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Written Testimony of the

Council of State Administrators of Vocational Rehabilitation (CSAVR)

before

The House Ways and Means Social Security Subcommittee & Human Resources Subcommittee

Hearing on

Work Incentives in Social Security Disability Programs

September 23, 2011

Good morning Chairman Johnson, Chairman Davis, Ranking Member Becerra, Ranking Member Doggett and members of the Social Security and Human Resources Subcommittees. My name is Jim Hanophy. I am the Assistant Commissioner of the Texas Department of Assistive and Rehabilitative Services and the current President of the Council of State Administrators of Vocational Rehabilitation. I am pleased to be here this morning on behalf of the CSAVR and its member agencies to discuss with you the Ticket to Work and the work incentives designed to help SSDI and SSI beneficiaries with disabilities return to work.

The Public Vocational Rehabilitation program, in existence for over 90 years, is a state-federal partnership that serves over one million people with disabilities annually. Combined funding for the program in FY 2011 is slightly more than \$3.7 billion.

In FY 2010 the VR program assisted approximately 172,000 Americans with disabilities go to work and become taxpaying citizens. Together they earned about three billion dollars in wages in their first year of work and paid close to one billion dollars in federal, state and local taxes. On average, VR consumers who enter the workforce will pay back the cost of their rehabilitation services, through taxes, in just two to four years.

In data reported to the Rehabilitation Services Administration for FY 2010, approximately one-quarter of those consumers whom state VR agencies helped become employed nationwide were SSI/SSDI beneficiaries. Social Security reimburses a VR agency for the cost of the services provided to a beneficiary only after the individual has achieved earnings above the Substantial Gainful Activity level (approximately \$1000/month) for 9 months of any 12 month period. The reimbursements earned from Social Security enable the VR agencies to serve more consumers and, in some states, serve consumers who are on waiting lists.

According to the Social Security Administration, VR's assistance to these SSA beneficiaries results in a projected lifetime SSA recoupment rate of \$7.00 for every \$1.00 reimbursed to VR. These former SSA beneficiaries will generate \$828 million of savings to the Social Security Trust Fund and the federal treasury.

The VR program also has a long history of working with the Social Security Administration (SSA). State VR agencies operate approximately one-half of the Disability Determination Services (DDS) offices. Recently, many DDS offices run by VR agencies took on additional workloads to help SSA in their efforts to clear their disability determination backlog.

The Ticket to Work program, passed by Congress in 1999, was intended to give Social Security beneficiaries a choice in the selection of their vocational rehabilitation service provider. However, after the first regulations were published in 2000 and the first Tickets were sent out to beneficiaries, there was very little change in the choice of service providers. More than 90 percent of Tickets went to State VR agencies rather than to Employment Networks or ENs. In addition, the regulations and the accompanying Transmittal 17 created controversy between VR and ENs by automatically assigning a beneficiary's Ticket to VR once their Individualized Plan for Employment (IPE) was signed. In hearings before this Committee, testimony from advocacy groups told of how

the 1999 regulations were unworkable. Further, the TWWIA Advisory Panel in 2003 wrote to Martin Gerry, then the Deputy Commissioner for the Office of Disability and Income Security Programs and Robert Pasternack, then the Assistant Secretary for the

Office of Special Education and Rehabilitative Services, about the issues and concerns created by the Ticket regulations and Transmittal 17. Despite the urging of advocacy groups and the State VR agencies, the Ticket regulations remained unchanged until 2008 when SSA enacted changes in the regulations, repealed Transmittal 17, and created what is now known as Partnership Plus.

Partnership Plus more closely equalized payments for serving SSDI and SSI beneficiaries and increased the amount that ENs would be paid under the Ticket program. In addition, the new regulations redefined the relationships between VR agencies, ENs and SSA beneficiaries by allowing VR agencies and ENs to coordinate and provide a more seamless array of services to beneficiaries to help them obtain and retain employment. These positive changes in the new regulations permit SSA to pay a VR agency for serving a beneficiary under the cost reimbursement program. When the VR case is closed the beneficiary can assign their Ticket to an EN that can subsequently receive Milestone and Outcome payments for the provision of additional services. If the VR agency closed the case with the beneficiary in employment the Phase 1 Milestones are not available to the EN because VR provided the services that led to job placement. The Phase 2 Milestone and Outcome payments would be available to the EN when the beneficiary obtained work and earnings adequate to trigger those payments. Partnership Plus has created opportunities for VR agencies and ENs to partner and provide ongoing support and job retention services to beneficiaries as they move towards self-supporting employment.

