

Social  
Security  
Advisory  
Board

400 Virginia Avenue, SW \* Suite 625 \* Washington, DC \* 20024  
Tel: (202) 475-7700 \* Fax: (202) 475-7715 \* www.ssab.gov

December 28, 2005

*Chairman*

Hal Daub

*Members*

Dorcas R. Hardy

David Podoff

Sylvester J. Schieber

*Staff Director*

Joe Humphreys

The Honorable  
Jo Anne B. Barnhart  
Commissioner of Social Security  
500 E Street, SW  
8<sup>th</sup> Floor  
Washington, D.C. 20024

Dear Commissioner Barnhart:

On behalf of the Social Security Advisory Board, I am submitting the enclosed document. It presents the Board's comments on the notice of proposed rulemaking on "Amendments to the Ticket to Work and Self-Sufficiency Program" that you published in the *Federal Register* on September 30, 2005 at pages 57223ff.

As you know, the Board has a strong interest in improving the disability program and, in particular, strengthening the agency's work incentive provisions. These initiatives are central to achieving the goal of returning more beneficiaries to productive and self-sufficient lifestyles. The proposals in the regulations should enhance these efforts. However, we remain somewhat skeptical that even these improvements will have substantial impact until such time as there is a rethinking of the underlying definition of disability.

In our comments we point out the need for more transparency in the estimate of the costs and benefits of the Ticket program. We would have preferred to see more data relative to the benefits that SSA hopes to achieve with the changes and urge that this information be published along with the final rule.

We look forward to seeing the final regulations and to working with you and your staff for the betterment of the Social Security disability program.

Sincerely yours,



Hal Daub  
Chairman

cc: Office of Regulations (by fax and email)

**Proposed Regulations to Amend the Ticket to Work and Self-Sufficiency Program  
Comments of the Social Security Advisory Board  
December 2005**

Background

The Ticket to Work and Work Incentives Improvement Act, P.L. 106-170, pointed out that individuals with disabilities have greater opportunities than ever for employment. This has come about through the passage of the Americans with Disabilities Act in 1990, advancements in public understanding of disability, and innovations in medical treatment, rehabilitation, and assistive technology. Yet, at the time that the law was passed, less than one-half of one percent of Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) beneficiaries ever left the benefit rolls and returned to work. The financial disincentives to work and earn income coupled with the lack of employment training and placement opportunities were – and remain – significant barriers for achieving self-support.

Eliminating these barriers was seen as paramount to improving the financial independence and personal well-being of people with disabilities. The statute noted that, if only an additional one-half of one percent of the current beneficiaries were to cease receiving benefits as a result of returning to work, the savings to the Trust Funds and to the Treasury in cash assistance would total \$3.5 billion over the work life of these individuals. Clearly, these potential savings far outweigh the costs of creating incentives and services to facilitate the productive (re)engagement in the workplace for people with disabilities.

The design of the Ticket program is intended to improve the likelihood of individuals returning to work by expanding the types of educational and rehabilitation services that are available. But, in order to ensure success, a market had to be created to attract providers of such services (“employment networks” or ENs) to participate. The financial incentives and payment schedules for employment networks that have been established have proven to be insufficient. In the Social Security Advisory Board’s public meetings we have heard that options or choices for beneficiaries and access to services are still problematic. The majority of ticket users still turn to the Vocational Rehabilitation Agencies (VRAs). While VRAs play an essential and critical role in this process, it seems that the goal of expanding the reach of rehabilitation services has not been achieved.

After three years of operation, the participation rate in the Ticket program is very low. The most recent available data shows that over 11 million tickets have been mailed, yet less than 1 percent of the eligible beneficiaries have actually assigned their ticket. Much work still needs to be done to entice a larger fraction of the remaining millions of beneficiaries to enroll in the program. We applaud SSA’s efforts over this past year to

market the Ticket program to beneficiaries, employers and job placement organizations. However, it is clear that more beneficiaries need to access return-to-work services if the program will ever fulfill Congressional desire to facilitate self-sufficiency for a significant proportion of beneficiaries.

The marketplace does not seem to be responding either. The number of employment networks has declined over time. Experience to date shows that there are still financial disincentives for the ENs. Only 45 percent of approved ENs are actively engaged in providing services, and very few, if any, are actually making any money. The ENs state that it is too costly to provide the level of services that are truly required to return beneficiaries to the work place.

