $2,465.

2. Divide the first year cost of $2465 by 12 = $205.42. Deduct this amount for the first 12 months of employment – October 2011 thru September 2012.

3. After September 2012, the IRWE deduction amount is the regular monthly payment of $115.
Rentals or Leases

• When a beneficiary rents or leases an item while working, the allowable deductible amount is the actual monthly charge.

• Where the rental or lease payments are made other than monthly (e.g., weekly), Social Security will compute the monthly payment amounts.

• As with other costs, rental or lease payments are subject to the reasonable limits provision. An amount that does not exceed the standard or normal rental or lease charge for the same or similar item in the person's community is considered reasonable.
Procedure For IRWE Payments Made Before Work Began

• **The Expense Must Be for a Durable Item** - Durable items are things that can be used repeatedly. These include, but are not limited to, medical devices (e.g., wheelchairs, braces), prostheses, work-related equipment (e.g., typing aids, electronic visual aids), residential modifications, nonmedical appliances (e.g., air cleaner), service animals and vehicle modifications.

• **The Expense Must Be Made Within a Timeframe** - The expenditure may be a monthly (recurring) payment, a one-time (nonrecurring) payment, or a down payment, but may not be made for a rented or leased item; and it must be made sometime in the 11 months preceding the month work starts. The person must be disabled when payment is made. Payments made prior to the established onset date of disability are not deductible.
How to Determine Deductible Amount for Nonrecurring Expenses

• When an item is paid for with a one-time payment during the 11 months preceding the month work started, allocate the payment over a 12-month period beginning with the month of payment.

• Deduct only that part of the payment which is apportioned to the month work began and the following months.

• The total deductible amount may be deducted in 1 month or allocated over a 12-consecutive month period, whichever the beneficiary selects.
Determine Deductible Amount for Recurring Expenses

- When an item is paid for in installments, determine the total amount of the installment payments (including a down payment) made for the particular item during the 11 months preceding the month work starts. This total amount is considered paid in the month of the first payment (for that item) within this 11-month period.

- Allocate the total of these payments (installment and down payment, if any) over a 12-month period beginning with the month of the first payment (but never earlier than 11 months before the month work started). Deduct only that part of the total which is apportioned to the month work begins and the following months.

- The total deductible amount is deducted in 1 month or allocated over a 12-consecutive month period, whichever the person selects.
Example of Item Purchased before Employment Begins – Installment Payments

• Jim purchases an item in June 2012, 4 months before the month work begins in October 2012. He begins monthly payments of $240 at that time. He will have paid a total of $960 preceding the month work started. This amount is considered paid in the first month of payment (the fourth month before the month work begins). The total deductible amount is $640 ($960 divided by 12 months multiplied by 8 work months, 10/12 through 5/13).

• This amount may be deducted at one time or allocated over a 12-consecutive month period, whichever Jim selects, beginning with the first month of work (for purposes of determining SGA), or the first month income is received (for purposes of determining SSI countable earned income).

• The monthly payments of $240 that Jim continues to make while working will also be deductible in accordance with the instructions for recurring expenses.
Examples of Items Purchased Before Employment Begins – One Time Purchases

• Missy purchased an item in February 2012, 7 months before the month work begins in September 2012. It is paid for with a one-time payment of $300. The total deductible amount will be $125 ($300 divided by 12 multiplied by 5 work months, 9/12 through 1/13).

• Jordan purchased an item 3 months before the month work began and paid for the item with a one-time payment of $600. The deductible amount will be $450 ($600 divided by 12 multiplied by 9 work months).
IRWE Payment Made Before Earned Income Received - SSI

If an SSI recipient starts working and makes an IRWE payment in one month but does not receive earned income until the following month, Social Security will deduct (or begin allocating) the payment amount in the first month earned income is received.

