and responsibility involved in the performance of the same or similar work by unimpaired individuals in your community. We will estimate the proportionate value of your services according to the prevailing pay scale for your work.

(ii) In other instances, it may be possible for us to determine the approximate extent of your subsidy based upon other indications of your productivity, such as your need for an unusual degree of supervision or assistance in the performance of simple tasks, the length of time you need to do simple tasks, or how efficiently you are able to do simple tasks.

(5) Subsidies in organizations that hire the handicapped. If you work for an organization that hires the handicapped and the organization either operates at a loss or receives charitable contributions or government aid, this does not necessarily establish that your work is subsidized. Our determination of whether or not you receive a subsidy, and the amount of any subsidy you may receive, will depend upon your productivity rather than the financial condition of your employer's business.

(6) If you are working in a sheltered or special environment. If you are working in a sheltered workshop, you may or may not be earning the amounts you are being paid. The fact that the sheltered workshop or similar facility is operating at a loss or is receiving some charitable contributions or governmental aid does not establish that you are not earning all you are being paid. Because persons in military service being treated for severe impairments usually continue to receive full pay, we evaluate their work activity in a therapy program or while on limited duty by comparing it with similar work in the civilian work force or on the basis of reasonable worth of the work, rather than on the actual

amount of the earnings.

(b) Earnings guidelines.—(1) General. If you are an employee, we first consider the criteria in paragraph (a) of this section and § 416.976, and then the guides in paragraphs (b) (2), (3), (4), (5), and (6) of this section. When we review your earnings to determine if you have been performing substantial gainful activity, we will subtract the value of any subsidized earnings (see paragraph (a)(2) of this section) and the reasonable cost of any impairment-related work expenses from your gross earnings (see § 416.976). The resulting amount is the amount we use to determine if you have done substantial gainful activity. We will generally average your earnings for comparison with the earnings guidelines in paragraphs (b) (2), (3), (4),

and (6) of this section. See § 416.974a for our rules on averaging earnings.

(3) * * *

- (4) If you work in a sheltered workshop. If you work in a sheltered workshop or a comparable facility especially set up for severely impaired persons, we ordinarily will consider that your earnings from this work show that you have engaged in substantial gainful activity if the guides in paragraph (b)(2) of this section are met. Earnings less than those indicated in paragraph (b)(2) of this section will ordinarily show that you have not engaged in substantial gainful activity without the need to consider the other information discussed in paragraph (b)(6) of this section even if those earnings are more than those indicated in paragraph (b)(3) of this section.
 - (5) * * * (6) * * *
- (c) The unsuccessful work attempt.— (1) General. Ordinarily, work you have done will not show that you are able to do substantial gainful activity if, after working for a period of 6 months or less, you were forced by your impairment to stop working or to reduce the amount of work you do so that your earnings from such work fall below the substantial gainful activity earnings level in paragraph (b)(3) of this section and you meet the conditions described in paragraphs (c) (2), (3), (4), and (5), of this section.
- (2) Event that must precede an unsuccessful work attempt. There must be a significant break in the continuity of your work before we will consider you to have begun a work attempt that later proved unsuccessful. Your work must have been discontinued or reduced below the substantial gainful activity earnings level because of your impairment or because of the removal of special conditions that were essential to the further performance of your work. We explain what we mean by special conditions in § 416.973(c). We will consider your prior work to be "discontinued" if you were out of work at least 30 consecutive days. We will also consider your prior work to be "discontinued" if, because of your impairment, you were forced to change to another type of work or another

(3) If you worked 3 months or less. We will consider work of 3 months or less which ended, or was reduced below the substantial gainful activity earnings level, because of your impairment or due to the removal of special conditions which took into account your impairment and permitted you to work, to be an unsuccessful work attempt.

- (4) If you worked between 3 and 6 months. We will consider work that lasted longer than 3 months to be an unsuccessful work attempt if it ended, or was reduced below the substantial gainful activity earnings level, within 6 months because of your impairment and-
- (i) You were frequently absent from work because of your impairment;
- (ii) Your work was unsatisfactory because of your impairment;
- (iii) Your work was performed during a period of temporary remission of your impairment; or
- (iv) Your work was done under special conditions that were essential to your performance and these conditions were removed.
- (5) If you worked more than 6 months. We will not consider work you performed at the substantial gainful activity earnings level for more than 6 months to be an unsuccessful work attempt regardless of why it ended or was reduced below the substantial gainful activity earnings level.
- (d) Work activity in certain volunteer programs. If you work as a volunteer in certain programs administered by the Federal government under the Domestic Volunteer Service Act of 1973 or the Small Business Act, any payments you receive from these programs will not be counted as earnings when we determine whether you are engaging in substantial gainful activity. These payments may include a minimal stipend, payments for supportive services such as housing, supplies and equipment, an expense allowance, or reimbursement of out-ofpocket expenses. We will also disregard the services you perform as a volunteer in applying any of the substantial gainful activity tests discussed in paragraph (b)(6) of this section. This exclusion from the substantial gainful activity provisions will apply only if you are a volunteer in a program explicitly mentioned in the Domestic Volunteer Service Act of 1973 or Small Business Act. Programs explicitly mentioned in these Acts include Volunteers in Service to America, University Year for ACTION, Special Volunteer Programs, Retired Senior Volunteer Program, Foster Grandparent Program, Service Corps of Retired Executives, and Active Corps of Executives. Volunteer work you perform in other programs or any nonvolunteer work you may perform is not excluded under this paragraph. Also, your work will not be excluded if you work for one of the specified programs but are not a volunteer. For civilians in certain government-sponsored job training and employment programs, we evaluate the work activity on a case-by-case basis