

Ticket to Work and Work Incentives Advisory Panel

Annual Report to the President and Congress

Year Four

May 2004

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A Message from the Chair

On behalf of the Ticket to Work and Work Incentives Advisory Panel, it is my privilege to issue our Fourth Annual Interim Report to the President and Congress. Our report includes the Panel's findings, issues, conclusions, and recommendations on the implementation of the programs and projects of the Ticket to Work and Work Incentives Improvement Act of 1999 (the Act) by the Social Security Administration and other Federal agencies that are responsible for implementation or whose programs affect it. The Panel has raised a number of timely and important issues in this report, which makes specific recommendations to the President and his Commissioner of Social Security, and to Congress.

It was an active year for implementation of the Ticket Program and implementation and operation of the Act's other employment support programs, such as the Benefits Planning Assistance and Outreach Program and the new work incentives. Millions of tickets were mailed out to beneficiaries, and thousands of people assigned their tickets to employment networks or State vocational rehabilitation agencies. Although the Panel is encouraged by the continued interest in the programs, it is important to point out new policy and program areas of serious concern. We have highlighted these areas in this report and hope that our discussions and the advice and recommendations we make will contribute to improvements in these programs and projects and, ultimately, to increased employment opportunities for Supplemental Security Income recipients with disabilities and Social Security Disability Insurance beneficiaries.

It is my privilege to share with you this Year Four Annual Interim Report.

Respectfully submitted,

Sarah Wiggins Mitchell, Chair

Executive Summary

Calendar year 2003 marked the fourth year of implementation of Public Law 106–170, the Ticket to Work and Work Incentives Improvement Act of 1999 (the Act). Passed by a vote of 99 to 0 in the Senate and by an overwhelming majority in the House of Representatives, this legislation represents a bipartisan shift in the Nation’s attitude toward the employment of people with disabilities and the contributions they can make to our economy. During this fourth year, millions of Social Security recipients received tickets, thousands seeking employment deposited them with an employment network (EN) or a State vocational rehabilitation agency (SVRA), and thousands of others went to work using new State Medicaid Buy-In Programs and other work incentives now available under the Act.

This is certainly encouraging, but the Panel (see appendix A for a list of members) has serious concerns about a number of important implementation issues that surfaced this year and/or continue to exist. These issues, specifically those vital to the success of the Ticket Program as well as those important to the efficient and effective operations of the Social Security Administration’s (SSA’s) overall employment support programs, are discussed in this report. The Panel believes that if the problems outlined herein are not addressed immediately by the Commissioner of Social Security, the President, and Congress, they will effectively eliminate the work incentives and employment supports created under the Act. Inaction will deter the future use of these programs and threaten the very existence and success of the Ticket Program. Neglecting to address these problems would label the Ticket Program a failure without its ever having had a chance to succeed.

PANEL RECOMMENDATIONS—YEAR FOUR

The Panel recommends that, if necessary, Congress amend the statute to permit the Commissioner to increase the sum of payments available for Supplemental Security Income (SSI) recipients to equal the sum of payments available for Social Security Disability Insurance (SSDI) beneficiaries.

The Panel recommends that, if necessary, Congress amend the statute to expressly permit payments to ENs to be set at a level greater than 40 percent of average benefits for both SSDI and SSI beneficiaries.

The Panel recommends that Congress direct the Commissioner to immediately modify the EN payment system to move more of the payment into the first 12 months of employment, reduce the difference between milestone and outcome payments, and test two or three creative cost-effective approaches that place more of the up-front financial risk on SSA.

The Panel reiterates its previous recommendation to Congress to authorize payments to ENs for benefits reduction that results in other than zero benefits.

The Panel recommends that Congress immediately direct the Commissioner to change the EN payment claims process so that once a beneficiary has been certified as employed above the substantial gainful activity (SGA) level or leaves cash benefit status, the EN should continue to be paid monthly as long as the beneficiary remains in zero benefit status.

The Panel recommends that Congress clearly articulate its intent that the Ticket Program’s outcome and milestone payments should provide **additional** resources to help beneficiaries attain and retain

employment; in effect, Congress did not intend to make beneficiaries ineligible for the full range of services from vocational rehabilitation (VR) programs, Medicaid, or other Federal and State programs by making them eligible for the Ticket Program.

The Panel recommends that the President and Congress direct the Commissioner to implement the Ticket Program as a complement to the traditional SSA VR Reimbursement Program, reimbursing State VR agencies for up-front services and early employment outcomes and paying ENs for long-term employment supports and outcomes.

The Panel recommends that the President and Congress direct the Commissioner to immediately implement a strong national marketing program and that Congress designate adequate resources for this effort.

The Panel recommends that the President and Congress direct the Commissioner to inform beneficiaries about the Ticket Program at least once a year.

The Panel recommends that Congress designate funds and direct the Commissioner to increase efforts to provide accurate and timely information on the Act and its programs and on other work incentives available to SSI and SSDI beneficiaries.

The Panel recommends that Congress fund the Benefits Planning Assistance and Outreach (BPAO) and Protection and Advocacy for Beneficiaries of Social Security (PABSS) Programs at the following levels: increase funding for the BPAO Program to \$46,000,000, increase the minimum amount of each State grant for the PABSS Program to \$200,000, and increase PABSS funding as a whole to \$14,000,000 per fiscal year (FY).

The Panel recommends that the President direct the Secretaries of the Departments of Education (ED), Labor (DOL), and Health and Human Services (HHS) and the Commissioner of Social Security to provide leadership to increase the level of cooperation on implementation of the Act and true integration of services.

The Panel recommends that Congress direct the Commissioner to work closely with other Federal and State systems to develop and implement a national training plan. Congress should also designate the additional funds needed for training and technical assistance.

The Panel recommends that Congress extend the Continuing Disability Review (CDR) protection currently available to participants in the Ticket Program to any and all beneficiaries participating in an approved VR program.

The Panel recommends that funding be identified for increased training and outreach to parents and youth on SSI work incentives and transition planning.

The Panel recommends that Congress change the mandatory redetermination age from 18 to 22.

The Panel recommends that Congress increase the age limit for the Student Earned Income Exclusion to at least 26.

The Panel recommends that Congress create, or encourage Federal agencies to create, an interagency research priority on youth who have disabilities and are receiving SSI.

The Panel recommends that Congress provide the Centers for Medicare & Medicaid Services (CMS) with a mandate and funding to study the impact of the Medicaid Buy-In Program on employment outcomes for people with disabilities.

The Panel recommends that Congress amend the statute to grant additional flexibility to States in meeting matching fund requirements for the demonstration projects in order to maintain independence.

The Panel recommends that Congress strengthen and simplify the expedited reinstatement provision by allowing SSA to use the beneficiary's diary date to decide whether someone who applies for expedited reinstatement is required to undergo a CDR, eliminating the legislative requirement that beneficiaries can apply for an expedited reinstatement only if the disability is the only reason for the job loss and eliminating the 24-month waiting period so that beneficiaries who use this provision can access all work incentives immediately.

Background

Summary of the Act

This legislation, enacted on December 17, 1999, is administered by SSA and HHS. It increases beneficiaries' choices for rehabilitation and vocational services, removes barriers that require people with disabilities to choose between health care coverage and work, and ensures that more Americans with disabilities have the opportunity to work and thereby lessen their dependence on public benefits. Different provisions of the Act became effective at various times, generally beginning a year after enactment.

Summary of Title I—Programs

Subtitle A—Ticket and Related Programs

Subtitle A established the Ticket Program, under which most Social Security and SSI disability beneficiaries received a ticket that they can use to obtain VR, employment, or other support services from an approved rehabilitation provider of their choosing. This voluntary program was phased in nationally over 3 years. It establishes a program manager, ENs, and EN payment systems; calls for a report on the adequacy of incentives and the establishment of a dispute resolution mechanism; provides for suspension of CDRs for those using the ticket; and establishes the Ticket to Work and Work Incentives Advisory Panel to advise the Commissioner of Social Security, the President, and Congress on this and other work incentives and employment supports.

Subtitle B—Elimination of Disincentives to Work

Subtitle B eliminates the work activity standard as a basis for reviewing an individual's disability status and provides for expedited reinstatement of benefits if the person does not continue working.

Subtitle C—Work Incentives Planning and Outreach

Subtitle C sets up the Work Incentives Outreach Program, including external BPAO Programs and the internal corps of Social Security experts on work incentives and employment. It also establishes a grant program for a protection and advocacy (P&A) agency in each State to help beneficiaries.

Summary of Title II—Expanded Availability of Health Care Services

Title II expanded State options under Medicaid for workers with disabilities. It calls for a General Accounting Office study on extending Medicare coverage for Social Security recipients and establishes a State Medicaid Infrastructure Grant authority and demonstration projects. It calls for a demonstration of Medicaid coverage of workers with potentially severe disabilities and allows beneficiaries with disabilities to suspend Medigap coverage.

Summary of Title III—Demonstration Projects and Studies

Title III extended the disability insurance program demonstration authority and calls for specific studies and reports, including a demonstration study of a \$1 reduction in benefits for every \$2 earned.

Strategic Partners—Public and Private

The Act contains numerous references to other agencies at the Federal, State, and local levels and to private sector service providers, all of whom are key partners in its implementation. Other Federal and State programs and systems may not be mentioned, but they represent obvious partners for SSA in employment services and supports. Effective collaboration among a wide array of partners will be critical to the success of the Ticket Program.

Under Title I—Ticket and Related Programs

Critical in the implementation and operation of employment support initiatives, claims processing, and disability benefit programs is the Office of Employment Support Programs (OESP), which is under the Deputy Commissioner for Disability and Income Security Programs (ODISP) and the Deputy Commissioner for Operations (who also manages the SSA's 10 Regional Offices, over 50 Area Offices, and 1,300 Field Offices). The OESP administers employment supports, including the Ticket Program, and selected Maximus, Inc., as the contract program manager to recruit rehabilitation providers as ENs. Area Work Incentive Coordinators (AWICs) in the Area Offices and Work Incentive Liaisons (WILs) in the Field Offices work within SSA to implement the Ticket Program, work incentives, earnings reporting, and other employment support programs and provisions. The Ticket to Work and Work Incentives Advisory Panel advises SSA, the President, and Congress on the implementation of the Act and on an array of work incentive programs across a number of Federal agencies.

The Act authorizes and SSA administers grants to State P&A systems. These grants are intended to help beneficiaries obtain information and advocacy services on issues related to receiving employment services and to work with all parties to resolve disputes. BPAO Programs are authorized by the Act and funded by SSA to provide benefits planning and counseling to beneficiaries and outreach and public education to communities on work incentives and employment supports for beneficiaries. State VR agencies, authorized by the Rehabilitation Act of 1973 and administered by the ED's Rehabilitation Services Administration (RSA), provide VR and a broad range of return-to-work services for SSA beneficiaries. Special Education at the State level, administered by the ED's Office of Special Education Programs, serves beneficiaries between the ages of 14 and 22 in school-to-work transition programs. One-Stop Employment Centers at the local level, administered by DOL's Employment and Training Administration, are specifically referenced in the Act as potential ENs, and the Centers typically include State VR agencies as One-Stop partners. Other parts of DOL, such as the Office of Disability Employment Policy, are involved in national public policy decisions that potentially affect beneficiaries returning to work.

Under Title II—Expanded Availability of Health Care Services

The CMS and State Medicaid agencies are partners in providing increased medical coverage for beneficiaries.

Other HHS agencies represent obvious potential partners. Agencies such as the Administration on Developmental Disabilities, the Maternal and Child Health Bureau, and the Center for Mental Health Services are authorized and funded to provide advocacy, residential, and employment support services to low-income individuals with disabilities, a large number of whom are from specific SSA beneficiary populations.

Under Title III—Demonstration Projects and Studies

SSA's Office of Program Development and Research, within the ODISP, conducts or commissions mandated demonstration projects and studies.

Other natural partners in this area include the ED's National Institute on Disability and Rehabilitation Research (NIDRR) and the Interagency Committee on Disability Research, as well as the Assistant Secretary for Planning and Evaluation in HHS, and the independent National Council on Disability. All undertake or coordinate research on people with disabilities, including SSI recipients and SSDI beneficiaries.

Finally, work and earnings impact many other programs that SSI and SSDI beneficiaries are eligible for, including public housing programs such as Section 8 and housing subsidies administered by the Department of Housing and Urban Development (HUD) and the Transit Subsidy Program administered by the Department of Transportation (DOT). Both of these program areas present profound opportunities for creating public policy partnerships and integrating service systems.

Annual Interim Report to the President and Congress—Year Four

Introduction

This fourth annual report of the Ticket to Work and Work Incentives Advisory Panel identifies issues and recommends improvements that affect a variety of important Federal and State programs mandated by the Act. These programs are administered by SSA and the Departments of Health and Human Services, Education, and Labor. They include the SSI and SSDI work incentive provisions, Workforce Investment Act and Rehabilitation Act programs, and the Medicaid and Medicare programs.

The Act, which passed by a vote of 99 to 0 in the Senate and by an overwhelming majority in the House of Representatives, represents a clear, bipartisan shift in the Nation's attitude toward the employment of working-age persons with disabilities and the contributions they can make to our economy and society. By passing this legislation, Congress recognized that a significant number of people who have disabilities and are eligible for SSI and/or SSDI desire to work. Congress also acknowledged that many national policies and procedures in a number of large Federal programs act as disincentives and barriers to work, preventing people with disabilities from even attempting to do so. Congress concluded that with the proper supports, many of these individuals would attempt to work, but that the appropriate services and supports were not available to help them make the transition. Finally, by passing the Medicaid and Medicare provisions in the Act, Congress recognized the critical importance of continuing health care for people who have disabilities and want to return to work.

Calendar year 2003 marked the beginning of the final stage of ticket rollout to the remaining 20 States. To date, almost 7 million tickets have been mailed to SSI recipients and SSDI beneficiaries in 13 Phase One, 20 Phase Two, and 20 Phase Three States, and all beneficiaries will have received their ticket by September 2004. The response from beneficiaries has been overwhelming and encouraging but troublesome at the same time; hundreds of thousands have called the national program manager, Maximus, and their locally listed ENs for information. During 2003, the Maximus Ticket to Work Web site www.yourtickettowork.com received 10 million hits. More than 1,200 ENs have applied for the Ticket Program, and 1,064 are enrolled, but only 386 ENs are actually serving beneficiaries. Although almost 39,500 beneficiaries have deposited their tickets, either with their current SVRA or with one of the EN providers (this is a threefold increase over last year), 90 percent have deposited their tickets with a SVRA and have not used other ENs that have enrolled in the program. Of the beneficiaries who have deposited their tickets, about 700 are in outcome payment status because of employment; however, the ENs who served 300 of these beneficiaries have not yet begun to receive payments from SSA.

Consumers have also continued to access SSA's two new grant programs. As of December 31, 2003, almost 100,000 beneficiaries had used the BPAO Program for information on benefits planning. Some 11,629 people had received services ranging from information and referral to legal representation from the PABSS Programs, which are operated by State P&A agencies. The Panel is pleased to note that SSA provided full funding for both of these programs in FY 2003, but is nevertheless concerned that these vital programs have yet to be adequately funded.

States that have opted for the Medicaid Buy-In Program are now positioned to address lack of access to health care as a barrier to employment. Forty-two States and the District of Columbia are receiving the Medicaid Infrastructure Grants authorized under the Act, and 27 States now have operational Medicaid

Buy-Ins, enacted under the authority created both by this Act and by the Balanced Budget Act. More than 60,000 people with disabilities are working in the 27 States participating in the Medicaid Buy-In Program. At least 5 other States (Louisiana, Nevada, North Dakota, Michigan, and West Virginia) have approved legislation to establish such a program.

Further, SSA continued to issue regulations to implement provisions of the Ticket Program and to clarify implementation practices. In July and October 2003, respectively, final rules to eliminate sanctions for refusal of VR services and proposed regulations on expedited reinstatement (section 112) were published. In August 2003, a Notice of Proposed Rule Making (NPRM) on the Continuation of Benefits to Certain Individuals Who Are Participating in a Program of Vocational Rehabilitation Services, Employment Services, or Other Support Services was issued. SSA is also drafting regulations on exemption of work activity as a basis for a CDR and reports considering proposed rules that would revisit several areas of the final rules published in December 2001 for the Ticket Program, including eligibility, State VR participation, and provisions related to EN payment rates and processing. Development of regulations will be a significant and ongoing SSA activity during the next several years of Ticket Program implementation and evaluation. The Panel will continue to provide input into the policy process and to review and provide our best advice to the Commissioner of Social Security as regulations are developed.