**EXAMPLE:** A person with a disability begins working on August 24 and makes an IRWE payment on August 31, but does not receive his first paycheck until September 7; the IRWE is deducted from earned income received in September.
IRWE Payment Made After Earned Income Received and After Work Stopped - SSI

If a person with a disability receiving SSI makes an IRWE payment in the month after he or she last works and receives earned income, and the payment is for an impairment-related item or service used while working, Social Security will deduct the payment amount from the earned income received in the last month of work.
IRWE Payment Made and Earned Income Received After Work Stops - SSI

If a person with a disability receiving SSI is no longer working but receives earned income and makes an IRWE payment, Social Security will deduct the payment amount from earned income in the month of non-work only if:

– The income received is for work activity (e.g., not income received as a silent partner in a business), and,
– The work activity is performed in a period when the person requires the impairment-related item or service.
Let’s look at how Social Security applies the IRWE rules to specific expenses:

- Routine Drugs and Medical Services
- Transportation
- Attendant Care
- Residential Modifications
- Service Animals
Routine Drugs and Medical Services

• Payments for routine drugs, over-the-counter drugs, and routine medical services are deductible only if such drugs and services are prescribed and necessary for control of the disabling condition to enable the person with a disability to work, and if the person pays for them.

• Routine refers to the regularly prescribed type of medical treatment or therapy followed for the impairment. Control refers to reducing or eliminating symptoms or slowing down progression of the disease.

• Examples include anticonvulsant drugs; blood level monitoring; radiation treatment or chemotherapy; corrective surgery; and antidepressant medications.
Routine drugs and Medical Services

• Payments for drugs or medical services for minor physical or mental problems not resulting in any significant loss of function are not deductible. Examples of such items and services are: yearly routine physical examinations, allergy treatment (when such condition does not constitute a disabling condition), dental examinations, optician services and eyeglasses (when unrelated to a disabling impairment).

• The cost of premiums for health and/or life insurance cannot be deducted as IRWE.

• Prescription drugs that are a violation of Federal law cannot be deducted as an IRWE, even if allowed by State law.
Transportation - Modified Vehicles

• A beneficiary may have deductible transportation costs if his or her impairment(s) requires structural or operational modifications to a vehicle in order to drive or be driven to work. The modification must be critical to the operation or use of the vehicle, and must be directly related to the person’s impairment(s).

• The cost of the modification, but not the cost of the vehicle, may be deducted as an IRWE. The maintenance and repair costs for the impairment-related modification may also be deducted as an IRWE, but not the cost for maintenance and repair of the automobile or van. A mileage allowance for the trip to and from work is also deductible.
Determining Transportation Cost – Modified Vehicle

- Social Security uses the IRS standard mileage rate in determining the mileage expense for IRWE purposes unless the vehicle class mileage rate in DI 10520.030G.2.b. is more advantageous to the beneficiary.

- Social Security will determine the daily mileage to and from work and then multiply that by the appropriate mileage rate to obtain the daily mileage cost. Social Security will multiply the daily mileage cost by number of days worked per month to obtain the monthly amount.
Transportation – Unmodified Vehicle

• If a beneficiary’s impairment(s) prevents him or her from taking available public transportation and he or she must drive an unmodified vehicle to and from work, deduct a mileage allowance as an IRWE.

• No separate amount can be deducted for maintenance and repair of the automobile or van.

• A physician, VR counselor, or other medical provider must verify the person’s inability to use available public transportation.
Examples of Unmodified Vehicle Cost as IRWE

• Person uses wheelchair and public transportation is not equipped for wheelchair use;
• Person cannot manage getting on and off public transportation (e.g., impairment prohibits travel from home to bus stop);
• Person uses a service animal not permitted on public transit, or person is not mobility-trained in use of public transportation;
• The nature of impairment precludes travel on public transportation (e.g., person with respiratory illness requires special air-treated environment);
• Person cannot negotiate public transportation (e.g., transfers, directions, and schedules) due to the nature of his/her impairment(s).
Other Transportation Situations

- If a person’s impairment(s) prevents him or her from taking available public transportation and he or she must use driver assistance, taxis, or other hired vehicles to work, deduct amounts paid to the driver as IRWE.
- If the person’s own vehicle is used in this process, Social Security will also deduct a mileage allowance.
- The inability to use available public transportation, the need for driver assistance, or the use of taxicabs must be verified by a physician, VR counselor, or other medical provider.
Evaluation of Other Transportation Situations

Evaluation of these transportation costs must be based on two factors: the availability of public transportation in the person's community, and the person's capacity to drive a vehicle to work.