CSAVR is grateful to SSA for initiating positive changes to the regulations and continuing to work with VR agencies and ENs to craft a Ticket program that works for all participants.

In state after state, VR agencies and ENs are developing innovative arrangements to provide services that meet the needs of SSA beneficiaries. These arrangements are as different as the states themselves.

In Texas, under the Social Security Administration's Ticket to Work Partnership Plus Program, The Department of Assistive and Rehabilitative Services (DARS) and Employment Networks (ENs) partner to provide a seamless system of service delivery that supports a Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI) beneficiary in their effort toward achieving and maintaining self-supporting employment. DARS provides vocational rehabilitation services, including job placement or supported employment, if appropriate, and, after VR case closure, an EN provides ongoing job supports and services to ensure that the consumer maintains and has opportunities to advance in employment.

DARS offers incentive payments called EN Employment Advancement Payments to DARS Community Rehabilitation Program (CRP) providers under the following circumstances:

- the CRP is an approved EN with the SSA;
- DARS purchased job placement (JP) or supported employment (SE) services from the CRP-EN for the consumer, and those services resulted in a successful case closure;
- following VR case closure, the consumer assigns his or her Ticket to the CRP-EN as one of the primary providers who will help the consumer achieve an identified long-term support need.

Texas also takes advantage of Partnership Plus by moving beyond placement and supported employment services to fund ongoing job supports from CRP-ENs who provided embedded training within a DARS business customer. Training programs take place at the business site and vary in length and scope depending on the needs of the business. When consumers complete the training, they are either hired by that company or placed with another company in the same industry. The CRP-EN that provides that training and assistance with placement is able to provide longer term support where needed because of Partnership Plus. In some situations, the business that hires the person has become the EN and provides individualized supports to the employee to help them be successful on the job.

In addition to highlighting the partnership plus success, these examples also illustrate the success that the public VR program has had in developing a dual customer approach; whereby VR works with both the person with a disability and a business as customers. The VR National Employment team (TheNET) consists of the VR programs belonging to CSAVR and has developed a network of business partners committed to hiring qualified employees who have disabilities. This has led to more full time jobs with benefits and career opportunities for SSA beneficiaries. For example, as a result of the partnership with Walgreens in Texas, 1/3 of the people hired at the distribution center in full time jobs with benefits are SSA beneficiaries.

In Connecticut, The Bureau of Rehabilitation Services (BRS) took the lead in convening a work group of service providers and other agency partners to explore how to utilize the Ticket Program to both encourage successful employment and expand resources for SSI and SSDI consumers. BRS supported ongoing dialogues and provided technical assistance to ensure a complete understanding of the opportunities under the new TTW Program. In an effort to take full advantage of the Partnership Plus option, BRS will serve all beneficiaries under the CR program. When VR closes a case, the beneficiary will be encouraged to assign his/her Ticket to an EN and receive ongoing support services, job retention services and other types of support. BRS expects to benefit as more beneficiaries attain the nine months of net SGA earnings that trigger CR payments. ENs expect to benefit as more resources are brought into the provider network through Phase 2 Milestone and Outcome payments. A goal is to increase the overall resources to the employment system in CT by increasing both CR payments to BRS and EN payments to community agencies.

BRS is also working with Walgreens, an EN under the Ticket, to meet its business needs. They built a state-of-the-art distribution center in Windsor, CT and set a goal for one-third of its workforce to be employees with disabilities. The VR agency took the lead role in bringing various partners together to help Walgreens achieve this goal, and committed

staff to ensure that we could identify and train an adequate pool of employees. Approximately 45% of the Distribution Center's current workforce is currently made up of employees with disabilities. And as Walgreens expands their business model to their retail side nationally, the CT VR agencies are already partnering with them to make this an equally successful endeavor in our state.