The information provided so far is encouraging, but the Panel has serious concerns about a number of important implementation issues that surfaced this year and/or continue to exist. We discuss these issues in this report and believe that if they are not addressed immediately by the appropriate authorities (the President or the Commissioner and Congress), they will effectively eliminate the work incentives and employment supports mandated under the Act and undermine the employment efforts of SSI and SSDI beneficiaries across the board. Inaction will deter the future use of these programs and other employment support programs at SSA and elsewhere, and, indeed, the very existence of the Ticket Program is threatened. Neglecting to address these problems would label the Ticket Program a failure without its ever having had a chance to succeed.

SSA has failed to market the Ticket Program to beneficiaries, most of whom remain confused about what a ticket is and why they might want to use it. The Panel also believes that SSA has failed to engage enough ENs for the Ticket Program and has failed to support the ones that have enrolled. Enrolled ENs are serving only a fraction of the beneficiaries thought to be interested in participating, and although approximately 1,100 providers have enrolled, only about one-third have accepted tickets and are serving beneficiaries.

Finally, an overwhelming number of tickets, approximately 90 percent, have been assigned to SVRAs. It appears that the fundamental principle enacted by Congress in this legislation, that of allowing beneficiaries to choose providers, is not a priority for SSA. The Panel urges Congress and the Commissioner of Social Security to give immediate attention to the very real problems affecting EN participation and the Ticket Program. Over the past 4 years, the Panel has made a number of substantive recommendations to the Commissioner, the President, and Congress. (See appendix B for a sampling of Panel correspondence and policy letters and appendix C for a full compendium of recommendations and policy or legislative responses.) Although some of these recommendations have been addressed, several have not. The Panel is fully aware of the budget cuts, limitations, and fiscal constraints Federal programs face, particularly those in SSA's field operations and program administration. For this reason, we believe it important to note that when Congress authorized SSA to administer the programs and

projects under the Act, it did not designate additional administrative funds to support and develop these new systems and programs and to administer the new activities and procedures necessary for startup and operation. Funding for these activities has had to compete with every other claims processing and customer service priority for scarce administrative resources. This situation has not gotten any better; in fact, competition for administrative dollars will intensify this year and in the coming years. The President's budget request for SSA administrative funding in FY 2004 was reduced by more than \$160 million. Experts predict that this situation will get worse with the coming retirement of the baby boomers. Critical Ticket Program functions, employment support program operations, and administrative supports are in jeopardy because of the obvious lack of financial and administrative support for them.

Implementation Issues

The Panel has received regular updates on implementation from SSA and CMS officials and has invited a variety of field professionals, constituents, and other experts to share their knowledge and opinions. During 2003, the Panel also provided Social Security beneficiaries, employment services providers, advocates, and grantees with extensive opportunities for public input. SSA updates, expert briefings, research, and ongoing public comment from beneficiaries, advocates, employment service providers, field experts, and grantees have raised a number of serious implementation and policy issues. The Panel has studied and prioritized these issues and will next discuss them in detail.

EN payment issues: The most significant problem contributing to low EN participation is the payment system. We see this as the most urgent issue requiring attention. According to a recent evaluation of the Ticket Program, ENs face significant difficulties with program implementation because of problems with the EN payment structure (Thornton et al., 2004). The evaluation team interviewed eight of the most successful ENs, determined by numbers of tickets assigned and payments received. All of them said that they were losing money on the Ticket Program. Despite the fact that all of these ENs had thriving, well-thought-out programs and had experienced some success in placing beneficiaries in employment, the situation looked fairly bleak. The evaluators conclude that the problem is so serious that many of these ENs will not be able to continue as providers unless circumstances change dramatically. On the basis of public testimony, the Panel believes that the dire situation faced by these ENs reflects that of most ENs enrolled in the Ticket Program.

In February 2004, the Panel issued a Ticket Program report to Congress and the Commissioner titled *The Crisis in EN Participation: A Blueprint for Action*, which presented specific analysis and recommendations on important and timely issues. (See appendix D for the Executive Summary of this report.) The following section, based on the report, highlights three fundamental problems that discourage the active participation of many providers.

Financial risk: Three aspects of the payment system appear to impose significant risk on providers. First, it requires ENs themselves to provide the capital to serve beneficiaries, while simultaneously requiring them to wait a relatively long time before they can recoup their costs. Most service models offered by ENs entail more intensive services early on (e.g., during the first year) and less intensive services over time. Second, the current payment system requires providers to wait 60 or more months to recoup full payment, introducing significant risk because, over time, more and more factors outside the provider's control will affect the likelihood of the beneficiary's employment (e.g., changes in health status, living arrangements, and labor market dynamics). The payment system, which involves equal

outcome payments over time, does not recognize this increased risk to providers. Third, the risk is not equitably shared between ENs and SSA. ENs receive only 40 percent of the average expected savings to SSA but bear nearly all of the costs associated with generating those savings.

Tom Foran, CEO, Integrated Disability Resources, Inc., public testimony, February 2004

“In order to survive any longer, we cannot work with anyone on SSI. We just flat out cannot do it. Last year, the monthly payment for an SSI client was \$167. It cost us almost that much to get paid—just to get paid, not to provide the services, not to place anybody; to get the actual payment, it cost us almost that much.”

Payment for all work outcomes: During the past 20 years, Congress has adopted several work incentives that enable SSI beneficiaries to retain Social Security and medical benefits while working. For example, the \$1 for \$2 income benefit offset enables people to receive benefits while earning a monthly net income of almost \$1,200. Many SSI beneficiaries must retain some level of benefits to live independently in the community, either because they will never earn enough to be self-supporting or because they use Medicaid funds for personal assistance services or adaptive equipment that they cannot obtain through private insurance. Beneficiaries who use these work incentives may remain on cash benefits longer than they would have without the incentives, or they may never entirely leave the benefit rolls. Because ENs are paid in full only when the beneficiary receives zero cash benefits, they face a higher risk of not receiving payment for the services they provide and, consequently, are less likely to serve SSI beneficiaries at all. The Panel has heard testimony repeatedly to this effect. In addition, the eight ENs interviewed in the Ticket Program evaluation (Thornton et al., 2004) agreed that they deserved some payment for the work they had done to get SSI recipients back to work, even though those recipients were still receiving cash benefits.

The Panel raised this issue in its Year Two and Year Three Annual Interim Reports to the President and Congress. Beneficiaries who reduce their dependence on SSI not only reduce costs for the program, but also return a portion of their earnings in taxes and FICA (Federal Insurance Contributions Act) payments. ENs should have incentives to work with all beneficiaries who have some earnings potential, regardless of whether they can earn enough to completely leave the benefit rolls. One solution is for SSA to develop a payment schedule for ENs that helps beneficiaries find employment and reduces but does not eliminate their SSI payment.

Lower payments for SSI recipients: The lower payment to ENs for serving SSI-only recipients relative to SSDI beneficiaries is problematic for several reasons. First, it is widely accepted that SSI-only recipients, on average, will be more difficult to place in long-term employment than SSDI beneficiaries. The combination of limited work histories, low skill levels, and severe physical and/or cognitive impairments makes SSI-only recipients more difficult to serve. Because of this fact and because EN payments for SSI-only recipients are lower relative to those for SSDI beneficiaries, SSA has created a strong incentive for ENs not to serve SSI recipients. The EN payment system neither recognizes that there are immediate savings to the SSI program when a recipient goes to work even at relatively low levels of wages nor rewards ENs accordingly for partial success. Reforming the EN payment system to provide payments earlier in the process and to ensure adequate funding so ENs are willing to serve a

wide range of beneficiaries who want to work has been recommended by the Panel in its past three annual reports. The Panel continues to believe that it is imperative for SSA to move quickly to enhance the payment system to make it more attractive to ENs. To delay further will significantly jeopardize the success of the Ticket Program and the credibility of the Commissioner's commitment to support return-to-work efforts.

The Panel recommends that, if necessary, Congress immediately amend the statute to permit the Ticket Program to increase the sum of payments available for serving SSI recipients to equal the sum of payments available for serving SSDI beneficiaries.

The Panel recommends that Congress clarify the language in the statute that permits payments to ENs to be set at a level greater than 40 percent of average benefits for both SSDI and SSI beneficiaries and authorize the Commissioner to increase EN payments for beneficiaries of both programs.

The Panel recommends that Congress direct the Commissioner to immediately modify the EN payment system to move more of the payment into the first 12 months of employment and reduce the difference between milestone and outcome payments. Congress should direct the Commissioner to test two or three creative approaches that place more of the up-front financial risk on SSA, but that, if successful, could significantly increase Ticket Program participation by both ENs and beneficiaries, thus increasing long-term savings to the SSDI Trust Fund and decreasing General Fund expenditures.

The Panel reiterates its previous (2001) recommendation to Congress to authorize benefits reduction that results in other than zero benefits not only as a successful employment outcome but also as a reasonable way of accruing additional savings to the Trust Fund.

EN Payment Processing

The financial risk and working capital problems we have noted are compounded by two factors associated with submitting and processing EN claims: the long-term tracking of beneficiary earnings and the long processing delays. SSA's requirement that ENs provide long-term proof of earnings after a Ticket Program beneficiary is no longer in cash payment status is highly problematic. The eight ENs interviewed (Thornton et al., 2004) cited difficulties obtaining acceptable documentation of workers' earnings, obtaining approval for payment requests, and receiving the payments owed.

The policy of having ENs ensure that beneficiaries submit the appropriate documentation of earnings on a monthly basis is labor intensive and administratively burdensome. The problem is compounded by the fact that beneficiaries who are successfully employed have little or no incentive to cooperate with EN providers. Even when proof of earnings is obtained from beneficiaries, there are often long delays in processing EN claims for payment. The delays stem from a variety of sources, including EN misunderstanding of the process, missing or inadequate earnings information on beneficiary pay stubs,

and the need for SSA to verify and adjust past and current benefits based on the information submitted. ENs have reported waiting as long as 120 days to receive payment on a claim (Livermore et al., 2003).

SSA recently modified the payment claims process to address the issue of monthly earnings tracking and, to some extent, payment delays. Under certain circumstances, an EN need only submit a quarterly statement indicating that the beneficiary's earnings have not declined. The Panel is pleased that SSA has moved to quarterly submissions and will monitor the impact of this change on ENs. However, we are concerned that SSA will make quarterly rather than monthly payments based on these statements and retroactively validate them. Small ENs without significant working capital report that they will have difficulty waiting for a quarterly payment.

The Panel recommends that Congress immediately direct the Commissioner to change the EN payment claims process so that once a beneficiary has been certified as employed above the SGA level or leaves cash benefit status, the EN should continue to be paid monthly as long as the beneficiary remains in zero benefit status and the EN has not yet received 60 months of outcome payments or until the beneficiary requests a new EN. Moreover, the payment claims processing system should be refined to ensure timely payments to ENs within a businesslike time frame, such as 30 days.

Marketing of the Ticket and other Provisions

In its Year Two and Year Three Annual Interim Reports, the Panel urged Congress to direct the Commissioner to increase public awareness of the Act through an immediate, coordinated national marketing and public information effort that would explain to the general public, providers, and employers the array of programs and work incentives authorized under the Act and related legislation. Currently, beneficiaries are informed only once about the Ticket Program and may not be informed at all about other provisions and work incentives. The only information or marketing material most beneficiaries receive is a letter describing the program when the ticket is being rolled out or when they first become eligible for benefits.

Beneficiaries apply for SSA benefits because they believe that they are unable to work. Many times it takes months for their claim to be decided and for them to receive benefits. Given their physical and emotional states, many beneficiaries who have been through the typically long and arduous process to obtain benefits will need more outreach from the Ticket Program. To shift their thinking to employment, many beneficiaries will need time and good, ongoing information. The Nation is spending millions of dollars on the public information and marketing campaign for the new Medicare Drug Discount Program. Operating a truly effective Ticket Program and employment support program could require a similar investment. In fact, the demand for tickets is beginning to diminish in the Phase One and Phase Two States, and many providers and advocacy groups are asking for another letter or contact by SSA to encourage beneficiaries to use the programs.

The Ticket Program evaluation conducted by Mathematica Policy Research, Inc. (Thornton et al., 2004), found that the number of calls ENs received from beneficiaries about the Ticket Program dwindled significantly a few months after the ticket rollout in their State. This drop greatly concerns the Panel. A number of ENs have left the program because of the lack of demand for their services.

SSA recently issued two contracts to support marketing efforts. The Employment Network Review Project will review and analyze available information about EN attitudes and experiences, collect supplemental information about EN needs, identify barriers to participation, and recommend ways to remove those barriers. The second contract, Strategic Marketing Plan and Implementation, will develop and implement a marketing plan aimed at each of the Ticket Program's primary stakeholders: providers, beneficiaries, and employers.

The Panel is pleased that the Commissioner appears to have begun implementing the Panel's recommendations on marketing. Although these are very positive steps, we remain concerned that the next year or two will be devoted to planning instead of actually marketing the Ticket Program. Extensive planning will delay implementation of a national marketing plan even further. It is reasonable to assume that marketing would occur, not after, but before or during, the rollout of a new program, as is the case with the new prescription drug benefit.

The Panel recommends that the President and Congress direct the Commissioner to immediately implement a strong, national marketing program and to engage the Panel in its marketing efforts, consistent with its advisory role. The Panel further recommends that Congress designate adequate resources for this campaign.

The Panel recommends that the President and Congress direct the Commissioner to inform beneficiaries about the Ticket Program at least once a year.

Employment Support Infrastructure

In its Year Two and Year Three Annual Interim Reports, the Panel recommended that SSA implement its legislative mandate to "establish a corps of trained, accessible, and responsive work incentives specialists within the Social Security Administration who will specialize in disability work incentives under titles II and XVI" (Subtitle C, section 1149(a) (2) (C). Although the Commissioner has taken significant and positive steps during the past year to implement this mandate, the Panel still has a number of concerns.

SSA has hired 58 staff who will work full-time as AWICs, that number to be expanded up to 70 as the need arises. Each AWIC will manage and coordinate the dissemination of information on work incentives and public outreach and provide expertise on ticket-related and other work incentives to 20 to 30 Field Offices. Additionally, each of the more than 1,300 Field Offices has designated an existing staff person as a WIL. During the May 2003 quarterly Panel meeting, Deputy Commissioner Linda McMahon outlined SSA's plan for training the internal corps of work incentive specialists. The plan included a "fan down, train-the-trainer" approach to increasing knowledge about work incentives among SSA staff. The AWICs received 2 weeks of training during the summer of 2003 and in turn provided a 4-day training course for the WILs to initially equip them for their positions. The AWICs are also responsible for providing ongoing training in the Field Offices in addition to acting as the resident experts for everyone in the area. According to Deputy Commissioner McMahon's presentation, all front-line SSA staff, including teleservice and claims representatives, will receive a 4-hour training session on SSA work incentives, although we have received no update on the status of this training.

The AWICs are supposed to serve as the focal point for SSA's work incentive efforts. They will provide outreach to advocacy groups and undertake other community education activities and will also provide

ongoing technical assistance to the WILs. The WILs will continue to receive work incentive responsibilities in addition to their existing duties and will serve as a resource to all front-line Field Office staff. SSA officials have taken the position that “return to work” is the job of every SSA employee.

The AWICs provide dedicated, full-time work incentive specialists as recommended by the Panel, and we commend the Commissioner for attempting to initiate this culture change and paradigm shift by creating the AWIC position. SSA’s obligation to provide quality employment support services at the field level has been long overlooked, and the Panel is very pleased to see such positive movement forward. At the same time, the Panel has concerns about several aspects of SSA’s current plan.

For example, the Panel believes that the number of AWICs is not large enough to handle all of these responsibilities. All return-to-work efforts, particularly the Ticket Program, will fail unless SSA provides timely, accurate, and meaningful information about work incentives, earnings reporting, work CDRs, and related issues to hundreds of thousands of beneficiaries and their families and to the providers that want to serve them. Under SSA’s plan, the AWICs will provide expertise to Field Offices, spearhead public education efforts, and undertake other activities to provide timely and accurate information about SSI and SSDI work incentives. The Panel strongly believes that the number of AWICs should be increased.

We continue to receive testimony at every meeting, in letters, and through other sources that SSA Field Office staff—including the WILs who have been expressly trained for this task—are giving beneficiaries inaccurate information about the Ticket Program and a variety of other work incentives and earnings reporting requirements. For example, one woman was told that she could not use her ticket to reach her goal of self-employment; another was told that the Ticket Program was similar to the Plan for Achieving Self-Sufficiency (PASS).