The Social Security Advisory Board is supportive of agency efforts to strengthen the work incentive provisions within the Social Security disability programs. These initiatives can be critical steps towards returning beneficiaries to productive and self-sufficient life styles. However, as we pointed out in our October 2003 report, *The Definition of Social Security Disability*, we have found little evidence that the current set of incentives has had much of an impact. We believe that it is highly unlikely that work incentives, including Ticket to Work, will have substantial positive impact as long as they are only offered to beneficiaries after months – and sometimes years – of proving that they are *unable* to work. The low participation rates have a variety of causes, but it is certainly plausible to assume that low rate is, in part, due to the incongruity of being encouraged to return to work after enduring the arduous process of gaining entitlement to benefits under the current “inability to work” definition.

### Specific Comments

#### *Expanding Eligibility: Medical Improvement Expected*

The statutory limitations of the definition of disability, as well as those of the Ticket program, clearly narrow the choices of improvements that can be made to Ticket to Work. One of the findings from the August 2003 Ticket evaluation report was that participation rates were highest among those beneficiaries with less time on the disability rolls. Expanding the ticket eligibility criteria to include individuals who have a stronger and more recent connection to the workforce is very likely to increase participation rates. Beneficiaries who are scheduled for “medical improvement expected” continuing disability reviews have often just begun to receive benefits and their impairments are those which are expected to respond fairly quickly to treatment. Providing substantive rehabilitation services closer to the time of the onset of the disability is likely to result in more successful outcomes and may result in more people leaving the disability rolls sooner and, more importantly, leaving the rolls permanently. The Social Security Advisory Board strongly supports the proposal in the regulation to expand ticket eligibility to beneficiaries who are expected to medically improve.

### *Payment Formulas and Schedules*

The Ticket to Work and Work Incentives Improvement Act specifically charges the Commissioner of Social Security with periodically reviewing the schedules for the payment of milestones and outcomes, as well as the formulas for those payments, for purposes of determining whether the financial incentives are sufficient to encourage employment networks to offer services and to maintain participation in the Ticket program. Clearly, SSA must improve the financial incentives for ENs. The only way that an acceptably broad spectrum of services can be provided nationwide is to establish a system that is attractive to a large group of providers. During our public meetings, we have heard that there are insufficient numbers of ENs in parts of the country. Some of this lack of resources is attributable to the fact that the EN – for profit and not for profit – cannot make enough money under the current scheme to cover their costs. Thus, the Board endorses the proposed changes in the milestone payment system which allows payments to be made to the employment network when beneficiaries begin to have earnings at the trial work period level, rather than initiating payment only when the beneficiary’s earnings reach the level of substantial gainful activity. We believe that this will encourage organizations to become employment networks and allow those that are currently in the program to expand. Providing more funding to the ENs upfront, when costs are great, should be an inducement to take on clients.

Similarly, we support the proposed changes in the regulation which foster increased cooperation between vocational rehabilitation services and employment networks. The establishment of a process under which the beneficiary can use the specialized and intensive services of a vocational rehabilitation agency and then transition to the support services of an employment network capitalizes on the strengths of both organizations and will enhance the employability of the beneficiary. Appropriate payment arrangements must be in place to make this cooperative relationship meaningful.

### General Comment

#### *Cost Estimates*

In the material accompanying the proposed regulation, the Office of the Chief Actuary estimates that, if these proposed rules are enacted, program costs for SSDI, SSI, Medicare and Medicaid will increase by \$835 million over the next five years (2006-2010) and by a total of \$3.377 billion over the ten years, 2006-2015. No detail is provided that describes how these projected costs are distributed between payments to employment networks and payments to vocational rehabilitation agencies or between service costs and benefit costs. Furthermore, there is no information provided which permits us to understand what the anticipated gross costs might be or how much is expected in savings due to individuals leaving the benefit rolls. More detail, including an estimate of the expected numbers of beneficiaries exiting the rolls, would be extremely useful information and would make it possible to better understand what the agency

expects to accomplish through these rule changes. We note that P.L. 106-170 specifically states that the evaluation methodology is to capture the annual cost of the program, including net cost, as well as the costs (annual and net) that would have been incurred without these changes. Given this Congressional mandate, the collection of this data is assumed to be underway. This cost/benefit analysis should be provided and should compare those outcomes with the cost estimates that underlie the proposed regulations. We would have preferred to see that data in the proposed rule; however, at a minimum, this information should be included with the final rule publication.

### Conclusion

Returning beneficiaries to work is an important priority for the Social Security Administration, but there are still many obstacles in the way. The proposals outlined in the new regulation focus on improving the agency's current policy, one that is built on a definition of disability that was established in the middle of the last century when individuals with serious impairments were essentially written off as productive members of society. While the changes proposed in these regulations should enhance the efforts to return individuals to work, we maintain a healthy skepticism as to whether there can be a substantial increase in the number of individuals with impairments who continue in or return to work until such time as there is a rethinking of the underlying definition of disability.