**EXAMPLE 1:** A person works 9:00 p.m. to 3:00 a.m. A public bus runs until 11:00 p.m. and then stops until 5:00 a.m. the next morning. Although this person could take the bus to work, he would not be able to take the bus home. In this situation, public transportation is not available for this person’s use.

**EXAMPLE 2:** A person lives in a neighborhood where there is continual bus service. However, her place of work is not within walking distance of a bus stop. Public transportation is not available for her.
Evaluation of Other Transportation Situations

If public transportation is not available and the beneficiary is unable to drive an unmodified vehicle to work due to the nature of his or her impairment(s) and not simply because he or she is not licensed to drive, the following travel expenses may be deducted when need and payment are verified:

– The cost of a trip to and from work by taxicab; or
– The cost of paying another person to drive the person with a disability to and from work.
Transportation Provided by Family Member

a. Family Member

- For the purpose of this provision, a family member is anyone who is related to the person with a disability by blood, marriage, or adoption, whether or not that person lives with the person.

b. Payment

- If a person with a disability pays a member of his or her family to perform transportation services, such payment will generally not be deductible as an IRWE unless:
  - It is established that the family member has been otherwise employed and suffers economic loss by reducing the number of work hours or terminating his or her own employment in order to perform such service; and
  - The payment is made to the family member in cash (including checks or other forms of money); payment in kind (e.g., room and board) is not deductible.
Documentation Required for Transportation Provided by Family Member

- Documentation that transportation services to and from work have been rendered and that payment in cash (including checks or other forms of money, but not payment in-kind) is being received from the person with a disability;
- Evidence that payment was made (e.g., cancelled checks);
- Information which establishes prior ongoing employment of the family member before the issue of transportation became relevant to the person with a disability;
- A statement that establishes how the family member suffers an economic loss by providing transportation.
Attendant Care

• Attendant care services are those forms of assistance which help a person with a disability meet his or her essential needs at home or at work, such as bathing, toileting, dressing, cooking, eating, communicating, traveling to and from work, and similar personal needs.

• Attendant care services can include services provided to help a person with a disability in performing the functions of his or her job, such as a reader or a job coach. This definition is applicable only to those services which can be shown to be needed to enable the person with a disability to work.
Attendant Care at Work or to and from Work

- Payments made for attendant care services are deductible as IRWE if the services are needed in the work setting or in assisting the person in traveling to and from work.

- Payments for attendant care at work or to and from work are deductible when the cost is paid for by the person and not provided by an employer or reimbursed by any other source.
Attendant Care at Home

• Payments made for attendant care services rendered in the home are deductible only if the services relate to preparations for going to work, or to assistance required by the person with a disability immediately upon his or her arrival home from work (generally no more than 2 hours in morning and/or evening.

• Some examples of allowable in-home attendant care services would be those relating to bathing, dressing, cooking, eating, administering medications, or arranging medical devices in the period of time immediately preceding the person's departure for work, or immediately following his or her return home from work.
Attendant Care by a Family Member

a. Family Member

• For the purpose of this provision, a family member is anyone who is related to the person with a disability by blood, marriage, or adoption, whether or not that person lives with the person.

b. Payment

• If a person with a disability pays a member of his or her family to perform attendant care services, such payment will generally not be deductible as an IRWE unless:
  • It is established that the family member has been otherwise employed and suffers economic loss by reducing the number of work hours or terminating his or her own employment in order to perform such service; and
  • The payment is made to the family member in cash (including checks or other forms of money); payment in kind (e.g., room and board) is not deductible.
Documentation Required for Attendant Care Provided by Family Member

- Documentation that attendant care services have been rendered and that payment in cash (including checks or other forms of money, but not payment in-kind) is being received from the person with a disability;
- Evidence that payment was made (e.g., cancelled checks);
- Information which establishes prior ongoing employment of the family member before the issue of attendant care services became relevant to the person with a disability;
- A statement that establishes how the family member suffers an economic loss by providing attendant care services.
Residential Modifications - Employed Outside the Home

• A beneficiary who is employed away from home may require changes outside the residence that permit the person to get to his/her means of transportation (e.g., the installation of an exterior ramp or special exterior railings or pathways). Getting to one's mode of transportation can be regarded as part of the total process of getting to and from work and would be deductible as an IRWE.