In Utah, a partnership between the Department of Human Services (DHS), the Division of Services for People with Disabilities (DSPD), the UT State Office of Rehabilitation (USOR), private providers and local businesses is looking at the Ticket Program and state "HB 45" funding as an opportunity to ensure ongoing support services for Social Security beneficiaries engaged in supported employment. Individuals who are wait-listed for supported employment services at DSPD and are eligible for "HB 45" funding are referred to USOR where they receive vocational rehabilitation services and are placed in supported employment. When these individuals are stabilized in employment for 90 days, USOR closes the case. A beneficiary with a Ticket has the option of taking his/her Ticket to an EN that provides ongoing supports. The "HB 45" funding would sustain the EN for a period of time until Ticket payments were initiated. Access to work incentives planning is an integral part of this service delivery model.

Other states like Wisconsin are focusing on an expanded Partnership Plus relationship that is referral based from EN to VR and VR to EN, or Vermont where the state VR agency collects and distributes the Ticket payments for the ENs and handles all of the administrative reporting and payment requests that the EN would need to send to SSA. Still other states are like Virginia where VR is using their cost reimbursement funds to pay for the Phase One milestones that ENs forgo when a beneficiary goes to VR first.

As a result Ticket usage has increased, VR reimbursements have increased, more providers are signing up to be ENs and they are receiving more in payments from the Ticket. Though the data may not yet substantiate the improvements, we are hearing from both ENs and State VR agencies that the Ticket program is vastly improved and working better. In fact, we believe that Partnership Plus was what advocates and Congress had in mind when the law was passed almost twelve years ago.

Partnership Plus creates, in my opinion, a 5-way win. The beneficiary wins because they are able to go to work in a job that meets their talents and interests and receive the work supports they may need. VR and the ENs win because they are able to help a beneficiary go to work in a coordinated way with the funding for supports. The business wins because they are able to hire a qualified applicant who will be supported. And the taxpayers win as people become less reliant on benefits and more self supporting.

Are there changes that could be made that would strengthen the program even further? We believe so. For example data show that people who come onto the disability rolls earlier in life and stay on longer and cost the SSDI and SSI programs far more than an older worker in their late 40's or 50's. Further, these individuals lose out on a life of opportunity that work could afford them. SSA might explore the option of paying more in Outcome Payments or perhaps offer additional bonus Outcome Payments for serving younger beneficiaries. We believe this would encourage providers to reach out to

younger beneficiaries without disadvantaging older beneficiaries who might want to work.

Also, while not inherently a part of the Ticket to Work, we urge the Committee and SSA to pilot the idea of early intervention for applicants for SSDI and SSI benefits. We know that SSDI and SSI are safety net programs designed to keep people with disabilities from falling through cracks into crushing poverty. These programs and the accompanying healthcare benefits of Medicare and Medicaid literally save lives. These are programs of last resort, accessed only after a person has exhausted every avenue to remain off benefits. Nonetheless, a well thought out and risk-free early intervention program might help some individuals decide to try work, especially younger applicants. CSAVR has developed such a proposal, which is attached to our testimony. Briefly, CSAVR proposes a completely voluntary program, related to work opportunities, where participation would not stop the disability application process. Before eligibility for benefits is determined, this early intervention model would provide an applicant immediate access to temporary cash assistance, immediate access to healthcare coverage, and immediate access to vocational services designed to assist the person to find work. The proposal would suspend the Social Security disability application once employment above SGA is found, and if employment fails, the work effort would not be considered as evidence against the participant in their application for disability benefits. We believe a pilot targeted to a select number of states with a sample of applicants would cost little and inform us greatly about the potential of this concept. We thank Congressman Kind, Congressman Ryan and Wisconsin DVR for their interest in early intervention models.

It is also important to keep in mind that the effort to help SSA beneficiaries return to work is not just the matter of having a Ticket. There are other key services that must wrap around the Ticket to make work a reality for as many beneficiaries as possible. One key service is benefits planning. SSA funds this critical element in the return to work effort through The Work Incentive Planning and Assistance project, or WIPAs, and we cannot stress strongly enough how important benefits planning is to helping SSA's beneficiaries understand the various work incentives in SSDI and SSI. WIPA currently funds over 100 projects around the country. By working with a WIPA, SSA beneficiaries are better equipped to make informed choices about work. Each WIPA is staffed with Community Work Incentive Coordinators (CWICs). CWICs provide work incentives planning and assistance, help beneficiaries and their families determine eligibility for Federal or State work incentives programs, refer beneficiaries with disabilities to appropriate ENs or State VR agencies based on individual needs and impairment types, provide general information about potential employer-based or federally subsidized health benefits coverage available to beneficiaries once they enter the workforce; and inform beneficiaries of further protection and advocacy services available to them.

