Making it *Work:* Income Strategies to Protect Your Client's Benefits Eligibility

STETSON LAW

National Conference on Special Needs Planning and Special Needs Trusts
Boot Camp: Understanding and Accessing Long-Term Supports & Services
Thursday, October 23, 2025 | 1:30 p.m. – 2:20 p.m. Breakout Session 1

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Why Income Strategies Matter

- Protecting the Client's Financial Stability
- Legal & Ethical Duty to Provide Accurate, Strategic Counsel
- Empowering Clients Toward Greater Independence
- Navigating Complex, Interconnected Systems
- Preventing Legal & Financial Problems Down the Road
- Positioning Attorneys as Trusted, Holistic Advisors

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The Problem: Work vs. Benefits

- Many clients believe they must choose between financial independence and benefits
- Fear of losing critical supports often discourages work
- Strategic planning allows clients to earn income while preserving eligibility

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Key Benefits Programs

- **SSI** (Supplemental Security Income)
  - Needs-based, resource & income limits.
  - $2,000 individual resource limit (excluding certain assets), $3000 for a couple.
  - Countable income affects monthly payment.
- **SSDI** (Social Security Disability Insurance)
  - Not means-tested; based on work history.
  - Earnings can affect eligibility after Trial Work Period.
- **Medicaid & Medicare**
  - Medicaid: linked to SSI in most states; income/resources can affect eligibility.
  - Medicare: linked to SSDI; less affected by income but can be impacted at certain thresholds

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Work Incentives & Income Exclusions

- **SSI-Specific Exclusions**
  - General Income Exclusion ($20) and Earned Income Exclusion ($65 + ½ of remainder). *Example: earning $885 leads to only $400 counted income.*
- **Student Earned Income Exclusion** for under-22 students.
- **IRWEs** (Impairment-Related Work Expenses)
  - Deductible from earnings, reducing countable income.
- **BWE** (Blind Work Expenses).
- **SSDI Work Incentives**
  - Trial Work Period: up to 9 months to test work without losing benefits.
  - Extended Period of Eligibility: 36 months afterward, benefits can restart if earnings drop.
  - Expedited Reinstatement: fast-track reinstatement within 5 years if disability stops work.

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ABLE Accounts

- Annual contribution limit: $19,000 (2025)
- ABLE to Work allows additional contributions
- Funds up to $100,000 excluded from SSI resource limits
- Ideal for diverting earnings to stay under resource thresholds
- Can be used in tandem with trusts & other asset protection tools

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Practical Strategies for Advising Clients

- Earnings planning, phased or part-time work
- Layering IRWE, exclusions, and ABLE contributions
- Documentation & reporting
- Explore model scenarios with state-specific worksheets
- Interdisciplinary collaboration
- Ensure clients understand reporting responsibilities

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Reporting & Documentation

- Timely reporting to SSA and Medicaid is essential
- Provide reporting checklists to avoid overpayments
- Keep records of work expenses, ABLE contributions, and SSA communications

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Ethics & Advocacy Considerations

- Attorneys' role in informed decision-making.
- Effective Communication Considerations
- Advocate with SSA/Medicaid administration offices when work incentives are misapplied
- Equity concerns and barriers to employment (real or perceived): ensuring clients aren't discouraged from work.

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Practical Tools & Planning

Work Incentives Planning & Assistance (WIPA) Programs, https://choosework.ssa.gov/findhelp

- Ticket to Work, funded by SSA; staffed by Community Work Incentives Coordinators (CWICs). Provides free benefits counseling and help interpret SSA work rules for individuals considering work. Attorneys can collaborate with WIPA counselors for complex cases.

State Medicaid Manuals & Waiver Guidance

- Each state administers Medicaid differently. Review your state's Medicaid Eligibility Manual and Home & Community-Based Services (HCBS) Waiver documents. These contain rules on income disregards, special earned income exclusions, and how Medicaid interacts with SSI eligibility in your state.

ABLE National Resource Center (ANRC), https://www.ablenrc.org/

- Comprehensive state-by-state ABLE program planning resources and toolkits which include:
  - Model trust language for incorporating ABLE contributions or linking special needs trusts.
  - Contribution strategies to coordinate with SSI and Medicaid resource rules.
  - ABLE-to-Work provisions, with guidance on how to advise working beneficiaries who want to save more.
- Many state ABLE programs have legal guidance pages and comparison charts. Examples:
  - Ohio, https://www.stableaccount.com/
  - Oregon, https://oregonablesavings.com/
  - Florida, https://www.ableunited.com/

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Resources and References 1 of 2

Social Security Act (42 U.S.C. § 1381 et seq. for SSI; § 401 et seq. for SSDI), **https://www.ssa.gov/regulations/**

- Establishes the legal framework for benefits, income exclusions, and eligibility.

Code of Federal Regulations (CFR), https://www.ecfr.gov/

- **SSI**: 20 C.F.R. §§ 416.101 – 416.1400
- **SSDI**: 20 C.F.R. §§ 404.101 – 404.1599
- Includes definitions of "earned income," exclusions, IRWE, trial work periods, extended eligibility, and more.

Program Operations Manual System (POMS), https://secure.ssa.gov/poms.nsf/home!readform

- The SSA's internal policy manual used by claims representatives.
- Covers every aspect of work incentives, income counting, ABLE accounts, and exclusions in detail.
  - SI 00820.500 – Earned income exclusions for SSI
  - SI 01130.740 – ABLE accounts & resource exclusions
  - DI 10501 – Work activity development and evaluation for SSDI
  - DI 13010.210 – Trial Work Period and Extended Period of Eligibility procedures

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Resources and References 2 of 2

- **SSA Red Book, https://www.ssa.gov/redbook/**
  - **Official SSA publication** on employment supports and work incentives.
  - Written for beneficiaries, advocates, and professionals.
  - Includes practical examples, income exclusion charts, and explanations of SSI/SSDI work rules.
- **ABLE National Resource Center (ANRC), https://www.ablenrc.org/**
  - Provides state-specific and federal guidance on ABLE accounts, eligibility, contribution limits, and how ABLE interacts with SSI/Medicaid.
  - Includes comparison tools for state ABLE programs and legal interpretations.
- **National Academy of Elder Law Attorneys (NAELA)**
- **Special Needs Alliance (SNA)**
- **National Disability Rights Network (NDRN)**
- **State Protection & Advocacy Agencies**

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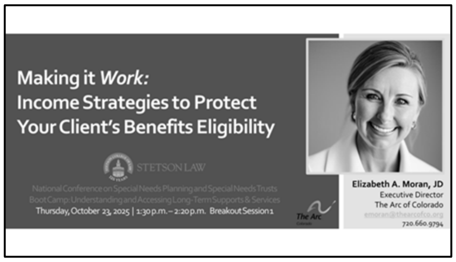
Thank You!



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