At its February 2004 quarterly meeting, Panel members heard testimony that many of the AWICs and WILs consider themselves specialized in only one program area (SSI or SSDI) and often have to rely on the expertise of someone else to deliver effective content outside their area of expertise. Where does this leave dually eligible persons? The Panel is also concerned that, historically, the WIL position has experienced a high turnover rate. Although the initial training issues have been addressed by this approach, a plan for handling turnover and training new staff has not been presented. The Panel understands that undertaking training in hundreds of offices across the country and realizing its full benefit may take some time. In keeping with this very large task, a plan to measure the effectiveness of the work incentives training and the impact on the quality of information provided to beneficiaries should be immediately developed. A quality assurance program would ensure that beneficiaries receive accurate information and that SSA’s approach to providing such information is working effectively.

The training period for AWICs is not long enough to provide the technical expertise needed. The employment service representatives (ESRs), who served as the former work incentives specialists, received 6 weeks of training and were widely viewed as experts on SSA work incentives and other employment provisions. Training for AWICs should be comparable. Fortunately, many of the AWICs received the 6-week intensive ESR training; however, this makes it difficult to ascertain whether their expertise resulted from the initial ESR training or from the subsequent AWIC training. The WILs also do not receive enough training to prepare them for their role. A 2-week program is probably more appropriate for giving them the information they need. The Panel recognizes, moreover, that the failure

to implement some of these recommendations stems from the meager financial resources SSA receives to administer the programs under this Act.

A final training issue is the lack of information being provided to consumers about their rights under the PABSS Program. The Panel is disturbed that beneficiaries are not being told about their right to advocacy under this vital program. Another problem is that beneficiaries sometimes assign their ticket to a SVRA that fails to turn it into Maximus. Because the ticket was never officially assigned, SSA proceeds with a CDR and the beneficiary is found ineligible for benefits. These beneficiaries have also been told that they are not eligible for PABSS services because they are no longer beneficiaries. This is not accurate. Training for SSA staff and ENs should stress the importance of informing beneficiaries at every point of contact and on multiple occasions about the PABSS Program and the services it provides.

The Panel recommends that Congress designate funds and direct the Commissioner to increase SSA's efforts to provide accurate and timely information on the Act and on other work incentives available to SSI recipients and SSDI beneficiaries. Specifically, the Panel recommends that Congress provide funding for the Commissioner to

- 1. Implement a quality assurance program to ensure that information on the Ticket Program and other work incentives is accurate and timely. The program should include the collection of baseline data on the accuracy of information consumers receive and the establishment of benchmarks to measure whether beneficiaries are receiving timely and accurate information.**
- 2. Increase the number of AWICs.**
- 3. Provide AWICs with a full 6 weeks of training.**
- 4. Increase the training available to WILs to 2 weeks.**
- 5. Conduct a study to ascertain the turnover rates for AWICs and WILs and incorporate findings into the quality assurance plan mentioned earlier.**

Increased Funding for the BPAO and PABSS Programs

The Act established the BPAO Program to help beneficiaries who want to return to work negotiate the complex web of Social Security work incentives and other Federal, State, and local public benefits. Since its inception, 511 benefits planners have given information to more than 99,361 beneficiaries or helped them navigate these complex processes and plan to go to work. Approximately 58,000 (58 percent) of these individuals say that they intend to find a new job or increase their work hours (National BPAO Data System, 2004).

According to a customer satisfaction survey of 1,764 beneficiaries who received services from a BPAO provider, participants had a very positive view of the program, with 89 percent of them rating it as excellent, very good, or good. In addition, benefits specialists received positive ratings from more than 90 percent of participants for the quality of the counseling services provided. Ratings reflect the specialist's courtesy, the time spent with the beneficiary, helpfulness, and the information given. Furthermore, those reporting work activity indicated that benefits counseling had a positive impact in

this area. Before receiving such counseling, 28 percent of participants indicated that they were working. The percentage reporting that they were working after their contact with the BPAO was 47 percent, an increase of 19 percentage points.

In addition, States are just beginning to report data on positive outcomes for beneficiaries who receive BPAO services. For example, beneficiaries who receive BPAO services in New York become employed at a higher rate and stay employed for more quarters than those who do not (New York State Department of Labor, 2003).

Vermont just released findings that beneficiaries who were attempting to go to work and received benefits counseling increased their earnings by \$225 per quarter more than beneficiaries who did not receive counseling or who were members of a historical control group (The Impact of Specialized Benefits Counseling Services on Social Security Administration Disability Beneficiaries in Vermont, accepted for publication in the *Journal of Rehabilitation*).

According to beneficiaries and State service delivery systems, there are still not enough benefits planners to address clearly documented needs. In some areas, the fact that people have to wait weeks for initial appointments may discourage them, or the appointments may take place too late to help them. In many other areas, people do not have access to a benefits planner at all because of limited numbers of grantees and current funding levels.

The PABSS Program, authorized under the Ticket Program, has also proven essential in helping beneficiaries return to and maintain work. During the 2003 funding cycle, PABSS Programs provided information and advocacy services to some 11,629 people. With an expanded scope of services allowable in June 2003, P&A grantees have greatly increased their ability to assist beneficiaries. Receiving an overpayment, or the mere possibility of receiving one, can be a significant deterrent to attempting work. Beneficiaries who receive an overpayment because of work are very likely to discontinue employment and return to the rolls. Advocacy on behalf of beneficiaries who receive overpayments is critical to helping them continue to work and maintain their independence. After the restriction was lifted, PABSS assisted 99 beneficiaries with overpayment issues in 2003.

The Panel is pleased that Congress chose to reauthorize these valuable programs, whose value is more and more evident. The Panel has heard from a number of State program representatives, EN providers, and others that the current authorization level is not high enough to meet the need. Many of the programs already have waiting lists, and most are simply unable to conduct the outreach and provide the services in the geographic areas they are expected to cover. Current funding levels are \$23 million for the entire BPAO Program and \$7 million for the PABSS Program, with most States receiving only \$100,000. This funding is simply not sufficient to meet the demand and the documented need for these direct customer service programs.

The Panel recommends that Congress fund the BPAO and PABSS Programs at the following levels:

- 1. Increase funding for the BPAO Program to \$46,000,000.**
- 2. Increase the minimum amount of each State grant for the PABSS Program to \$200,000, and increase funding for the program as a whole to \$14,000,000 per FY.**

Cooperation between EN Partners

The Act directs coordination and collaboration among programs administered by SSA, ED, HHS, and DOL. In addition to Social Security programs, the Act references Rehabilitation Act programs, Workforce Investment Act programs, and the new State Medicaid Buy-In Program and Medicaid Infrastructure Grants. The Presidential Task Force on Employment of Adults with Disabilities was established to coordinate employment programs for people with disabilities across the Federal Government through joint policy memoranda, joint grants to the States, and other collaborative activities. Since this initiative ended, the Panel has observed little coordination among the various Federal agencies at a national policy level or at the service delivery level. Significant problems with coordination under the Act are surfacing, and questions arise: For example, what DOL One-Stop Program services would a ticket holder be eligible for if the One-Stop Program is not an EN and the beneficiary has deposited his or her ticket elsewhere? Can Medicaid funds be used to provide services to Ticket Program–eligible beneficiaries seeking employment? Can Medicaid-type services be covered under the Ticket Program, and, if so, what prevents Medicaid agencies from replacing traditional Medicaid services funds with Ticket Program funds? Negative decisions on these and other issues can limit the participation of consumers and ENs in the Ticket Program.

An immediate and serious example of this problem is the tense relationship between the SVRAs and ENs in implementing the Ticket Program. On balance, there has not been a productive integration or melding of the rehabilitative expertise of SVRAs with the flexibility and community-based support services of ENs. There are several policy and procedural problems—SSA’s subregulatory guidance in Transmittal 17, questionable and inappropriate agreements between SVRAs and ENs, and SVRA interpretation of the ticket as a comparable service and benefit under the Rehabilitation Act—all of which affect the quality of services under both programs. If left unresolved, these problems will undermine the Ticket Program. The Panel has communicated its concerns to SSA and the RSA verbally and in writing. Next, we discuss each of these problems.

Transmittal 17—Vocational Rehabilitation Providers Handbook, September 3, 2002: The SSA issued Transmittal 17, which provides SVRAs with policy guidance on VR clients with tickets. Transmittal 17 states that the signature of the VR client on the Individual Plan for Employment (IPE) constitutes assignment of the ticket in new cases. This can, and many times does, occur without the client’s knowledge or consent. It is possible to follow this procedure while fully informing the client that signing the IPE automatically assigns his or her ticket to the SVRA. However, it seems to be the perception of many agencies that signing the IPE automatically assigns the ticket, even if there has been no provision to ensure the client’s knowledge or consent. At the same time, in a December 2003 letter, RSA asserted that an SVRA that follows the SSA guidance without fully informing the client of the implications of the IPE signature would violate the informed choice provisions of the Rehabilitation Act.

The Panel agrees with RSA that automatic and uninformed assignment is contrary to the fundamental principles of both pieces of legislation. Ticket assignment should be completely separate from the development of an IPE with an SVRA, and an individual’s assent to one program should not be considered consent for participating in the other. A primary goal of the Act was to provide beneficiaries with real choices between employment service providers. An equally important goal was to expand the pool of providers far beyond SVRAs. A beneficiary who is not informed of what is happening to his or her ticket is being denied a choice, and, furthermore, non-VR ENs are being denied an opportunity to compete to provide services to the client. This effectively eliminates competition among providers.

In addition, the question of when an SVRA can receive payment under the cost reimbursement system seems to be a matter of discussion between SSA and RSA. Transmittal 17 permits SVRAs to use the traditional cost reimbursement system for a client who assigns his or her ticket. However, the statute permits an SVRA to elect to receive payment under the traditional cost reimbursement program only when the State agency decides that the beneficiary will not participate in the Ticket Program (section 222(d) of the Social Security Act). Moreover, the Act states that if the SVRA accepts the beneficiary's ticket, it must be paid under one of the outcome-based payment systems, accepting the same risks and rewards as other ENs. Transmittal 17 is inconsistent with the statute both with respect to the uninformed use of a signature on an IPE to assign the ticket and the use of the VR cost reimbursement program for beneficiaries. In the December 2003 letter, RSA requested clarification from SSA on the statutory basis to support the removal of traditional cost reimbursement as an appropriate payment option in cases in which a person is a consumer of VR services but his or her ticket is not assigned to the VR agency.

State VR and EN agreements: The Panel has received extensive public input, confirmed in the report titled *Evaluation Design for the Ticket to Work Program* (Livermore et al., 2003), about problems with a number of agreements between SVRAs and ENs. The agreements vary greatly from State to State and can significantly affect the number and variety of ENs choosing to participate. Many ENs know that they cannot afford to pay for front-loaded, high-cost services, but they could serve clients requiring such services if they could make referrals to an SVRA. For this reason, an organization will have much less of an incentive to sign up in a State that has an agreement unfavorable to ENs.

The inconsistency and unfairness of such agreements is resulting in lower participation by ENs in the Ticket Program and thus limiting consumer choice. The Panel is pleased that RSA has recently agreed to provide guidance that State agencies can use in developing an agreement with an EN that refers a Ticket Program participant to the SVRA. Although realizing that each SVRA is a State entity and is thus free to enter into agreements as it sees fit, the Panel hopes that RSA will design guidance that enables SVRAs and ENs to collaborate as true partners in the Ticket Program.

Comparable services and benefits: In May 2003, the Panel asked RSA for an interpretation of how the comparable benefits provision, a statutory requirement under the Rehabilitation Act, affects the Ticket Program. This provision is designed to prevent duplication and waste, requiring that an SVRA ensure that these services are not available through any other program before providing them to an individual.

RSA has provided guidance to SVRAs that the Panel finds very problematic. Before the Ticket Program, SSA beneficiaries were presumed to be eligible for Rehabilitation Act Title I services. Since the Ticket Program was initiated, it is reported that some SVRAs have used the comparable benefits provisions of the Rehabilitation Act to deny eligibility to Social Security beneficiaries. In negotiating agreements with ENs, SVRAs have exacted more favorable terms under which Title I services would be provided. We believe RSA's application of comparable services and benefits provisions to Ticket Program participants is contrary to the intent of Congress in passing the Act, as well as the intent of the Rehabilitation Act itself. In the Ticket Program, Congress voted for increasing variety and choice in rehabilitative and employment services. The Panel is convinced that Congress did not intend to make people with disabilities ineligible for Title I VR services by making them eligible for Ticket Program services from ENs.

The Panel recommends that Congress clearly articulate its intent that the Ticket Program's outcome and milestone payments should provide *additional* resources to help beneficiaries

attain and retain employment; in effect, Congress did not intend to make beneficiaries ineligible for the full range of services from VR programs, Medicaid, or other Federal and State programs by making them eligible for the Ticket Program.

The Panel recommends that the President and Congress direct the Commissioner to implement the Ticket Program as a complement to the traditional SSA VR Reimbursement Program, reimbursing State agencies for up-front services and early employment outcomes and paying ENs for long-term employment supports and outcomes.

The Panel recommends that the President direct the Secretaries of ED, DOL, and HHS and the Commissioner of Social Security to provide leadership to increase the level of cooperation on implementation of the Act and true integration of services so that these agencies will approach the relationship tensions with a sense of shared purpose.

Specifically that —

- 1. The President direct these agencies to report back to the White House in 6 months on concrete steps they have taken to resolve the long-term, systemic issues that have arisen during implementation of the Act.**
- 2. The President direct the Commissioner of Social Security to amend Transmittal 17 to end the current use of the signed IPE as documentation needed for assignment of a ticket for a new case. Assignments should occur only through an informed action on the part of the beneficiary, such as completion of Form SSA-1365.**
- 3. The President direct the Commissioner to make cost reimbursement payments available to a SVRA only when it indicates that it is not participating in the Ticket Program with a beneficiary.**
- 4. The President direct RSA and SSA to provide clear, joint guidance on the development of SVRA-EN agreements and to develop a model agreement for distribution to ENs and SVRAs. SSA and RSA should work together to ensure that SVRA-EN agreements provide full opportunities for ENs to participate and work cooperatively with the SVRAs in the Ticket Program.**

Field Training and Technical Assistance

The Federal training of beneficiaries and service providers about employment and health support programs mandated by the Act is inadequate. A number of public comments received by the Panel and the direct experience of individual members indicate that collaborating agencies know little or nothing about the Ticket Program, work incentives, or the other new programs and projects authorized by the Act, such as the Medicaid Buy-In and BPAO Programs.

The Act calls for a philosophical shift in providing employment supports for SSI and SSDI beneficiaries who want to work. For this effort to succeed, Federal, State, and private entities must be partners. An intensive and comprehensive training plan for all of these partners is crucial. The Panel believes that the resources dedicated to training and technical assistance are grossly inadequate.

Theresa Devlin, Social Security beneficiary, public testimony, February 2004

“In August 2002, I decided to attempt to return to work, despite a chronic mental illness disability. My DVR counselor asked for my Ticket to Work, which I gave her. I asked her to explain the benefits of the program. My counselor was unable to explain the program and informed me that there are no benefits for SSI recipients, but she was required to collect the ticket from me.

I am proud to report that on February 20, 2003, I was hired by the organization where I work to this day. In June 2003, I also received a notice of continuing disability review in the mail from SSA. I was apprehensive about receiving the CDR at that time, because I had not been working long and I feared I would lose SSI and Medicaid eligibility. Despite these fears, I complied with the requirements of the CDR, filled out the paperwork, signed the releases, and returned the CDR. I learned in October 2003 that one of the benefits of the Ticket Program is exemption from CDRs. I contacted Maximus and learned that my ticket had never been assigned by DVR. Now I am working and DVR cannot assign my ticket because my case is closed. I am not eligible to appeal the decision because, supposedly, my ticket was never assigned. I have contacted multiple agencies and been unable to resolve this problem. I fully complied with all aspects of the Ticket Program, and yet I am being denied access to the program and its benefits.”

Additionally, there appears to be a significant lack of training, technical assistance, and information available to ENs. Maximus has developed and provided training modules for ENs, but the materials cover only the administrative and procedural aspects of participation. Existing technical assistance and training resources appear to be inadequate, piecemeal, uncoordinated, and of varying quality. In particular, there are no coordinated ways for ENs to identify and share best practices or to obtain information about existing resources that might help them serve beneficiaries.

The Panel recommends that Congress direct the Commissioner to work closely with other Federal and State systems to develop and implement a national training plan. Congress should designate the additional funds needed for training and technical assistance to support the successful implementation of all work incentives and employment support programs and projects authorized by the Act and other relevant legislation.

