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SUPPLEMENTARY INFORMATION: We propose to revise §§ 404.1573(c) and 416.973(c) to explain in greater detail what we mean by work under special conditions that take into account an individual's impairments. We have added information found in Social Security Ruling 84–25 to clarify these regulatory provisions.

We propose to amend §§ 404.1574(a) and 416.974(a) to add an expanded description of how we determine whether work performed by an employee is substantial gainful activity, what we mean by subsidized work, and how we determine the value of a subsidy. We explain in more detail: (1) How earnings may show that an employee has done substantial gainful activity; (2) what we consider in determining the amount an employee earns; (3) how we use information from an employer as to whether wages have been subsidized; (4) how we determine the value of subsidized earnings when the value has not been explained adequately by the employer; (5) how we determine the amount of any subsidy that may be provided by organizations that employ individuals with handicaps; and (6) how we evaluate earnings received by persons working in a sheltered or special environment. The changes we are proposing to these regulations reflect Social Security Ruling 83-33.

These proposed rules also clarify how we evaluate earnings from work in sheltered workshops. Under §§ 404.1574(b)(4) and 416.974(b)(4) of our current and proposed regulations, a person working in a sheltered workshop ordinarily will be found not to be doing substantial gainful activity when his or her average monthly earnings are not greater than the specified amounts that ordinarily show that a worker who is not in a sheltered workshop situation is engaging in substantial gainful activity. The average monthly earnings amount currently specified is \$500 per month for years after 1989. These sections of the current regulations do not provide rules for evaluating sheltered workshop earnings above the specified average monthly earnings amount because it is our policy that sheltered workshop earnings that exceed the specified average monthly earnings amount must be evaluated under §§ 404.1574(b)(2) and 416.974(b)(2) in the same way as non-sheltered workshop earnings. We propose to amend §§ 404.1574(b)(4) and

416.974(b)(4) to state this policy explicitly.

Our current regulations also specify a lower amount (currently \$300 per month for earnings in calendar years after 1989) below which earnings outside a sheltered workshop will ordinarily show that an individual has not engaged in substantial gainful activity. Non-sheltered workshop earnings that are above these amounts but below the upper substantial gainful activity threshold amounts, that is, between \$300 and \$500 per month for calendar years after 1989, are ordinarily evaluated on a more case-by-case basis. However, there is no such middle ground for evaluating earnings from sheltered workshop employment on a more case-by-case basis because we do not impose separate, lower amounts on sheltered workshop employees as we have done for employees outside of sheltered workshops. If sheltered workshop earnings exceed the upper substantial gainful activity threshold amounts, we ordinarily consider the individual to have engaged in substantial gainful activity. A Federal circuit court decision, Iamarino v. *Bowen*, 795 F.2d 59 (8th Cir. 1986), has interpreted our regulations differently. In Iamarino, the court held that because our regulations provide a middle ground for evaluating non-sheltered workshop earnings between specified upper and lower limits, we also must provide a middle ground for evaluating sheltered workshop earnings and not presume substantial gainful activity when sheltered workshop earnings exceed the upper substantial gainful activity threshold amounts. Because this was not the intent of our regulations, we propose to revise §§ 404.1574(b)(4) and 416.974(b)(4) to clarify our policy on this point. At the same time we are proposing a minor editorial correction to the heading of paragraph 404.1574(b)(6) to change the word "of" to the word "or."

We also propose to add new paragraphs 404.1574(d) and 416.974(d) and to revise paragraph 404.1592(b) to provide that volunteer work done under programs mentioned in the Domestic Volunteer Service Act of 1973 or the Small Business Act shall not be considered in determining whether an individual has performed substantial gainful activity or services in the trial work period. This exclusion is currently stated in Social Security Ruling 84–24 and is required by 42 U.S.C. 5044 and 15 U.S.C. 637.

We also propose to add new §§ 404.1574a and 416.974a to explain how we average earnings or selfemployment income to determine if a person has been performing substantial gainful activity and the periods used for averaging. These amendments are based upon Social Security Ruling 83–35 and do not represent a change in policy.

We propose revisions to §§ 404.1575(a) and 416.975(a) to explain the order in which we will apply the three tests used to determine whether self-employed persons have engaged in substantial gainful activity. We also propose to expand the discussion in §§ 404.1575(c) and 416.975(c) of what we mean by substantial income for purposes of determining whether a selfemployed person has engaged in substantial gainful activity. These revisions are based upon Social Security Ruling 83–34 and do not represent a change in policy.

We are also proposing to add to §§ 404.1574, 404.1575, 416.974, and 416.975 an explanation, now found in Social Security Ruling 84-25, of how we evaluate periods of brief work activity to determine if they should be considered unsuccessful work attempts. The proposed rules on an unsuccessful work attempt provide, consistent with Social Security Ruling 84–25, that we will not consider work performed at the substantial gainful activity level for more than six months to be an unsuccessful work attempt regardless of why it ended or why earnings were reduced to below the substantial gainful activity earnings level. We propose to amend §§ 404.1574, 404.1575, 416.974, and 416.975 to explain when we will find that substantial work activity that is discontinued or reduced below a specified level is an unsuccessful work attempt. If there is an unsuccessful work attempt, we disregard, for substantial gainful activity determination purposes, brief work attempts that do not demonstrate sustained substantial gainful activity. The criteria for an unsuccessful work attempt differ depending on whether the work effort is for a duration of three months or less or for a duration of between three and six months. These proposed amendments to the regulations on unsuccessful work attempts reflect Social Security Ruling 84 - 25

In addition, we propose to add to § 404.1584(d) the substantial gainful activity earnings guidelines for evaluating the work activity of blind persons under title II for the years 1983 through 1994.

We propose to revise the last sentence of current § 404.1592(b) to clarify that we generally do not consider work which is done without remuneration to be "services" for purposes of determining when the trial work period has ended if it is done merely as therapy