• However, changes that modify the interior architecture or operation of the person's residence are primarily intended to facilitate his or her functioning in the home environment; therefore, payments for these changes are not deductible as IRWE.
Residential Modification - Working at Home

• Payments for modifying the interior of the home in order to create a working space to accommodate a person's impairment are deductible to the extent that the modifications pertain specifically to the work space. Examples of such modifications are the enlargement of a doorway leading into an office or any other type of work area or the modification of the work space to accommodate problems in dexterity.

• Costs of such modifications made by a self-employed person who works at home generally are deductible from gross income as business expenses. Any such costs deducted as business expenses are not deductible as IRWE.
Tele-Work Modifications

• An employer may establish a special tele-work program to accommodate the needs of employees with disabilities who need home-based work. The costs for the purchase and maintenance of equipment necessary for tele-work are deductible as IRWE when the individual works under such an employer tele-work program which was designed exclusively for one or more employees with disabilities.

• Examples of items in this category which may be deducted as IRWE include high speed internet service, a second phone line, and computer maintenance. This excludes optional tele-work, temporary off-site work, work at home after regular hours, or while traveling.
Service Animals

• Expenses paid by a person with a disability in owning a guide dog or other service animal are deductible as an IRWE if the animal enables the person to overcome functional limitations in order to work.

• Deductible expenses include the costs of purchasing the animal, training, food, licenses, and veterinary items and services. Other costs directly related to the care of the animal are also deductible as IRWE, such as transportation for training and veterinary services.
Documenting IRWEs – Title II Disability Beneficiaries

- IRWEs should be identified and described on the initial SSA-821 completed after work has been reported to Social Security.
- While IRWEs cannot reduce countable income during the TWP, beneficiaries should still document IRWEs in the SSA-821 and retain documentation of expenses.
- Social Security will evaluate the IRWEs during the SGA determination after the TWP ends. Allowable expenses will be deducted from gross wages to determine countable earned income.
- IRWEs are deducted AFTER any subsidy or special conditions are evaluated and applied.
- IRWE determinations are subject to the appeals process.
Documenting IRWEs - SSI

• Since IRWEs affect the SSI payment amount for working beneficiaries, all IRWEs should be reported immediately when work begins. Use Notice of Change in Earnings Status form or a letter to request review of potential IRWEs.

• Keep all documentation of IRWEs on a monthly basis and be prepared to submit documentation to Social Security when requested.

• Social Security may choose to average the monthly IRWE cost when estimating countable wages or may request month-by-month verification of actual wages and IRWEs.
IRWE and PASS

- IRWE are not deductible from earned income if the income used for the purchase of the impairment-related item or service is deducted as part of a PASS for the same period.
- Any portion of the payment for an item or service paid with income that is not deducted as part of the PASS can be deducted as an IRWE if the expense itself meets the requirements for an IRWE deduction.
Example of IRWE and PASS

A concurrently entitled beneficiary purchases an impairment-related item necessary to achieve his designated occupational goal at a cost of $600. He pays the bill with $500 designated for his PASS and $100 of other income. For purposes of determining SSI countable income, $100 is deductible. However, for Title II purposes, the entire $600 is deductible as an IRWE.
IRWEs in Self-Employment Situations

• Many IRWEs also meet the IRS definition of allowable business expense. **If an expense is deducted as a business expense, it may not also be claimed as an IRWE.**

• In most cases, it is more advantageous to the beneficiary to deduct potential IRWEs as business expenses as it reduces countable income for tax purposes.

• Expenses that meet the requirements of IRWE which may not be deducted as business expenses would include routine drugs and medical services. These expenses are best deducted as IRWEs.
For More Information

• IRWEs as they relate to Title II disability programs
  – POMS DI 10520.001 through DI 10520.065

• IRWEs as they relate to SSI:
  – POMS SI 00820.540
  – POM SI 00820.550