CDR Protection

The Panel is encouraged that Congress chose to include in the Act a provision extending continuation of benefits protection to beneficiaries who attempt to work using a variety of service providers beyond SVRAs. The Panel continues to hear testimony from beneficiaries, BPAO Programs, ENs, and other sources to confirm that the fear of losing benefits through a CDR because of attempting to work is also a powerful disincentive. It keeps many from making even an initial attempt to work. SSA has released an

NPRM on the Continuation of Benefits to Certain Individuals Who Are Participating in a Program of Vocational Rehabilitation Services, Employment Services, or Other Support Services, as required by the Act. Subsection (a)(4) states that a beneficiary participating in “a program of vocational rehabilitation services, employment support services, or other support services, which is carried out under a similar, individualized, written employment plan with another provider of services approved by [SSA]” is eligible for the continuation of benefits described in this rule. The rule provides that if a CDR is conducted with a beneficiary participating in an approved rehabilitation plan, including an individual work plan (IWP) under the Ticket Program, benefits will not be terminated. Although the individual still receives cash benefits while participating in the rehabilitation program, benefits would be terminated as soon as the beneficiary completes the program.

The Panel is pleased with this change; when it is codified by the rules in this NPRM, part of the fear of initiating a CDR will be removed. However, the change does not go far enough because the CDR could result in loss of benefits as soon as the plan is completed. The protection should be further expanded to eliminate CDRs as long as the individual participates in an approved rehabilitation program.

The Panel recommends that Congress extend the CDR protection currently available to participants in the Ticket Program, under section 101(a), subsection (i), of the Act, to any and all beneficiaries who are participating in an approved program of VR, employment, or other employment support services designed to lead to SGA and competitive employment.

Youth Issues

In its deliberations this year, the Panel continued to emphasize youth with disabilities and their transition from school to work. The Panel commends SSA for the steps it has taken in this area, such as the Youth Preparing for Tomorrow Conferences and demonstration transition programs targeted to help youth with disabilities find employment. But we still have several concerns, based on deliberations, public testimony, and review of research reports:

Training and outreach to youth and their families: The Panel is concerned that outreach and training on Ticket Program and other work incentives available to youth and their families are not reaching most young SSI recipients. If the cultural expectation of unemployment for people with disabilities is to change, we must begin with youth. The Panel applauds SSA’s efforts in this regard, but much more must be done to encourage young people with disabilities to attempt work rather than begin a lifelong dependency on benefits. The Panel urges the Commissioner to develop agency-wide training programs and to fund external programs to provide pro-work information and outreach to youth and their parents. SSA could provide additional funding through demonstration projects to BPAO grantees or Parent Training Information Centers or fund a new mechanism for delivering the training. Another option is an interagency agreement between SSA and ED to provide SSI work incentive training within the transition planning process. The Panel also feels that every claims representative should be working with SSI youth recipients and educating them about work incentives such as PASS.

Age of mandatory redetermination: All children under 18 who receive benefits under the SSI program face a mandatory redetermination at age 18. The Panel believes that conducting the redetermination at that age is inappropriate because children do not complete their physical and mental development until age 22 and because it is inconsistent with every other Federal law that defines disability differently for

children and adults. For example, a student with a disability is entitled to special education services until age 22; a child's disability must have begun before age 22 to qualify for services under the Administration on Developmental Disabilities or to qualify as a "disabled adult child" under SSDI.

In calendar year 2002, 54,932 redeterminations were completed, resulting in cessation of benefits for 32,388 beneficiaries (58.9 percent). However, after all appeals were exhausted, only 26 percent of beneficiaries were determined ineligible (appeals are still pending in 9.5 percent of the cessations). The Panel is aware of the cost implications and intends to ask the SSA Office of the Actuary for a projection on this recommendation. This policy change makes sense, is sound public policy despite the costs, and is cost-effective in the long run because it enables youth with disabilities to obtain valuable work experience. This policy will enable beneficiaries to obtain rehabilitation and job training services to prepare them for employment rather than encourage lifelong reliance on benefits.

Age limit for the Student Earned Income Exclusion: The Student Earned Income Exclusion enables students finishing high school and entering college to earn income with no impact on their SSI or SSDI benefits. Although the purpose is to enable students to gain work experience while completing their education, few of them use this valuable incentive. Because some students require extended periods to finish high school and graduate from college, they may not finish their education before they "age out" of the exclusion. Increasing the age limit to at least 26 might encourage more students to actually use it and complete postsecondary education.

Interagency research priority: Additional research is needed on transition-age youth who have disabilities and receive SSI. Although research on youth with disabilities is a priority for numerous agencies, such as NIDRR, the Office of Special Education and Rehabilitation Services (OSERS), and the Office of Disability Employment Policy (ODEP), significant questions remain. For example, what are the connections between various types of transition services and receipt of benefits in adulthood? How many students who receive SSI receive services under the Individuals with Disabilities Education Act? How much training on work incentives do SSI youth receive? What are the factors that influence the use of SSI work incentives? The Panel feels that an agreement among agencies that provide services and conduct research on youth with disabilities (such as SSA, OSERS, NIDRR, ODEP, and various HHS agencies) is the preferred method for carrying out research under this priority.

The Panel recommends that SSA identify funds for increased training and outreach on SSI work incentives and transition planning for parents and youth. SSA should significantly expand its current outreach efforts with a national campaign using a training module specifically designed for training youth on work incentives.

The Panel recommends that Congress change the mandatory redetermination age from 18 to 22, unless SSA can show good cause why redetermination should be completed before age 22.

The Panel recommends that Congress increase the age limit for the Student Earned Income Exclusion to at least 26.

The Panel recommends that Congress create or encourage Federal agencies to create an interagency research priority on youth who have disabilities and receive SSI.

Medicaid Buy-In

The Panel is pleased that the problem of lack of health care as a barrier to employment is beginning to be addressed and applauds the CMS for conducting a study to examine the impact of alternative Medicaid Buy-In Programs on people with disabilities. The Panel hopes that CMS will continue this research, which it initiated on its own with funding from its very limited budget. Evaluating this program will be very useful in encouraging other States to make this important option available to people who have disabilities and want to return to work.

Budget shortfalls are affecting the States' ability to implement the Demonstration Program to Maintain Independence as authorized by the Act. Under this program, States must match Federal dollars to extend Medicaid coverage to certain working people who have disabilities but whose conditions are not yet severe enough to qualify them for benefits. Only Mississippi and the District of Columbia have opted to implement this program. The Panel understands that many States are facing difficulties allocating matching funds for the demonstrations because of budget shortfalls and is concerned that the usefulness of this demonstration project will not be sufficiently proven.

The Panel recommends that Congress provide CMS with a mandate and funding to study the impact of the Medicaid Buy-In Program on employment outcomes for individuals with disabilities.

The Panel recommends that Congress grant additional flexibility to States in meeting matching fund requirements for demonstration projects—for example, waive or reduce requirements for matching funds, allow States to use in-kind contributions, and so forth.

Expedited Reinstatement

Congress included in the Act an expedited reinstatement provision that enables beneficiaries who try unsuccessfully to work to return to the benefit rolls. The purpose of this provision was to enable beneficiaries to attempt to work without fear of losing benefits. The current statutory language creating expedited reinstatement requires that beneficiaries who apply have a CDR to determine that they still have the same disability. The fear of losing benefits because of a CDR is a strong disincentive to work and keeps many beneficiaries from making their first attempt. The CDR requirement may leave beneficiaries worse off than if they had not attempted to work, because they may be determined not to have a disability and may therefore be ineligible for benefits. If they apply for benefits later, SSI beneficiaries may be converted to the SSDI program because of their additional work history, lose their Medicaid, and be forced to wait 2 years for Medicare benefits. Some of these individuals would not have had a review if they had not attempted to work.

Every person who is determined to be eligible for SSI or SSDI benefits has a diary date that specifies when a CDR will be performed. The date is based on the nature of the disability and other factors considered by the Disability Determination Service. This date could be used to decide whether someone who applies for expedited reinstatement is required to undergo a review to be entitled to benefits once again. If the person's diary date has not yet been reached, that person should **not** be required to have a review to get back on the rolls. Had the person not attempted work, he or she would not have had a

review during that time period. However, if the date for the originally scheduled CDR has passed, it poses no additional risk and would have been conducted regardless of the attempt to work.

Another problem is that current legislation stipulates that beneficiaries can apply for an expedited reinstatement only if the disability is the reason for the job loss. Downsizing, lack of transportation, and other factors constitute equally valid reasons for losing a job. The purpose of the provision is to eliminate the disincentive created by the fear of losing one's job and having to wait to get benefits again. Including this requirement in the statute does not allow expedited reinstatement to accomplish this goal.

People who have benefits reinstated under the expedited reinstatement provision should not have to wait 24 months to access certain work incentives (such as the trial work period and an extended period of eligibility). A beneficiary who makes a work attempt should be no worse off than someone who does not. Denying people who have used expedited reinstatement access to these work incentives for a full 2 years is clearly detrimental.

The Panel feels strongly that the expedited reinstatement provision could more effectively reduce the work disincentive of benefit loss if it were simplified, thereby making it easier for beneficiaries to understand and for SSA to administer. Positive benefits include savings to the Trust Fund or the General Fund while the beneficiary is working, savings in administrative costs by eliminating unnecessary reviews, and improvement in the beneficiary's employability through work experience.

The Panel recommends that Congress strengthen and simplify the expedited reinstatement provisions by

- 1. Allowing SSA to use the beneficiary's diary date to decide whether someone who applies for expedited reinstatement is required to undergo a CDR to be entitled to benefits once again. If the diary date has not yet been reached, that person should not be required to have a review to continue receiving benefits.**
- 2. Eliminating the legislative requirement that beneficiaries can apply for expedited reinstatement only if the particular disability is the reason for the job loss.**
- 3. Eliminating the 24-month waiting period so that beneficiaries who use expedited reinstatement can access all work incentives immediately.**

Emerging Issues

The Panel continues to gather information and conduct reviews of programs and projects stemming from the Act, the Ticket Program, and related Federal agency operations and initiatives. This information comes from many sources, including consultants; public testimony; reports from SSA, CMS, and other Federal agencies; data analysis; research findings; Federal investigations; public and private analysis and conference presentations; hearings; testimony from beneficiaries, providers, and grantees; and feedback from the Panel's Listserv and Web site. Here are some of the emerging issues the Panel is analyzing and following closely.

Health care: Health care continues to emerge as the primary disincentive to employment. Although 27 States have adopted Medicaid Buy-In Programs under the Act, some are establishing stringent requirements that restrict eligibility. We firmly believe that the health care access problems that people with disabilities face cannot be addressed by Medicaid alone. A broader perspective on health care, which considers general accessibility of both public and private health care for beneficiaries who want to work, will be necessary to truly address health care as a barrier to employment.

Housing and transportation: The Act directs SSA to coordinate services with other employment programs at the Federal and State levels. This naturally includes support programs such as HUD's Section 8 Housing Program and DOT's Transit Subsidy Program. These provide critical housing and transportation benefits for SSA beneficiaries, and their sponsoring organizations should be partners in implementing the Act and the overall return to work and employment support programs operated by SSA. The Panel has received passionate testimony that lack of accessible, affordable housing and transportation still constitutes one of the most significant barriers to employment. Housing and transportation supports must be in place for beneficiaries to pursue meaningful employment. Thus far, HUD and DOT have not been invited to participate in the Panel's work on employment issues.

The Panel will continue to monitor, research, and analyze these and numerous other issues in the coming months.

UPDATE ON EVALUATIONS AND DEMONSTRATIONS CONDUCTED BY SSA

SSA has initiated evaluation and demonstration projects, several of which are mandated by the Act. These projects and Panel comments are described next.

Ticket Program evaluation: This project will produce reports covering a study of the adequacy of incentives for providers, a net outcomes analysis, a process evaluation, a participation analysis, and beneficiary satisfaction with the Ticket Program. In June 2003, SSA awarded two 5-year contracts to Mathematica Policy Research, Inc., to conduct this evaluation. The report was due in December 2003 and is being reviewed by SSA. Preliminary data from this evaluation are available, however, and are cited throughout this report where relevant.

\$1 for \$2 National Demonstration: Solicitations for proposals for a national demonstration project for a \$1 for \$2 SSDI benefit offset were published by SSA in early May 2004. Four preselected companion State demonstration projects looking at a \$1 for \$2 benefit offset were awarded to Connecticut, Utah, Vermont, and Wisconsin. The Panel does not understand how all of these projects, separately or together, plan to address the issue of induced entry.

Adequacy of Incentives Study (AOI): The Act also mandates an AOI study to evaluate how the Ticket Program can be used to increase employment among beneficiaries with significant disabilities. The Commissioner is required to report to Congress on recommendations for a method or methods to adjust payment rates to ENs to ensure the participation of individuals in four specific groups: those who need ongoing support and services, those who need high-cost accommodations, those who earn below the minimum wage, and those who work and receive partial cash benefits.

In its past two annual reports, the Panel recommended that Congress approve a technical amendment to extend the deadline for the AOI report to make it due 49 months, rather than 36 months, after the enactment date. This recommendation was based on delays in issuing tickets. Because Congress failed to act on this recommendation, the AOI report was not submitted by the legislative deadline.

Early intervention: Section 301 of the Act also references a demonstration on “early referral...for rehabilitation.” This demonstration will analyze the impact of making employment and rehabilitation services available at an earlier stage, before people with a disability actually become eligible for benefits. SSA has been working with Rutgers University in planning this demonstration, but a request for proposals has not been released. The Panel would like to reiterate its concern that all of these reports and demonstrations be completed according to schedule, since they will contain information crucial to the success of the Ticket Program.

References

The Impact of Specialized Benefits Counseling Services on Social Security Administration Disability Beneficiaries in Vermont, accepted for publication in the *Journal of Rehabilitation*.

Livermore, Gina, Mark Nowak, David Stapleton, John Kregel, Ellen Bouchery, and Asaph Glosser. *Evaluation Design for the Ticket to Work Program: Preliminary Process Evaluation*. Falls Church, VA: Lewin Group, March 2003.

Thornton, Craig, Gina Livermore, David Stapleton, John Kregel, Tim Silva, and Bonnie O'Day. *Evaluation of the Ticket to Work Program: Initial Evaluation Report 2004*. Washington, DC: Mathematica Policy Research, Inc., 2004 (in press).

National BPAO Data System, a data set collected by Virginia Commonwealth University, Benefits Assistance Resource Center, 2004 (including data reported as of January 31, 2004).

New York State Department of Labor. Data obtained from the New York Works Project and presented to the Panel, November 2003.

Summary of Year Four Public Meeting and Panel Activities

The Panel held four quarterly public meetings and five teleconferences in 2003, as well as hosting a 2-day experts summit—the Employment Network (EN) Summit—on May 22–23, 2003. The purpose of the summit was to provide a forum for providers, consumers, and experts from government and academia to explore the challenges faced by ENs and to develop recommendations for enhancing provider participation in the Ticket Program. The primary goal was to develop specific recommendations that would lead to an increase in the recruitment and active participation of a national array of qualified, skilled, diverse, and committed ENs to support the Ticket Program. In February 2004, the Panel issued a report based on information learned at the summit and titled *The Crisis in EN Participation: A Blueprint for Action*.

Monthly teleconference calls involving the two committees established to research and prioritize issues, to develop policy and implementation advice, and to plan the Panel’s work were also held. The Panel provided opportunities for more than 4 hours of public testimony and accepted ongoing written public comments on the implementation of the Act. Comments and communications with the public are also accepted at any time through the Panel’s Listserv (TWWIIAPanel@ssa.gov) or Web site (www.ssa.gov/work/panel), which contains all of the Panel’s publications, advisory letters, meeting announcements, expert papers, and meeting minutes.

The Panel heard briefings and presentations from a number of experts at its quarterly meetings. For example, the Panel contracted with the Urban Institute to write briefing papers on 10 of its issue areas. The author of each paper delivered a presentation at one of the quarterly public meetings and discussed the findings with the Panel. At the August 26–28, 2003, quarterly meeting, the Panel heard presentations on papers titled *Policy Options for Assisting Child SSI Recipients in Transition; An Evolving Partnership: The Role of the State Vocational Rehabilitation Agencies in Implementation of the Ticket to Work Program; Consumer Advocacy in the Implementation of the Ticket to Work Act; and Outcome Payments to ENs When Ticket Participants Receive Partial Cash Benefits: Preview of Design Options*.

The Panel is also pleased to report that SSA, HHS, and ED officials from Federal, regional, and local offices continue to attend its quarterly public meetings and provide implementation updates and specialized presentations. In 2003, in addition to reports from SSA and CMS at every meeting, the Panel began receiving an RSA briefing at every meeting. Moreover, the Panel continues to develop its relationship with the Social Security Advisory Board, attending seminars and meetings with the Board and providing information for this body to use in planning its seminar on the definition of disability.