WIPAs are authorized to serve all SSA beneficiaries with disabilities, including transition-to-work aged youth, providing benefits planning and assistance services on request and as resources permit. The WIPA program has been level funded since its inception and the resources for this valuable and critical program have not kept up with the demand. Further, reauthorization of the WIPA program has not been consistent and in many years it has occurred at the last moment. CSAVR respectfully requests the Committee to reauthorize the WIPA program in a timely fashion and provide the

resources needed to ensure that this critical service is available to beneficiaries. The WIPA project is a proven benefit that works. In a time of scarce resources, work incentive planning is one area that deserves our full support.

As I mentioned both SSDI and SSI contain an array of work incentives. These incentives help individuals who want to work make the transition from benefits to employment. Currently, SSA's Benefit Offset National Demonstration, or BOND, will test whether a gradual decrease in SSDI benefits will encourage more SSDI beneficiaries to work or work more, than the current all or nothing earnings cash cliff. SSA began The BOND project with an initial four state demonstration that showed that not only will more people work, and those working would work more under a gradual decrease in benefits, but that many people actually limit their work efforts under the current cash cliff because they simply cannot earn enough to offset their entire SSDI benefit. This same gradual decrease is a part of the SSI program and data shows that it is an effective work incentive.

SSA recently proposed a new work incentive for the SSDI program called the Work Incentive Simplification Pilot. While WISP does hold some promise for making work easier for some SSDI beneficiaries, it does not propose eliminating the earnings cash cliff which is a major disincentive to work. Further, CSAVR is not clear about how the new pilot will work in conjunction with the ongoing BOND project which is mandated by Congress as a part of the Ticket to Work legislation.

Another key element in the effort to help beneficiaries return to work is healthcare. The loss of healthcare coverage is perhaps the primary fear among people with disabilities who want to return to work. Medicare and Medicaid provide essential health services that every SSA beneficiary needs to survive as well as return to work. As Congress explores different ways of ensuring the future of these programs, please remember that they make a tremendous difference in lives of people with disabilities on SSDI and SSI. With our economy struggling, people with disabilities rely more than ever on Medicare and Medicaid for essential health services.

There are other areas of concern that affect working people with disabilities who leave the SSDI and SSI benefit rolls, one of which is overpayments to former beneficiaries, who are now working and earning above SGA. When beneficiaries faithfully notify SSA of earnings or other changes that may reduce their benefit payment amounts, a considerable amount of time may lapse before SSA sends an overpayment notice to the beneficiary. These notices oftentimes have a debilitating effect on consumers, especially when they reasonably assumed that SSA had processed the information they submitted. Many individuals with disabilities are wary of attempting a return to work out of fear that this may cause an overpayment. CSAVR would like to see SSA work toward developing a better reporting and recording system that would allow for the prompt adjustment of benefit payments –thus preventing these overpayments from occurring. It is important to note that, in and of themselves, overpayments do not indicate fraud or abuse, as beneficiaries are encouraged to work if they are able. The problems occur when reported earnings are not properly recorded and monthly overpayments are not properly adjusted.

Again, I thank all of the Committee members for the opportunity to testify this morning and will answer any questions you may have.

CSAVR

Employment First

In November 2007 there were nearly 7.1 million Social Security Disability Insurance (SSDI) disabled workers and another 4.2 million Supplemental Security Income (SSI) beneficiaries between the ages of 18 and 64.* Despite efforts by Congress to improve the employment rate for these beneficiaries, the remains extremely low. There is widespread agreement among rehabilitation professionals and policy experts that early intervention, provided as close to the disability onset as possible, could improve employment outcomes for individuals with disabilities who meet the Social Security definition of disability. Further, the Americans with Disabilities Act (ADA) and medical and technological advances are removing barriers to work and changing the assumptions about what people with disabilities can do and want to do.