Members and staff have met with and made presentations to numerous Federal, State, consumer advocate, and private partners about the Panel’s ongoing work, as well as program and project implementation. Panel members attended the fall (November 2003) conference of the Council of State Administrators of Vocational Rehabilitation and made a presentation.

Panel members also received an invitation to participate in all meetings of the Consortium of Administrators of Native American Rehabilitation (CANAR), which is very interested in helping its member organizations participate in the Ticket Program as ENs. Panel members and staff attended CANAR’s fall meeting to discuss this topic. The Panel also cosponsored and participated in Florida’s Emerging Workforce Conference in Weston, FL, in February 2004. A number of Panel members made

presentations at the conference, and the Chair co-hosted a hearing on employment issues with the National Council on Disability.

Appendices

A. The Panel

The Panel consists of 12 members, appointed in equal numbers by the President, the Senate, and the House of Representatives. As SSI/SSDI beneficiaries, providers, veterans, employers, and employees, the appointees represent a cross-section of experience and expert knowledge in the fields of employment services, VR, and other disability-related support services. Most are people with disabilities, family members, or their representatives. Several have personal experience as recipients of disability benefits.

Katie Beckett is a college student in Iowa and has been an advocate all her life. She has often traveled to Washington, DC, to speak before policymakers about children with special health care needs. She is the co-founder of Kids as Self-Advocates (KASA) and former co-chair of the KASA Board. The Senate appointed her for a 4-year term ending in 2006.

Libby Child was Manager of Integrated Disability Management Services for Steelcase, Inc., for 25 years before resigning in December 2002 to pursue consulting, teaching, and writing. She was responsible for Steelcase, Inc.'s integrated claims system under which workers' compensation, short- and long-term disability, permanent and total disability, and compliance with the Family Medical Leave Act are fully coordinated and managed. Since 1990, she has lectured extensively throughout the United States on workers' compensation and integrated disability management and continues to serve on many disability-related boards, commissions, and councils nationally and in Michigan. The President appointed her to a 4-year term ending in 2006.

Berthy De La Rosa-Aponte, M.A., is the State Project Director for the Florida Family Support Project. She has a daughter with developmental disabilities and has been advocating for people with disabilities for more than 20 years. She has served on numerous boards and committees as an advocate for the rights of people with disabilities and has received several awards for her contributions. The House appointed her to serve a 4-year term ending in 2007.

Thomas P. Golden is a member of the faculty of the Program on Employment and Disability in the School of Industrial and Labor Relations at Cornell University. Since joining the faculty in 1991, he has directed several national initiatives focusing on training, technical assistance, and organizational development related to work incentives, transition systems change, and employment for people with disabilities. He recently became a member of the National Academy on Social Insurance. The President originally appointed him for a 2-year term, and the Senate reappointed him to finish a 4-year term ending in 2004.

Frances Gracechild is the Executive Director of the Resources for Independent Living, Inc., in Sacramento, CA. She also serves as an instructor at California State University at Sacramento and as the president of Health Access of California. The House reappointed her to a 4-year term ending in 2006.

Andrew J. Imparato, J.D., is a member of the Massachusetts bar and is President and CEO of the American Association of People with Disabilities (AAPD). He has extensive experience in public policy work on behalf of people with disabilities and has served as General Counsel and Director of Policy for the National Council on Disability, as attorney–advisor to Commissioner Paul Steven Miller at the Equal

Employment Opportunity Commission, and as Counsel to the Senate Subcommittee on Disability Policy. He is well known for his public speaking to dispel myths about people with mental illness. The Senate appointed him to finish a 4-year term ending in 2004.

Jerome Kleckley, M.S.W., C.S.W., is the Director of Hospital Services for the Eastern Paralyzed Veterans Association in Jackson Heights, NY. As a Navy veteran, he has been actively involved in veterans issues and has served as an advocate for veterans with disabilities. The House appointed him to a 4-year term ending in 2004.

Bryon R. MacDonald is Project and Policy Development Manager at the California Work Incentives Initiative (CWII), World Institute on Disability, in Oakland, CA. CWII combines community-based public policy development with health and benefits training, technical assistance, and Web site applications. He provides State and national consulting, training, and leadership on employment support, health care, and benefits planning programs for persons with disabilities. The President appointed him to a 4-year term ending in 2004.

David Miller is responsible for the overall strategic planning and policy development for human service programs at Communication Services for the Deaf in Sioux Falls, SD. He was formerly the South Dakota State Director of Rehabilitation Services and was responsible for the administration of VR, independent living, personal attendant, and disability determination services throughout the State. He has a master's degree in rehabilitation counseling and more than 29 years of leadership experience in the development and management of large public and private disability programs. The Senate appointed him to a 4-year term ending in 2006.

Sarah Wiggins Mitchell, R.N., M.S.W., J.D., Chair, is President and Executive Director of New Jersey Protection and Advocacy, Inc. She is a member of the bar in New Jersey and Pennsylvania and has a background in nursing and social work. The President appointed her to chair the Panel for a 4-year term ending in 2004.

Stephen L. Start is CEO of Steve Start Inc., a Spokane, WA, company that provides professional management, rehabilitation, and residential services for people with disabilities, seniors, and people who are economically disadvantaged. The House appointed him to serve a 4-year term ending in 2004.

Torrey Westrom, J.D., lost his eyesight at age 14 in a farm-related car accident in 1987. He graduated from Bemidji State University in 1995 and was elected to the Minnesota House of Representatives in 1996, becoming Minnesota's first blind elected State representative. He was re-elected to his fourth term in November 2002 and continues to work on policy issues ranging from training/employment opportunities for people with disabilities to transportation and agriculture. He graduated from law school in 2003 and became a member of the Minnesota bar. The President appointed him to a 4-year term ending in 2006.

Responsibilities of the Panel

The Act established the Ticket to Work and Work Incentives Advisory Panel within SSA on December 17, 1999. The Panel is governed by the provisions of the Act, as well as by the Federal Advisory Committee Act (Public Law 92-463), as amended, which sets forth standards for the formation and use of advisory committees, and by General Services Administration (GSA) regulations on. The original

charter establishing the Panel was submitted to GSA and filed with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on March 21, 2000; the charter was renewed in March 2002. The Commissioner of Social Security swore in the original members on July 24, 2000.

Panel duties include advising the President, Congress, and the Commissioner on issues related to work incentives programs, planning, and assistance for people with disabilities and the Ticket Program. Operating procedures governing the activities of the Panel have been developed and approved, and it meets quarterly, alternating locations between Washington, DC, and Ticket Program rollout States to hear regional testimony. The Panel transmits an annual interim report on the implementation of the Act to the President and Congress. This is the fourth such report. A final report is due no later than December 17, 2007. The Panel will cease to exist on January 16, 2008, 30 days after its final report is submitted.

B. Panel Correspondence and Policy Letters

TW & WI TICKET TO WORK & WORK INCENTIVES AP ADVISORY PANEL



June 13, 2003

Jo Anne Barnhart
Commissioner of Social Security Administration
6401 Security Boulevard
Room 900
Baltimore, MD 21244

Dear Commissioner Barnhart:

I am writing on behalf of the Ticket to Work and Work Incentives Advisory Panel (the Panel) to request that you take immediate steps to eliminate barriers to payment currently confronting Employment Networks (ENs) in the Ticket to Work Program and to ensure that ENs are promptly paid for services to SSA beneficiaries. A major barrier to EN payment is the Social Security Administration's requirement that, in order to receive the total EN payment, the EN must collect pay stubs from ticket users who are working for a period of 60 months (five years).

The Panel has learned that, while some ENs are going out of business due to delays in payments for services they have already provided, other successful ENs have stopped accepting tickets because of their inability to collect pay stubs. Collecting pay stubs has proven to be difficult at its best and operationally impossible at its worst. During the regulatory process, potential ENs warned SSA that this requirement would be unworkable and a great burden to EN providers. And this has proven to be the case. In addition, faced with the prospect of delayed payments due to difficulties in collecting pay stubs from former beneficiaries, some potential ENs have decided that they are unwilling to assume the risks of participating in the Ticket Program.

The Panel strongly recommends that SSA immediately adopt new policies and procedures to ensure not only prompt EN payment, but also payment that is not contingent upon ENs collecting pay stubs from former beneficiaries. The EN obligation to provide evidence should be limited to an initial determination that the beneficiary is working at the required level of earnings and is no longer receiving disability benefits. If SSA requires evidence of work beyond this period, SSA, rather than the EN, should bear the burden of collecting it. Finally, the Panel recently learned that the accounting and payment system for processing payments to ENs is based on manual entry in a ledger. We strongly recommend that this system be fully automated at the earliest possible date.

On behalf of the Panel, I am requesting that SSA take action to immediately address the concerns discussed above. Given the urgency of this matter, the Panel would appreciate a prompt formal response. I would also appreciate it if the Panel could receive a formal response to this letter as soon as possible. Marie Strahan, the Panel's Executive Director, or I, are available at (202) 358-6430, to address your questions or clarify the Panel's concerns.

We look forward to our continued partnership with you and SSA staff to ensure the successful implementation and operation of the Ticket to Work and other work incentives programs for SSA beneficiaries with disabilities.

Sincerely,

Sarah Wiggins Mitchell

cc:

President George W. Bush

The Honorable William M. Thomas
Chairman, Committee on Ways and Means

The Honorable Charles Rangel
Ranking Member, Committee on Ways and Means

The Honorable Charles Grassley
Chairman, Committee on Finance

The Honorable Max Baucus
Ranking Member of Finance

The Honorable E. Clay Shaw
Chairman, Social Security Subcommittee



TICKET TO WORK & WORK INCENTIVES ADVISORY PANEL



October 21, 2003

Martin Gerry, Deputy Commissioner for the
Office of Disability and Income Security Programs
6401 Security Blvd., Room 100Altmeyer
Baltimore, MD

Robert Pasternack, Ph.D., Assistant Secretary for the
Office of Special Education and Rehabilitative Services
300 Independence Ave SW, Room 301
Washington, DC

Dear Mr. Gerry and Dr. Pasternack:

On behalf of the Ticket to Work and Work Incentives Advisory Panel (the Panel) I want to thank both of you for attending the Panel's quarterly meeting in May to discuss the implementation of the Ticket Program and Title I VR Program interaction. We also appreciated our dialogue with Mr. Gerry as well as Jennifer Sheehey and Beverlee Stafford at our most recent quarterly meeting in August. In May, we were very pleased to hear your views on national disability policy and on the implementation of the Ticket to Work and Work Incentives Improvement Act (the Act). This letter provides a follow up on our discussion with you, requesting a joint response from the Social Security Administration's Office of Disability and Income Security Programs (SSA, ODISP) and from the Office of Special Education and Rehabilitative Services', Rehabilitation Services Administration (OSERS, RSA), to our remaining program coordination and policy questions.

Based on public and informal comments to Panel members, we face serious problems in terms of how the State Vocational Rehabilitation Agencies (SVRAs) are interacting with employment networks (ENs) in implementing the Ticket Program. On balance, we have not seen a productive melding of the rehabilitative expertise of VR with the flexibility and follow-up support services of ENs. The Panel believes that several problems—SSA's Transmittal 17, agreements between State VR and ENs, and comparable services and benefits—affect the quality of services under both programs to hundreds of thousands of SSI recipients and SSDI beneficiaries and that, if left unresolved, they may undermine the entire Ticket Program. In this letter we discuss each of these problems in some detail, making the following specific recommendations:

Transmittal 17: Based on our understanding of the statute, Transmittal 17 should be amended to end the current use of the signed IPE as documentation needed for assignment of a ticket for a new case. Assignments of tickets should only occur through an informed action on the part of the beneficiary, such as completion of Form SSA-1365. Cost Reimbursement should only be available for use by a State VR Agency when SSA indicates that it is not participating in the Ticket program with a beneficiary.

Agreements between State VR agencies and ENs: Although the Panel is aware that each SVRA is a State entity and free to design their agreements as they see fit, it is disappointed that no guidance has been given to States regarding these agreements. Due to the damaging effect on consumers and the Ticket program, the Panel urges SSA and RSA to formulate joint policy governing the contents of the agreements and dissemination of a model agreement to rectify this problem.

Comparable Services and Benefits: The Panel is convinced that Congress did not intend to make persons with disabilities ineligible for Title I VR services by the very act of making them eligible for EN services. The Panel urges RSA to acknowledge this problem, correct the misuse of the comparable benefits provision, and provide substantive technical assistance to State agencies on the issue.

Transmittal 17 - Vocational Rehabilitation Providers Handbook, September 03, 2002

The Panel finds two areas in which SSA's Transmittal 17 is inconsistent with provisions of the TWWIIA legislation. (1) Under Transmittal 17, in new cases the client's signature on the IPE constitutes assignment of the ticket, even though this may occur without the knowledge or consent of the client. (2) Transmittal 17 indicates that cost reimbursement is available as a payment option for clients who have assigned their tickets with VR.

A statement from an invited Iowa VR official during the Employment Network Summit and documents provided to us by New York State VR officials both raise serious policy questions about the sub-regulatory guidance issued by the Social Security Administration to State VR agencies in Transmittal 17, dated August 30, 2002. According to Transmittal 17, for a new case "the signatures on the IPE indicate that: the beneficiary has decided to use the ticket to obtain services from the State VR agency, if the ticket is assignable . . ." It is possible to follow this procedure while fully informing the client that signing the IPE automatically assigns his or her Ticket. However, it seems to be the perception of many agencies that signing the IPE automatically assigns to ticket, even if there has been no provision to ensure the client's knowledge or consent. In fact, the Panel has heard from VR officials around the country that if a State VR agency follows the SSA guidance they would be in violation of the informed choice provisions of the Rehabilitation Act.

The Panel understands that it may be important to ensure that a new client has assigned the ticket so that he or she is protected from Continuing Disability Reviews (CDRs) while attempting to return to work. Although CDR protection is a compelling reason for assigning a ticket, there is no reason that the advantages of such protection cannot be explained to the client as one of the factors in his or her choice.

The Panel believes that automatic and uninformed assignment is contrary to the fundamental principles of the Ticket to Work and Work Incentives Improvement Act. Ticket assignment should be completely separate from the development of an IPE with an SVRA, and an individual's assent to one program *should not be considered consent for participation in the other. A primary goal of the TWWIIA legislation was to provide beneficiaries with real choices between employment service providers. An*

equally important goal was to expand the pool of providers far beyond the State VR agencies. A beneficiary who is not informed of what is happening to his or her Ticket is being denied choice and, furthermore, non-VR ENs are being denied an opportunity to compete to provide services to the client. This effectively eliminates competition between providers.

Ticket holders who are not currently on SVRA caseloads who approach an SVRA for services should have the following options:

- Assign their Ticket to the SVRA;
- Receive services from the SVRA, but assign their Ticket to an EN;
- Not assign their Ticket to the SVRA or an EN – retain their Ticket for assignment at a later date;
- Unassign their Ticket from the SVRA or an EN and reassign it to another EN.

In addition, under Transmittal 17 if a client assigns his or her ticket to a VR agency then the VR agency can opt to use the traditional cost-reimbursement payment system. However the statute permits a State VR agency to elect to receive payment under section 222(d) of the Social Security Act, the traditional cost reimbursement program, only when the State agency decides that the beneficiary will not participate in the Ticket Program. Moreover, if the State agency accepts the beneficiary's ticket then it must be paid under one of the outcome-based payment systems, accepting the same risks and rewards as other ENs. See Section 101 of the Act:

. . . “(c) STATE PARTICIPATION (1) In General - Each State agency administering or supervising the administration of the State plan approved under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq) may elect to participate in the Program as an employment network with respect to the disabled beneficiary. If the State agency does elect to participate in the Program, the State agency shall also elect to be paid under the outcome payment system or the outcome-milestone payment system in accordance with subsection (h)(1). With respect to a disabled beneficiary that the State agency **does not elect to have participate in the Program, the State agency shall be paid for services provided to that beneficiary under the system for payment applicable under section 222(d) and subsections (d) and (e) of section 1615.**” (emphasis added)

Hence, Transmittal 17 appears to be inconsistent with the statute both with respect to uninformed use of a signature on an IPE to assign the ticket and the use of cost-reimbursement for Ticket Program clients. *Based on our understanding of the statute, Transmittal 17 should be amended to end the current use of the signed IPE as documentation needed for assignment of a ticket for a new case. Assignments of tickets should only occur through an informed action on the part of the beneficiary, such as completion of Form SSA-1365. Cost Reimbursement should only be available for use by a State VR Agency (SVRA) when SSA indicates that it is not participating in the Ticket Program with a beneficiary.* Clear guidance from SSA and RSA is needed on how the State agency should document its decision to not use the Ticket Program and how this decision will not negatively affect future use of the ticket by a beneficiary.

State VR and Employment Network Agreements

The Panel has received extensive public input about problems with some agreements between SVRAs and ENs. To begin with, the agreements vary greatly from state to state and, in itself, this variation poses a problem. It can affect the number and variety of ENs that choose to participate in a given state. Many

ENs know that they cannot afford to pay for frontloaded, high cost services, but they could serve clients requiring such services if they could make referrals to the SVRA. For this reason, if a state has an agreement that is unfavorable to ENs, an organization will have much less of an incentive to sign up as an EN in that state.

The Panel is concerned that some agreements favor SVRAs at the expense of ENs, discouraging organizations from participating in the Ticket program as ENs and, ultimately, limiting consumer choice. In some cases, the ENs have had little or no input in deciding the terms of the agreement. A recent report (Evaluation Design for the Ticket to Work Program: Preliminary Process Evaluation, The Lewin Group, March 11, 2003) identifies four types of problematic agreements:

1. Agreements that require ENs to reimburse VR for all VR costs to serve a Ticket holder who has assigned the Ticket to a non-VR EN (Colorado, Oregon, New York).
2. Agreements that require all Tickets in the VR/EN partnership to be assigned to the VR agency (Massachusetts, Vermont).
3. Agreements that require the EN to share income with VR over and above the VR cost to serve a specific Ticket holder (Connecticut). In this case the EN bears a disproportionate share of the risks and VR takes a disproportionate share of the payments.
4. Agreements that require the EN to repay the VR agency for the costs of services provided before the EN has received any payments through the Ticket program (Delaware). Once again, in such agreements it is the EN that assumes the risk.

We believe the variance and unfairness of such agreements is resulting in lower participation by ENs in the Ticket Program and thus limiting choice for consumers. Although the Panel is aware that each SVRA is a State entity and free to design their agreements as they see fit, it is disappointed that no guidance has been given to States regarding these agreements. Due to the damaging effect on consumers and the Ticket Program, the Panel urges SSA and RSA to formulate joint policy governing the contents of the agreements and to disseminate a model agreement to rectify this problem.

Comparable Services and Benefits

In May, the Panel asked RSA for an interpretation of how the comparable benefits provision, a statutory requirement under the Rehabilitation Act, affects the Ticket Program. Comparable benefits is designed to ensure against duplication and waste of program funds, requiring that, before providing

services to any individual, the State VR agency must ensure that the services are not available through any other program. More specifically, the Rehabilitation Act provides:

“Comparable Service and Benefits —

(A) Determination of availability

(i) In general - The State plan shall include an assurance that, prior to providing any vocational rehabilitation service to an eligible individual, except those services specified in paragraph (5)(D) and in paragraphs (1) through (4) and (14) of section 723(a) of this title, the designated

State unit will determine whether comparable services and benefits are available under any other program (other than a program carried out under this subchapter) unless such a determination would interrupt or delay

(I) the progress of the individual toward achieving the employment outcome identified in the individualized plan for employment of the individual in accordance with section 722(b) of this title;

(II) an immediate job placement; or

(III) the provision of such service to any individual at extreme medical risk.”

RSA has recently provided the Panel with three explanations of the application of comparable services and benefits; the definition in the program regulations issued in 1998, an analysis from the preamble of those regulations by the Department of Education officials at that time, and a verbal interpretation at the Panel’s recent August 2003 quarterly meeting. Here are the three definitions:

1. RSA staff responded to the Panel’s question with an interpretation and a quote from the preamble of recent regulations:

“Based on that definition, it is clear that a Ticket issued by the Social Security Administration constitutes a comparable service and benefit.”

2. In the appendix discussion of the regulations implementing the 1998 amendments to the Rehabilitation Act, the following statement appears:

“Because Social Security recipients with disabilities are issued ‘tickets’ under TWWIIA in order to receive training and employment-related services from an employment network as defined in that act, we believe that the ticket constitutes a comparable service and benefit under the VR program. (emphasis added) Thus, to the extent that a ticket holder is receiving services from another entity that is serving as that individual’s employment network, the designated state unit (DSU) need not expend VR program funds on services that are comparable to the services the individual is already receiving. On the other hand, if the individual initially chooses that DSU as its (sic) employment network under TWWIIA, or otherwise transfers his or her ticket to the DSU, then the individual would be served solely by the DSU, and the ticket would not be considered a comparable service or benefit.”

The policy in question was developed by RSA and issued without seeking the input of SSA or the Panel. It was issued soon after the passage of the Ticket to Work and Work Incentives Improvement Act legislation, prior to publication of the Ticket Program regulations and prior to implementation of the Ticket Program.

3. In explaining comparable benefits at the Panel’s recent meeting, Beverlee Stafford stated that for a service to be a comparable benefit it must be, “. . .available if the person needs it, and if it would delay that person’s plan for employment it would not necessarily be a comparable benefit. And then it has to be commensurate with a service available through the public VR system.”

The Panel believes these three explanations of comparable benefits are inconsistent. This is a problem in itself as State agency officials may shape very different policies, depending on their understanding of the application of comparable benefits to Ticket Program participants. However, the Panel also believes that using any of these interpretations to deny services is inappropriate and highly questionable. For example

State X is not under an order of selection. The individual is an SSI recipient or SSDI beneficiary and has been issued a Ticket. The individual chooses to assign their Ticket to a local private EN and the EN has an approved provider agreement with Maximus which says that they only provide case management, job development, job placement and follow along services. The individual in question needs high cost services normally provided by VR but beyond the scope of the EN. The individual also completes an application for VR services and fully meets all Title I eligibility requirements.

Questions: Can the SVRA deny the individual access to high cost services that they would otherwise be eligible for if they had not assigned their Ticket to the EN? If a service is not “available from an individual’s EN, or any EN, is it truly a comparable benefit? Would a State be in violation of their approved State Plan if they denied services to this individual? Would a State be in violation of their State plan if the effect of their agreements with an EN is to deny consumers the right to exercise informed choice in the assignment of their Ticket? If so, doesn’t RSA already have the authority to enforce State Plan requirements and thus, find such agreements in violation of the law and regulations governing Title I?

In summary, prior to the Ticket Program, SSA beneficiaries were presumed eligible for Title I services. Post the Ticket Program, some SVRAs have used the comparable benefits provisions of the Rehabilitation Act to deny eligibility to SSI recipients and SSDI beneficiaries so that in negotiating SVRA/EN agreements, SVRAs have exacted favorable terms under which Title I services would be provided. We believe RSA’s application of comparable services and benefits to the Ticket Program participants is contrary to Congress’ intent in the Ticket to Work and Work Incentives Improvement Act, as well as in the Rehabilitation Act itself. In the Ticket Program, Congress voted for increasing variety and choice in rehabilitative and employment services. *The Panel is convinced that Congress did not intend to make persons with disabilities ineligible for Title I VR services by the very act of making them eligible for EN services. The Panel urges RSA to acknowledge this problem, correct the misapplication of the comparable benefits provision, and provide substantive guidance and technical assistance to SVRAs on the issue.*

Beyond addressing these specific issues, we ask that you provide leadership to increase the level of cooperation between SSA and RSA on these issues, so that both agencies will approach the current Ticket/VR tensions with a sense of shared purpose. Specifically, too much of the current SVRA/EN relationship reflects SVRA efforts to defend a threatened source of funding. Although the point has been raised at RSA conferences, there is not yet a broad recognition that constructive SVRA/EN interaction could create a substantial new SVRA clientele — persons needing traditional vocational rehabilitation services but also needing the longer-term follow along supports that ENs can provide. Persons with mental illness—a huge and under-served population—are a good example of a potential new clientele.

With this letter we are extending a permanent invitation to the Commissioner of the Rehabilitation Services Administration and to the Assistant Secretary of OSERS to provide the Panel with quarterly updates on services provided to SSI and SSDI beneficiaries. The updates should be similar to the

implementation updates provided by the SSA and HHS on the Ticket to Work and Work Incentives Improvement Act programs but focussed on the SVRA activity. The Panel has also asked that two designated Panel members meet with the Commissioner of the Rehabilitation Services Administration on these and other coordination issues. Our Executive Director, Marie Strahan, will be in touch with the Commissioner Wilson's office soon to set up a meeting on these concerns.

Again, thank you both for your work with the Advisory Panel. We look forward to a continuing dialogue with you to promote a more productive Federal partnership on these and other issues related to improving rehabilitation services for people with disabilities.

Sincerely,

Sarah Wiggins Mitchell

cc:

The Honorable President George W. Bush

The Honorable Max S. Baucus
Committee on Finance

The Honorable Charles Grassley
Chairman, Committee on Finance

The Honorable John Breaux
Chairman Social Security Subcommittee

The Honorable John Kyl
Social Security Subcommittee

The Honorable Bill Thomas
Chairman, House Ways and Means

The Honorable Charles Rangle
House Ways and Means

The Honorable Clay Shaw
Chairman, Social Security Subcommittee

The Honorable Robert Matsui
Social Security Subcommitte

JoAnne Barnhart, Commissioner
Social Security Administration

Ramona Frentz, Acting Associate
Office of Employment Support Programs

Commissioner Joanne Wilson,
Rehabilitation Services Administration



TICKET TO WORK & WORK INCENTIVES ADVISORY PANEL



November 20, 2003

The Honorable E. Clay Shaw, Jr.
Chairman, Social Security Subcommittee
House Ways and Means Committee
Room B-316 Rayburn House Office Building
Washington DC 20515

The Honorable Charles E. Grassley
Chairman, Senate Finance Committee
Room 219 Dirksen Senate Office Building
Washington DC 20510

Dear Chairmen Shaw and Grassley:

I am writing on behalf of the Ticket to Work and Work Incentives Advisory Panel (the Panel) to urge the reauthorization and increased funding of the Benefits Planning, Assistance, and Outreach (BPAO) and Protection and Advocacy (P&A) programs created by the Ticket to Work and Work Incentives Improvement Act of 1999 (TWWIIA). The current authorization for these grant programs will expire at the end of Fiscal Year 2004. The Panel urges Congress to act before the current authorization expires to ensure the continuity of these critical services for people with disabilities attempting to go to work. These two programs, which provide benefits planning, outreach and advocacy services to SSI recipients and SSDI beneficiaries, are vital to people with disabilities and the success of the Ticket to Work and Self-Sufficiency Program.

The decision to attempt to go to work is a complex and scary one for beneficiaries of SSDI and recipients of SSI. Social Security work incentives are very complicated and may appear to be inconsistent, especially for people receiving benefits from both programs. In addition, a work attempt can affect a myriad of other benefits, both state and Federal, that a person may be receiving. Having a well developed understanding of how to best use the work incentives available and create a plan to achieve self-sufficiency can make the difference between a successful work attempt and a lifelong dependence on benefits.

Until the BPAO program was established by the TWWIIA, beneficiaries seeking to return to work lacked readily available access to assistance. Since its inception, 484 benefits planners have assisted over 82,000 beneficiaries, over 49,000 in the past twelve months, with information or helped them navigate these complex processes and plan to go to work¹. This is an impressive number of people

¹ National BPAO Data System, Virginia Commonwealth University – Benefits Assistance Resource Center, includes data reported as of September 30, 2003

served, but according to beneficiaries and state delivery service systems there are still not enough benefit planners to address clearly documented needs.

In some areas, people have to wait weeks for initial appointments, which may discourage beneficiaries or be too late to help them. Many others do not have access to a benefits planner at all. Due to the current levels of funding for some grantees, a single benefits planner may be expected to serve an entire state, as is the case in Delaware and South Dakota. SSA awarded the cooperative agreement in Wyoming actually returned the grant because they could not begin to address the statewide need with the \$50,000 they had been awarded.

The number of benefits planners must be increased to ensure a better BPAO counselor to beneficiary ratio so that every beneficiary, no matter where they live in a state, has access to timely benefits planning services for return-to-work purposes. The overall funding level of the program should be significantly increased to accomplish this.

The Panel has received extensive public comment in support of the BPAO program. This support has come from a wide variety of sources – people with disabilities, their advocates, Employment Networks, state agencies and Federal officials. SSA informed the Panel at its last meeting that they are about to release the results of the BPAO Customer Satisfaction Survey, the results of which SSA said are highly supportive of the program. In addition, states are just beginning to report data of positive outcomes for beneficiaries who receive BPAO services. For example, beneficiaries in New York who receive BPAO services become employed at a higher rate and stay employed for more quarters than those who do not.² Vermont just released findings that beneficiaries attempting to go to work who received benefits counseling services significantly increased their earnings as compared to beneficiaries who did not.³ It is important to note that approximately one-third of the BPAO customers are SSI recipients and their earnings from work would be subject to the \$1 for \$2 benefit offset provisions in the SSI Program. The Panel is very encouraged by these findings and believes that, given time and the proper levels of funding, the BPAO program will significantly increase the independence of people with disabilities and decrease the public expenditures made on their behalf. The Panel urges Congress to continue this highly regarded and successful program and double the authorized funding level to \$46,000,000.

The Protection and Advocacy program authorized under TWWIA has also proven essential in assisting beneficiaries in returning to and maintaining work. P&A programs have provided information and advocacy services to over 13,000 individuals as of November 30, 2002. With the expansion of the scope of advocacy services allowable under their grant funds, P&A grantees have greatly increased their ability to assist beneficiaries. In its latest Annual Report to the President and the Congress Year Three, the Panel expressed great concern regarding the prohibition by the Social Security Administration against using grant funds to provide advocacy to beneficiaries regarding overpayments. Since the publication of that report, the Panel is pleased to note that SSA has lifted that restriction and P&A programs have begun to represent beneficiaries in those matters.

² Data obtained from New York Works, New York State Department of Labor, November 2003

³ “The Impact of Specialized Benefits Counseling Services on Social Security Administration Disability Beneficiaries in Vermont,” accepted for publication in the Journal of Rehabilitation. The article reports findings that beneficiaries who received specialized benefits counseling increased their earnings \$225 per quarter more than people who did not receive counseling or members of an historical control group.

Receiving an overpayment, or the mere possibility of receiving one, can be the single greatest deterrent from attempting work. Beneficiaries who receive an overpayment due to work are very likely to discontinue employment and return to the rolls. According to the General Accounting Office, outstanding SSI debt and newly detected overpayments for the year 2001 totaled 4.7 billion dollars.⁴ As more people return to work, the number and size of overpayments are likely to increase. Advocacy on behalf of beneficiaries who receive overpayments is critical to helping them continue employment and maintain their independence. Because the restriction against advocacy on behalf of beneficiaries facing overpayments was just lifted in June of 2003, statistics are not yet available on the number of beneficiaries who have received representation in regard to an overpayment. It is imperative that beneficiaries continue to have access to this representation so that overpayments do not cause beneficiaries to cease their work efforts because of fear.

The Panel has also received extensive public comment on the value of the P&A program to beneficiaries who wish to return to work. The continuation of the P&A program authorized under TWWIA is clearly essential to ensuring the success of the Ticket Program, but the current authorization level is not adequate to meet the need. The current funding allocated to each project, with the majority of states receiving only \$100,000, cannot possibly allow P&A programs to represent the beneficiaries who require their assistance. In many states, that grant amount will not even support the hiring of one attorney to provide advocacy to SSA beneficiaries. And when the Ticket Program is fully implemented, the need for services from the P&A projects will only increase. For these reasons, the Panel supports the reauthorization of this program, an increase in the minimum amount of each state grant to \$200,000, and increased funding for the program as a whole to \$14,000,000 per fiscal year.

The Ticket Program is just entering the third phase of implementation. More than 3.5 million beneficiaries in 20 states will be receiving their tickets in the mail over the next 10 months. This is a very important time to maintain and strengthen these support programs. We know that BPAO contacts increase 100 percent in a state when the Ticket Program is rolled out in that state. The Social Security Administration is just beginning to evaluate the Ticket Program's impact in removing some of the barriers and disincentives people with disabilities face when going to work. During this critical implementation period it is essential that the BPAO and P&A programs remain in place and receive the necessary resources to respond to the identified needs.

Your consideration of these recommendations from the Ticket to Work and Work Incentives Advisory Panel is appreciated.

⁴ General Accounting Office. 2002. *Supplemental Security Income: Progress Made in Detecting and Recovering Overpayments, But Management Attention Should Continue*. 02-849. Washington, DC.