(*SSA Office of Policy at http://www.socialsecurity.gov/policy/docs/statcomps/oasdi_monthly/2007-11/table05.html and http://www.socialsecurity.gov/policy/docs/statcomps/ssi_monthly/2008-03/table02.html)

The Council of State Administrators for Vocational Rehabilitation (CSAVR) seeks to advance a proposal for Early Intervention that would build on the mutual goal of the Social Security Administration and the Public Vocational Rehabilitation (VR) Program to increase employment outcomes and self-sufficiency for individuals with disabilities through the provision of appropriate services and supports. This proposal, the **Employment First Program**, would leverage the strengths of both programs in advancing this goal. The Early Intervention Demonstration (EID) concepts proposed under Section 234 of the Social Security Act were designed to test whether the provision of employment services and other types of services and supports to specially selected applicants for SSDI can improve return to work outcomes. CSAVR proposes a model that would identify those individuals most likely to pass SSA's criteria for eligibility for SSI or SSDI and redirect many of them to the world of work through Vocational Rehabilitation. This immediate connection with an employment support program can help individuals move towards independence and self sufficiency

In addition, the Public VR program is a natural stop for individuals with disabilities who are eligible to apply for SSDI or SSI programs. The Public VR program shares a long history and productive relationship with SSA and is the most widely used employment support program for beneficiaries, and as such, the VR program is a natural place to experiment with a concept such as **Employment First**.

Under the Employment First Program the intent is to provide working age individuals with disabilities applying for SSI or SSDI the voluntary opportunity to learn about "work" as an option by being

immediately referred to a Social Security Vocational Rehabilitation Counselor (SSVRC). The SSVRC would discuss vocational options and assist the individual in making an informed choice about participation in Employment First. Many individuals with disabilities do not understand their employment potential, and may not fully comprehend the vocational options available to them. The Employment First program provides a new avenue for addressing this issue early in the process for a person applying for Social Security benefits.

Key Components of the Employment First program are:

- The program is completely voluntary; participation does not stop the disability application process
- Immediate access to temporary cash assistance
- Immediate access to healthcare coverage
- Immediate access to vocational services to assist the person find work
- Suspension of the Social Security disability application once employment above SGA is found
- If employment fails, the work effort is not considered as evidence of ability to engage in SGA

Access to Temporary Cash Assistance

Employment First would make available temporary cash payments for the individual in an amount equal to the usual SSI or SSDI benefit amount and will include auxiliaries who live in the same household. These benefits would be paid for up to 12 months and would include an SSDI 1-for-2 earnings offset for any earnings in excess of SGA.

These temporary payments would be available during the time the individual is actively participating in the IPE and making progress towards the vocational goal spelled out in the IPE. Any commitment to provide medical assistance and/or pay for living expenses would also be included in the individual's IPE.

Access to Medical Insurance & Other Benefits

The individual's healthcare coverage will be determined by the cash program(s) they receive their temporary cash assistance from, SSI, SSDI, or both. The SSVRC will thoroughly review with the individual the following health care coverage options:

- Medicaid (including Medicaid Buy-In programs)
- Medicare
- Private health insurance
- Employer Based health insurance

Also, since many individuals with disabilities are likely to be eligible for other types of public assistance (e.g., food stamps, welfare, subsidized housing, etc.), the SSVRC would be responsible for providing the individual with accurate and timely information about other local, state and federal benefits. The SSVRC would have a basic understanding of benefits information, but the individual and their SSVRC would also be able to access the services of a benefits counselor.

Access to Vocational Rehabilitation Services

Under the Employment First program an SSVRC would work with the individual to develop a comprehensive review of the individual's knowledge, skills, abilities, capabilities, resources, and interests, as well as any mental or functional limitations that might result in an impediment or a barrier to employment. Once this assessment is completed, the SSVRC will discuss the results of the assessment with the applicant, and, as appropriate, any friends or family members that might be called on to assist the individual in his/her employment efforts. This discussion will assist the applicant in identifying vocational options that are: 1) of interest to the applicant; 2) in keeping with the results of the applicant's assessment; and 3) reasonable in terms of other relevant factors such as the local economy, the person's ability to relocate, etc. Once appropriate vocational options have been identified, the applicant will work with the SSVRC to narrow those options and identify a specific vocational goal or employment outcome to be sought, and the services and supports needed to facilitate the applicant's ability to achieve that vocational goal or employment outcome and have earnings that would increase the individual's financial self-sufficiency. All of this information would then be used to develop the Individualized Plan for Employment (IPE).