Sincerely,

Sarah Wiggins Mitchell, Chair

cc:

The Honorable President George W. Bush

The Honorable Rick Santorum,
Chairman, Social Security Subcommittee

The Honorable Charles Rangel
House Ways and Means
Subcommittee

The Honorable John Breaux
Social Security Subcommittee

The Honorable Max S. Baucus
Committee on Finance

The Honorable Bill Thomas
Chairman, House Ways and Means

JoAnne Barnhart, Commissioner
Social Security Administration

The Honorable Robert Matsui
Social Security Subcommittee



TICKET TO WORK & WORK INCENTIVES ADVISORY PANEL



December 18, 2003

Jo Anne B. Barnhart, Commissioner
Social Security Administration
500 Virginia Ave SW, Suite 850
International Trade Commission Building
Washington, DC 20254

Dear Commissioner Barnhart:

I am writing you on behalf of the Ticket to Work and Work Incentives Advisory Panel in response to the Notice of Proposed Rule Making (NPRM) on the Reinstatement of Entitlement to Disability Benefits (Expedited Reinstatement or EXR) published in the Federal Register on October 27, 2003. The Panel generally supports these proposed regulations and commends the Social Security Administration for their clarity and overall policy direction. The Panel believes these proposed rules closely follow the language authorizing the EXR provision in the Ticket to Work and Work Incentives Improvement Act of 1999, but has concerns in two areas of the NPRM. The first relates to the interaction between the Ticket Program and EXR and the second is an issue of clarity regarding the definition of “special circumstances” in sections 404.1592e and 416.999c.

The principal concern of the Panel regarding the NPRM is that the Ticket to Work Program is not mentioned at all, nor is it mentioned in the Program Operations Manual System section on EXR. It is the Panel’s understanding from conversations with SSA officials that an SSDI beneficiary or SSI recipient is eligible for a new Ticket immediately upon having their benefits reinstated pursuant to this section. However, this policy is not spelled out anywhere in writing. The lack of written policy may result in confusion for beneficiaries, SSA staff, and service providers which could result in lower participation in the Ticket Program by people who use EXR. The Panel urges SSA to explicitly state that a person who is reinstated pursuant to 20 CFR Part 404 or 416 is eligible for a new Ticket immediately.

The Panel is very pleased that SSA chose to include the option of allowing a person to apply for EXR under special circumstances. The Panel believes that a person may be receiving a variety of disability related services and supports which are critical to work and the loss of a job that created access to these supports should allow him or her to be eligible for EXR. In the preamble to the regulations and the proposed regulations themselves in sections 404.1592e and 416.999c, only specialized transportation is listed as an example of a special circumstance. The Panel encourages SSA to expand the list of examples

of special circumstances so that beneficiaries, claims representatives and services providers will understand that transportation is not the only support that might allow someone to meet this requirement. Some examples that could be used include, community supports, nearby medical support such as dialysis, proximity to a licensed group home, or physical accessibility of the workplace (this can be especially problematic in rural areas where many job sites are not accessible).

The Panel has other significant concerns with the Expedited Reinstatement provisions that require either further study or statutory change. These include, but are not limited to, the 24 month initial reinstatement period and its relation to the use of other work incentives, the requirement that applicants for EXR must undergo a medical review; and the widely held misconception that EXR means an automatic reinstatement of entitlement to benefits when a former beneficiary loses earnings from work for any reason. The Panel is currently studying these issues and plans to issue recommendations regarding statutory changes to these provisions to Congress in their Annual Report.

Thank you for your consideration of these comments from the Panel.

Sincerely,

Sarah Wiggins Mitchell, Chair



TICKET TO WORK & WORK INCENTIVES ADVISORY PANEL



January 20, 2004

The Honorable Dale Kildee
21st Century Competitiveness Subcommittee
House Education and the Workforce Committee
2181 Ford House Office Building
Washington, DC 20512

Dear Congressman Kildee:

On behalf of the Ticket to Work and Work Incentives Advisory Panel (the Panel), I am writing to express the Panel's strong support of the legislative proposal in S. 1627 reauthorizing the Rehabilitation Act to continue funding for the American Indian Vocational Rehabilitation (AIVR) projects on the basis of performance. This would replace the current policy of requiring the AIVR projects to compete against each other for limited funding every five years. These projects are funded under Section 121 of the Rehabilitation Act. The proposed change would create a funding mechanism similar to that currently in place for Centers for Independent Living in section 722(e) (1) in the Rehabilitation Act. The Panel urges the members of the conference committee to accept the Senate language that codifies this legislative proposal.

Our interest in this issue is directly related to our work as a public advisory panel mandated in Public Law 106-170, the Ticket to Work and Work Incentives Improvement Act of 1999 (TWWIIA). The TWWIIA legislation established the Ticket to Work and Work Incentives Advisory Panel as a bipartisan appointed body of twelve citizens who represent a cross-section of rehabilitation interests as consumers, providers, state agency representatives, disabled veterans and employers. Members are appointed by the House of Representatives, the Senate and the President. The Advisory Panel's primary duty is to advise the Commissioner of Social Security, the President, and Congress on issues related to work incentive programs, planning and assistance for individuals with disabilities including issues related to the implementation of the Ticket to Work and Self-Sufficiency Program (Ticket Program).

The Panel is very interested in the stability and continuity of the AIVR projects because a number of the projects are also Employment Network service providers under the new Ticket Program. We hope to see even more AIVR grantees become Employment Networks but the current unstable funding situation undermines their interest in developing more services for Social Security beneficiaries.

A significant number, approximately 40%, of the clients served by AIVR projects are individuals with disabilities who also receive cash benefits under the Social Security Disability Insurance or the Supplemental Security Income programs administered by the Social Security Administration. As such, they are eligible for cash benefits, Medicaid, Medicare, work incentives, a variety of employment support services, and for the Ticket Program.

Native communities have documented disability rates and unemployment rates that are far higher than those of the general population, yet AIVR projects have performed well. The program has grown from one grantee in 1981 to 69 grantees located in 25 states. Last year these programs served 5,300 consumers with a 64% rate of employment outcomes. Perhaps most notable is the fact that this success took place in Native communities with unemployment rates as high as 80% on some reservations. The AIVR programs employment rate typically exceeds 50%, a rate that is markedly higher than many State VR agencies.

Native communities on and near reservations have long been un-served and under-served by State VR agencies because of the difficulties state VR agencies face in providing accessible, culturally appropriate and effective services to culturally diverse and remote tribal communities. State VR Agencies view the AIVR programs in their state as a vital component of the national rehabilitation program and as an important part of their state's rehabilitation system. AIVR and State VR agencies have developed cooperative agreements and positive working relationships including joint training and cost sharing mechanisms. AIVR programs are successful where the State VR agencies have failed because AIVR programs maintain a continuous presence on the reservations, AIVR employees are familiar with and observe tribal customs as the staff of AIVR agencies are typically Native American and the AIVR staff speak the language and understand the cultural factors relevant to providing appropriate services and employment opportunities. These important success factors are well documented by recent national program evaluations and performance reports.

Under section 121 of the Rehabilitation Act, AIVR projects are required to provide comprehensive VR services comparable to those provided by State VR agencies. They must apply the same Federal eligibility criteria and deliver services based on the same requirements for Individualized Plans for Employment as prescribed for State VR agencies in Section 102 of the Rehabilitation Act. New projects are encouraged to apply during each grant cycle because of the great need for services and the documented effectiveness of the projects. This year 24 Indian tribes applied for the new grant competition, but only 16 will be funded because there are not enough funds to support all of the qualified grant applicants, even though many were funded in the previous grant cycle, have active caseloads and have performed well.

Finally, the termination of an AIVR project can be a tragic occurrence for Native Americans with disabilities and their families. When projects with strong performance reviews lose funding it is not uncommon for clients to drop out of the system entirely. Such disruption severely impacts the physical and emotional well being of the individual client and his/her family members. There is also no real guarantee that the closed AIVR case will be given priority for continuation of services by the respective State VR agency. Many states are on an Order of Selection or have instituted waiting lists and simply cannot pick up the AIVR cases. The current policy permits large numbers of eligible consumers to be abruptly terminated from service and their rehabilitation plans to be interrupted indefinitely.

The Ticket to Work and Work Incentives Advisory Panel believes that Native American consumers should be afforded the same level of protection from interruption in their VR service plan as other citizens with disabilities. We strongly recommend that Congress pass the proposed legislative amendment to the Rehabilitation Act which will continue funding for American Indian Vocational Rehabilitation (AIVR) projects on the basis of performance. This would create a funding mechanism similar to that which is currently in place for Centers for Independent Living in section 722(e) (1) in the Rehabilitation Act. Each AIVR grantee that is performing appropriately should receive continued funding for fiscal year 2004 and the 60-month project period should be eliminated.

Your consideration of these comments from the Ticket to Work and Work Incentives Advisory Panel is very much appreciated. If you have any questions regarding this letter, please contact our Executive Director, Marie Parker Strahan, at (202) 358-6430.

Sincerely,

Sarah Wiggins Mitchell, Chair

cc.

The Honorable President George W. Bush

JoAnne Barnhart, Commissioner
Social Security Administration

Treva Roanhorse, President
CANAR

Joanne Wilson, Commissioner
Rehabilitative Services
Administration

C. Advisory Panel Recommendations

RECOMMENDATIONS	DATE	SOURCE	SUBMITTED TO	ACTION TAKEN*
Make Ticket to Work available for all beneficiaries	December 17, 1999–December 16, 2000	Annual Interim Progress Report: Year One	Commissioner	None
Use the longest comment period possible during regulatory process to allow maximum public comment	December 17, 1999–December 16, 2000	Annual Interim Progress Report: Year One	Commissioner	Period used 60 days
All SSI and SSDI adult beneficiaries including those designated as medical improvement expected should be eligible to participate in program	July 23, 2001	Final Advice Report on Ticket Program Notice of Proposed Rule Making	Commissioner	None
16- and 17-year-old beneficiaries should be eligible to participate in the Ticket Program	July 23, 2001	Final Advice Report on Ticket Program Notice of Proposed Rule Making	Commissioner	None
18-year-old beneficiaries should receive same protection from redeterminations as other ticket users do from CDR	July 23, 2001	Final Advice Report on Ticket Program Notice of Proposed Rule Making	Congress	None
SSA should conduct cost-benefit analysis on beneficiary receiving more than 1 ticket per period of disability	July 23, 2001	Final Advice Report on Ticket Program Notice of Proposed Rule Making	Commissioner	None
EN required to retain staff based on education and experience	July 23, 2001	Final Advice Report on Ticket Program Notice of Proposed Rule Making	Commissioner	Final Regulations
SSA should simplify EN reporting requirements	July 23, 2001	Final Advice Report on Ticket Program Notice of Proposed Rule Making	Commissioner	Final Regulations
Timely progress should be defined by terms and conditions of IWP	July 23, 2001	Final Advice Report on Ticket Program Notice of Proposed Rule Making	Commissioner	None
All beneficiaries should have access to P&A	July 23, 2001	Final Advice Report on Ticket Program Notice of Proposed Rule Making	Commissioner	Improvement, Overpayment
Mediation should be made available to resolve disputes	July 23, 2001	Final Advice Report on Ticket Program Notice of Proposed Rule Making	Commissioner	Pilot Program
All decisions made by SSA in reference to disputes should be subject to external review	July 23, 2001	Final Advice Report on Ticket Program Notice of Proposed Rule Making	Commissioner	None
Information on P&A services should be accessible to beneficiaries	July 23, 2001	Final Advice Report on Ticket Program Notice of Proposed Rule Making	Commissioner	Some, Letter, IWP
Beneficiary's filing complaints with project manager against EN should trigger a notice to P&A	July 23, 2001	Final Advice Report on Ticket Program Notice of Proposed Rule Making	Commissioner	None
All notices should be in an accessible format	July 23, 2001	Final Advice Report on Ticket Program Notice of Proposed Rule Making	Commissioner	None
SSA should establish specified timeline for dispute resolution outlined	July 23, 2001	Final Advice Report on Ticket Program Notice of Proposed Rule Making	Commissioner	None
During appeals process, beneficiaries should receive the same level of support and service	July 23, 2001	Final Advice Report on Ticket Program Notice of	Commissioner	None

*This refers to actions the Panel has been informed of as of March 31, 2004.

RECOMMENDATIONS	DATE	SOURCE	SUBMITTED TO	ACTION TAKEN*
		Proposed Rule Making		
All parties in disputes should have access to all information	July 23, 2001	Final Advice Report on Ticket Program Notice of Proposed Rule Making	Commissioner	Policy
SSA should adopt payment structure that pays four milestone payments	July 23, 2001	Final Advice Report on Ticket Program Notice of Proposed Rule Making	Commissioner	Improvement from two to three
SSA should interpret benefits not payable as a reduction in benefits	July 23, 2001	Final Advice Report on Ticket Program Notice of Proposed Rule Making	Commissioner	None
SSA should address efficacy of individualized milestones in AOI report	July 23, 2001	Final Advice Report on Ticket Program Notice of Proposed Rule Making	Commissioner	None
SSA should develop two milestone/outcome systems—one for SSI and one for SSDI	July 23, 2001	Final Advice Report on Ticket Program Notice of Proposed Rule Making	Commissioner	None
SSA should commission a full-cost benefit study to evaluate program	July 23, 2001	Final Advice Report on Ticket Program Notice of Proposed Rule Making	Commissioner	None
Resolve the conflict between sections 411.510 and 411.390	July 23, 2001	Final Advice Report on Ticket Program Notice of Proposed Rule Making	Commissioner	Resolved in final regulation
SSA should permit other service delivery plans to be used as a substitute for IWP	July 23, 2001	Final Advice Report on Ticket Program Notice of Proposed Rule Making	Commissioner	None
SSA should clarify that SSA beneficiary has choice about assigning ticket to State VR	July 23, 2001	Final Advice Report on Ticket Program Notice of Proposed Rule Making	Commissioner	None: Beneficiary must assign ticket to VR if a VR client
Swift issuance of the final ticket-implementing regulations	November 30, 2001	Advisory Letter	President	Final regulations were issued in December 2001
Restore funding for BPAO and P&A Programs to maximum authorized in the statute	January 7, 2002	Advisory Letter	Commissioner Barnhart	Funding restored
Projects with Industry and Supported Employment grants should be preserved at the Federal level	March 1, 2002	Advisory Letter	President Bush	Congress preserved grant programs
Reauthorize the Work Opportunity Tax Credit and extend it to employers who hire people with disabilities who used a ticket	April 11, 2002	Letter to the Honorable Clay Shaw	Clay Shaw	HR 743 reauthorized and extended the credit
Establish ongoing structure for review of emerging information for AOI	June 18, 2002	Advice Report on the Adequacy of Incentives (AOI) Study	Commissioner	None
Convene an ongoing Adequacy of Incentives Advisory Team	June 18, 2002	Advice Report on the Adequacy of Incentives (AOI) Study	Commissioner	In 2003, convened the AOI Advisory Group for 1 year
SSA to provide Panel, Congress, and President with ongoing interim reporting	June 18, 2002	Advice Report on the Adequacy of Incentives (AOI) Study	Commissioner	None
Congress should pass a technical amendment to require interim reporting	June 18, 2002	Advice Report on the Adequacy of Incentives (AOI) Study	Congress	None

*This refers to actions the Panel has been informed of as of March 31, 2004.

RECOMMENDATIONS	DATE	SOURCE	SUBMITTED TO	ACTION TAKEN*
Data collected for AOI should be provided in the SSA's overall Ticket evaluation research	June 18, 2002	Advice Report on the Adequacy of Incentives (AOI) Study	Commissioner	AOI data included in Ticket evaluation research design
Extend deadline for Adequacy of Incentives Report	June 18, 2002	Advice Report on the Adequacy of Incentives (AOI) Study	Congress	None
Identifying the four groups: SSA should use other data sources	June 18, 2002	Advice Report on the Adequacy of Incentives (AOI) Study	Commissioner	None
SSA's beneficiary survey should include face-to-face interviews and special accommodations for AOI population	June 18, 2002	Advice Report on the Adequacy of Incentives (AOI) Study	Commissioner	Survey design includes face-to-face interviews and other accommodations
Review existing research and conduct supplementary research	June 18, 2002	Advice Report on the Adequacy of Incentives (AOI) Study	Commissioner	Reviewed existing research and best practices at AOI technical workshop (May 2002)
SSA should identify data elements ENs should collect for AOI	June 18, 2002	Advice Report on the Adequacy of Incentives (AOI) Study	Commissioner	None
Data collected should include attention to national demographics and diversity	June 18, 2002	Advice Report on the Adequacy of Incentives (AOI) Study	Commissioner	Study design includes information on demographics and diversity
Conduct or commission qualitative research with ENs on AOI issues including payments and wages	June 18, 2002	Advice Report on the Adequacy of Incentives (AOI) Study	Commissioner	Conducted interview with ENs on AOI issues in evaluation design contract
Implement the Employment Support Representative position in SSA Field Offices	July 1, 2002	Advisory Letter	Commissioner Barnhart	Discontinued ESR position, created the AWIC position with 58 staff
\$1 to \$2 demonstration for current beneficiaries: Panel endorses using demonstration projects for \$1 for \$2	August 2002	Advice Report on \$1 for \$2 Benefit Offset Research	Commissioner	Request for information published September 2003
Ensure that employment supports are in place for \$1 for \$2 demonstration	August 2002	Advice Report on \$1 for \$2 Benefit Offset Research	Commissioner	None
Use SGA as disregard level for \$1 for \$2 current beneficiaries demonstration	August 2002	Advice Report on \$1 for \$2 Benefit Offset Research	Commissioner	None
Endorses SSA sample size of 5,000 in \$1 for \$2 demonstration	August 2002	Advice Report on \$1 for \$2 Benefit Offset Research	Commissioner	None
Use monthly accounting period consistent with SSI accounting in \$1 for \$2 demonstration	August 2002	Advice Report on \$1 for \$2 Benefit Offset Research	Commissioner	None
Deferring the induced entry evaluation in \$1 for \$2 demonstration	August 2002	Advice Report on \$1 for \$2 Benefit Offset Research	Commissioner	None
Induced entry evaluation proposal should include at least five independent designs from outside experts	August 2002	Advice Report on \$1 for \$2 Benefit Offset Research	Commissioner	None

*This refers to actions the Panel has been informed of as of March 31, 2004.

RECOMMENDATIONS	DATE	SOURCE	SUBMITTED TO	ACTION TAKEN*
Induced entry should follow and report on parallel research projects across the country that analyze determinants of return to work	August 2002	Advice Report on \$1 for \$2 Benefit Offset Research	Commissioner	None
Congress should direct SSA to spend more on public education and field training	August 2002	Advisory Panel Annual Report: Year Two	Congress	None
Employment Support Representatives (ESR): The statute says, "The Commissioner should establish a corps of trained, accessible, and responsive work incentives specialists within the Social Security Administration."	August 2002	Advisory Panel Annual Report: Year Two	Commissioner	Discontinued ESR position; created the AWIC position with 58 staff
Beneficiaries designated as medical improvement expected should be eligible for tickets	August 2002	Advisory Panel Annual Report: Year Two	Commissioner	None
Transition-aged youth should be eligible for tickets	August 2002	Advisory Panel Annual Report: Year Two	Commissioner	None
Process monthly earning reports without generating overpayments	August 2002	Advisory Panel Annual Report: Year Two	Commissioner	None
Adequacy of incentives: delay report to Congress and get interim reports from SSA	August 2002	Advisory Panel Annual Report: Year Two	Congress	None
SSA should immediately implement a national marketing and public information program	August 2002	Advisory Panel Annual Report: Year Two	Commissioner	Awarded contracts in 2003 to analyze data collected from ENs, to develop strategies to increase EN participation, and to develop a strategic marketing plan targeted at beneficiaries by the end of FY 2004; third contract to analyze beneficiary data and develop a plan for maximizing participation of beneficiaries
EN reimbursement for clients receiving partial benefits	August 2002	Advisory Panel Annual Report: Year Two	Commissioner	SSA interprets "benefits not payable" as zero benefits
\$1 for \$2 benefit offset: Congress should amend statute to allow deferred research on induced entry	August 2002	Advisory Panel Annual Report: Year Two	Congress	None
Congress should direct SSA to remove the restrictions on P&A grantee activities	August 2002	Advisory Panel Annual Report: Year Two	Congress	SSA removed restriction, and HR 743, signed on March 2, 2004, removed others
Reiterate the 2001 recommendations to authorize benefits payments for reductions in benefits	May 2003	Annual Report: Year Three	Congress	None

*This refers to actions the Panel has been informed of as of March 31, 2004.

RECOMMENDATIONS	DATE	SOURCE	SUBMITTED TO	ACTION TAKEN*
Conduct review and comparison of the Ticket to Work and Work Incentives Improvement Act and the Social Security Act and the Rehabilitation Act during upcoming reauthorization of the Rehabilitation Act and take action on inconsistencies	May 2003	Annual Report: Year Three	Congress	None
Congress should provide financial resources for a dedicated corps of work incentive specialists (such as ESRs)	May 2003	Annual Report: Year Three	Congress	None
Urge SSA to develop immediate national marketing and public education campaign to explain available programs	May 2003	Annual Report: Year Three	Congress	None (see action on marketing in Annual Report: Year Two)
Congress should direct SSA to work closely with other Federal and State systems to develop a national training plan and with Congress to earmark funding	May 2003	Annual Report: Year Three	Congress	None
Congress and SSA review EN payment system to adjust and enrich	May 2003	Annual Report: Year Three	Congress	None
Congress should direct SSA to remove restrictions on the use of P&A grant funds	May 2003	Annual Report: Year Three	Congress	SSA removed some restrictions, and HR 743, signed on March 2, 2004, removed others
Request Commissioner's support of Panel's recommendation to Congress to extend Ticket CDR protection to any and all beneficiaries who are participating in an approved program of VR services, employment services, or other employment support services	September 29, 2003	Letter to the Honorable Jo Anne Barnhart NPRM on Continuation of Benefit Payments to Certain Individuals Who are Participating in a Program of VR Services, Employment Services, or Other Support Services, published in <i>Federal Register</i> in August 2003	Commissioner Barnhart	None
Clarify that participants in other approved rehabilitation plans are eligible for continuation of benefits	September 29, 2003	Letter to the Honorable Jo Anne Barnhart NPRM on Continuation of Benefit Payments to Certain Individuals Who are Participating in a Program of VR Services, Employment Services, or Other Support Services, published in <i>Federal Register</i> in August 2003	Commissioner Barnhart	Awaiting final regulations
Amend Transmittal 17 to end the current use of signed State VR IPE as documentation needed for assignment of ticket	October 21, 2003	Advisory Letter	Deputy Commissioner Martin Gerry	None
Cost reimbursement should be separate from the Ticket Program	October 21, 2003	Advisory Letter	Deputy Commissioner Martin Gerry	None
SSA and RSA should formulate joint policy governing the contents of VR-EN agreements and disseminate a model agreement	October 21, 2003	Advisory Letter	Assistant Secretary Robert Pasternack	None

*This refers to actions the Panel has been informed of as of March 31, 2004.

RECOMMENDATIONS	DATE	SOURCE	SUBMITTED TO	ACTION TAKEN*
Ticket should not be considered a comparable benefit under Title I of the Rehabilitation Act	October 21, 2003	Advisory Letter	Assistant Secretary Robert Pasternack (Justesen for Pasternack)	RSA interprets Ticket services that an EN provides that are commensurate with VR services as a comparable benefit and thus not available under Title I
Reauthorize BPAO Program and double funding to \$46,000,000	November 20, 2003	Advisory Letter	Clay Shaw	HR 743 reauthorized
Reauthorize the P&A program, increase the minimum amount of each State grant to \$200,000, and increase funding for the program as a whole to \$14,000,000 per FY	November 20, 2003	Advisory Letter		HR 743 reauthorized the P&A Program
Explicitly state that a person entitled to benefits pursuant to expedited reinstatement is immediately eligible for a ticket	December 18, 2003	Advisory Letter on the Reinstatement of Entitlement to Disability Benefits (EXR) Notice of Proposed Rule Making	Commissioner Barnhart	Awaiting final regulations
Clarify special circumstances by example	December 18, 2003	Advisory Letter on the Reinstatement of Entitlement to Disability Benefits (EXR) Notice of Proposed Rule Making	Commissioner Barnhart	Awaiting final regulations
Congress should develop statutory language that articulates its original intent that the Ticket is a supplemental funding source	February 2004	Advice Report on Employment Networks	Congress	None
Congress should direct Commissioner to implement Ticket Program as a complement to SSA VR Reimbursement Program	February 2004	Advice Report on Employment Networks	Congress	None
Commissioner should conduct an assessment of the Ticket Program and State VR Program running in combination	February 2004	Advice Report on Employment Networks	Commissioner	None
Modify EN payment system to move more payment up front	February 2004	Advice Report on Employment Networks	Commissioner	None
Test two or three creative approaches that increase EN and beneficiary participation	February 2004	Advice Report on Employment Networks	Commissioner	None
Amend statute to permit Ticket Program to increase sum of payments for SSI to equal SSDI	February 2004	Advice Report on Employment Networks	Congress	None
Commissioner implement modified EN payment system consistent with recommendations of AOI Advisory Group	February 2004	Advice Report on Employment Networks	Commissioner	None
Commissioner should implement the Panel's recommendations related to payment systems and claims administration	February 2004	Advice Report on Employment Networks	Commissioner	None
Commissioner and Congress make clear that payments to ENs should supplement funding from other public programs, consistent with AOI group recommendations	February 2004	Advice Report on Employment Networks	Commissioner/Congress	None

*This refers to actions the Panel has been informed of as of March 31, 2004.

RECOMMENDATIONS	DATE	SOURCE	SUBMITTED TO	ACTION TAKEN*
Once beneficiary is certified as employed, Commissioner should continue to pay the EN on a monthly basis unless beneficiary status changes	February 2004	Advice Report on Employment Networks	Commissioner	In 2003, SSA initiated a quarterly regime for paying ENs that usually would not require reporting earnings
Commissioner should refine EN payment processing time to meet business standards	February 2004	Advice Report on Employment Networks	Commissioner	None
Panel and Commissioner should convene meeting with stakeholders to develop national training and communication conference for all ENs	February 2004	Advice Report on Employment Networks	Commissioner	None
Congress should amend statute to permit American Indian VR programs to be ENs without application and be eligible for SSA reimbursement program	February 2004	Advice Report on Employment Networks	Congress	None

*This refers to actions the Panel has been informed of as of March 31, 2004.

D. Ticket to Work and Work Incentives Advisory Panel Advice Report to Congress and the Commissioner of the Social Security Administration

The Crisis in EN Participation: A Blueprint for Action **Issued February 2004**

Executive Summary

Thousands of people with disabilities and their advocates shared a dream that the Ticket to Work and Work Incentives Improvement Act of 1999 (the Act) would greatly expand employment opportunities for people on the Social Security Administration (SSA) disability rolls. Three years after enactment of the law, it is clear that their dream is faltering. The Ticket to Work and Self-Sufficiency Program (Ticket Program) is failing to recruit the anticipated numbers of new employment service providers, called Employment Networks (ENs). In addition, those enrolled as ENs are serving only a fraction of the beneficiaries thought to be interested in participating in the Ticket Program. Nearly 1,000 providers have enrolled in the program, but only about one-third of those operating have accepted any tickets. The Panel believes that without immediate attention to the very real problems affecting EN participation, the Ticket Program will fail. The Panel urges Congress and the Commissioner to act quickly on the following recommendations.

Issues and Recommendations

Ticket Program as a Supplemental Funding Source -- ENs are uncertain about whether and how they can use funds from other public sources to serve ticket holders and have chosen not to actively participate in the Ticket Program because of fear of losing other stable funding sources.

Recommendations

- Congress should develop statutory language that clearly articulates its original intent that the Ticket Program's outcome and milestone payments should provide additional resources to assist beneficiaries in attaining and retaining employment. In general, the Panel believes that Congress did not intend to make beneficiaries ineligible for the full range of services from vocational rehabilitation (VR) programs, Medicaid, or other Federal and State programs by making them eligible for the Ticket Program.
- Congress should direct the Commissioner to implement the Ticket Program as a complement to the traditional SSA VR Reimbursement Program, paying State VR agencies for up-front services and paying ENs for long-term employment outcomes.
- As part of the mandated evaluation of the Ticket Program, the Commissioner should conduct an assessment of the Ticket Program and the SSA VR Reimbursement Program, running in combination, to determine whether that approach produces better long-term, cost-effective outcomes than the historical VR Reimbursement Program alone, and to ensure the financial viability of running the two programs in combination.

The EN Payment System -- Two problems in the EN payment system discourage the active participation of many providers: (1) the payment system places too much financial risk on ENs and (2) the payment system provides significantly lower reimbursements to ENs for serving Supplemental Security Income (SSI) recipients than for serving Social Security Disability Income (SSDI) beneficiaries.

Recommendations

- The Commissioner should immediately modify the EN payment system to move more of the payment into the first 12 months of employment and reduce the difference between the milestone and outcome payments.
- The Commissioner should test two or three creative approaches that place more up-front financial risk on SSA but, if successful, could significantly increase Ticket Program participation by both ENs and beneficiaries, thereby increasing long-term savings to SSA.
- Congress should amend the statute to permit payments to ENs to be set at a level greater than 40 percent of average benefits for both SSDI and SSI beneficiaries and after the statutory change the Commissioner should implement an increase in EN payments for beneficiaries of both programs.
- Congress should amend the statute to permit the Ticket Program to increase the sum of payments available for serving SSI recipients to a level equal to the sum of payments available for serving SSDI beneficiaries.
- The changes to the EN payment system should be implemented as quickly as possible.

Adequacy of Provider Incentives -- Because little is known about outcome payments for providers, the Act authorizes the Commissioner to review, refine, and alter the payment system to ensure that it provides adequate incentives for ENs to serve beneficiaries and produce savings to the program. Despite major problems with the payment model, no alterations have been made to the original program payment system. The Commissioner has established an advisory group on Adequacy of Incentives (AOI) to assist SSA with the design of a workable payment system, including financial incentives to serve four groups of beneficiaries with special needs that were referenced in the Act.

Recommendations

- The Commissioner should implement a modified EN payment system that generally incorporates the principles outlined in the AOI Advisory Group's interim report. (The Panel supports the principles in the report but has not endorsed a specific model.)
- For any new payment system to be successful, the Commissioner must first implement the Panel's recommendations relating to the EN payment system and EN claims administration.
- The Commissioner and Congress should make clear in statute and in program regulations that payments to ENs must supplement funding from other public programs (such as State VR, Mental Health, Medicaid, Housing and Urban Development, Department of Labor) and should not pay for services for which beneficiaries are already eligible.

EN Payment Claims Administration --Two factors compound the financial risk and working capital problems of Employment Networks: (1) long-term tracking of beneficiary earnings is labor intensive and administratively burdensome for ENs and (2) there are often long delays in processing EN claims for payment.

Recommendations

- Once a beneficiary has been certified as employed above the substantial gainful activity (SGA) level or leaves cash benefit status, the Commissioner should continue to pay the EN on a monthly basis as long as the beneficiary remains in zero benefit status and the EN has not yet received 60 months of outcome payments, or until the beneficiary requests a new EN.
- The Commissioner should refine the EN payment claims processing system to ensure timely payments to ENs within businesslike timeframes. A widely accepted business standard for turnaround time on receivables is 30 days.

Marketing to ENs and to Beneficiaries --To date, there is no national marketing plan for the Ticket Program and the Program is not well understood by the vast majority of beneficiaries or by those who influence a beneficiary's decision to attempt work. Further, ENs spend considerable time explaining the Program and dispelling misconceptions. Also, the lack of marketing contributes to the insufficient demand for EN services. However, SSA has recently awarded contracts to support development of a strategic marketing plan and EN marketing and recruitment efforts. The Panel has made numerous recommendations to the Commissioner on this issue in past reports.

Recommendation

- The Commissioner should create opportunities for the Panel to (1) review the work plans and proposed activities under the strategic marketing plan contract and the project designed to improve EN participation and (2) engage in a dialogue with the contractors and relevant SSA staff so that the Panel can provide timely and substantive input on these marketing activities.

EN Training and Communication --There is inadequate training, technical assistance (TA), and timely information available to ENs. Existing TA and training resources are inadequate, nonuniform, piecemeal, uncoordinated, and of varying quality, with no coordinated means for ENs to identify and share best practices.

Recommendations

- The Panel, in partnership with the Commissioner, should convene a meeting of key stakeholders to develop a national training and communications conference for all ENs.
- The Commissioner should appoint a working committee to develop the plan for this training conference and to develop the overall strategy for bringing together a broad-based coalition of stakeholders to oversee and sponsor the event. Panel members should be active participants.

American Indian VR Program Eligibility for the SSA VR Reimbursement Program --Despite having to meet the same service standards as State VR agencies, American Indian Vocational Rehabilitation (AIVR) programs operated by Tribal Nations programs are not exempt from the Ticket Program EN

application process and are excluded from the traditional SSA Reimbursement Program for State VR agencies.

Recommendation

- Congress should amend the statute to permit AIVR programs operating under section 121 of the Rehabilitation Act to participate in Ticket to Work in a manner equivalent to State VR agencies; that is, they should be exempt from the EN application process and be subject to the same reimbursement rules.