Suspension of the Disability Application process

The disability application process and the Employment First application will occur simultaneously. Only once the individual has attained employment would the application for disability benefits be suspended. If the employment effort fails, the application process would begin again using the original application date as the basis for determining eligibility. The work effort would not be considered evidence of ability to engage in SGA,

How the Process Would Work

Upon filing an application for disability benefits, the claims representative will present the applicant with the option of participating in the Employment First program. A referral will be made to the SSVRC, who will contact the applicant to discuss the benefits of participation. The SSVRC would meet with the individual to determine if the person was eligible for Employment First (i.e. they had a disability that would qualify them for disability benefits or would meet listings level for eligibility*). Two critical factors to be considered in this informed choice process would be:

- The individual's interest in investigating employment options
- The likelihood of allowance for disability benefits

The following example illustrates how Employment First would work

Up until one year ago, Jeffrey was working as a heavy equipment operator for a construction company. He was involved in a car accident, and sustained a spinal cord injury, which has left him with quadriplegia. He is 35 years old.

When Jeffrey comes into the office, he is introduced to the SSVRC in the Social Security field office. The SSVRC does some initial screening, and talks with Jeffrey about his vocational options. The SSVRC outlines a number of potential new career options that Jeffrey had not considered. Jeffrey had reservations about going on benefits for the rest of his life but was not aware of any alternative. The possibility of returning to work is very attractive to him.

Jeffrey has an immediate need for income and the time limited cash assistance offered under Employment First is attractive. He is concerned that his application for SSDI will be suspended.

However, when the SSVRC explains that he can always reactivate his application at a later date and that given his disability he would almost certainly be found eligible, this appears less of a risk. So he agrees to participate.

The SSVRC authorizes short-term cash assistance for Jeffrey and begins to develop a vocational plan with him. She also works with a local benefits counselor to help Jeffrey apply for a State low-income health coverage program and Food Stamps. This support assures that Jeffrey can maintain himself until he starts working.

The SSVRC helps Jeffrey enroll in a six-month computer training program at a local college. She links him up with the local Assistive Technology program to ensure he has the necessary equipment to compete. Four months into the program Jeffrey is offered part time work processing customer orders at a local mail order company. Because of this additional income, Jeffrey loses his eligibility for the State low income healthcare program and his Food Stamps. However, his benefits counselor helps him apply for the local Medicaid Buy In program, for which he is now eligible because he is working.

After completing the computer training program at the college, Jeffrey applies for a full time data management position at the mail order company for whom he is already working. He gets the job, which comes with health insurance after six months. He retains his eligibility of the Medicaid Buy-In and Medicaid pays his premiums for the employer-based insurance. The SSVRC ends Jeffrey's cash stipend.

The Employment First program could have a significant positive individual and system level impact.

Individual Level Impact

The design of the Employment First Program would allow individuals applying for disability benefits a choice of the long-term disability program or a short-term concept which would include access to cash and medical benefits as well as employment supports while the individual pursued returning to work, without compromising the individual's application for long-term benefits should employment not prove successful.

System Level Impact

Employment First would provide SSA with a vehicle for testing the concept of Early Intervention using a program with a strong national presence, a proven track record of success and a solid local

infrastructure for service delivery. By providing employment services and supports choice at the point of application for SSA benefits, Employment First would also serve the purpose of developing more solid relationships between the SSA field offices, the VR program and the Benefits Counseling program.

Finally, as the VR agencies test out this model of Employment First, the programs can work together to generate recommendations on restructuring the vocational criteria within the Disability Determination process. Given the limitations of using medical criteria as the most widely-used means of determining work-related disabilities, this project could inform the national debate by giving empirical data on work potential across disability in the working-age population.

Conclusion

The Public VR program has a long history of providing employment supports to individuals with disabilities, including those individuals on the Social Security disability programs. A partnership between the largest insurer of beneficiaries and the largest provider of employment services and supports is the most logical next step for demonstrating models of early intervention.

Further, waiting until applicants with disabilities for SSDI and SSI are determined eligible before engaging them in a conversation about work incentives and employment potential misses opportunities to help these individuals recover and move into the productive world of work. This is a conversation that must begin as early as possible, occur without risk, and offer a clear alternative to the applicant. Employment First proposes this alternative.