

Proposed Regulations Implementing the Ticket to Work and Self-Sufficiency Program (The Ticket to Work Program)

INTRODUCTION

On December 17, 1999, President Clinton signed into law the historic Ticket to Work and Work Incentives Improvement Act of 1999 [Public Law 106-170; hereinafter referred to as "TWWIIA"]. TWWIIA has four purposes [Section 2(b)]:

- To provide health care and employment preparation and placement services to individuals with disabilities that will enable those individuals to reduce their dependency on cash benefit programs,
- To encourage states to adopt the option of allowing individuals with disabilities to purchase Medicaid coverage that is necessary to enable such individuals to maintain employment,
- To provide individuals with disabilities the option of maintaining Medicare coverage while working, and
- To establish a return to work ticket program ("The Ticket to Work and Self-Sufficiency Program") that will allow individuals with disabilities to seek the services necessary to obtain and retain employment and reduce their dependency on cash benefit programs.

On December 28, 2000, the Commissioner of the Social Security Administration (SSA) issued a Notice of Proposed Rulemaking implementing the new Ticket to Work and Self-Sufficiency program ("Ticket to Work" program) authorized under TWWIIA. [65 Federal Register 82844-82912]

The purpose of this policy brief is twofold. The first purpose is to describe the major provisions in the proposed regulation implementing the new Ticket to Work program. A separate Policy Brief (February 2000, Volume 2, Number 2) describes the major provisions of the Ticket to Work program set forth in TWWIIA (the statute). The second purpose of the policy brief is to provide a resource for stakeholders interested in identifying policy issues that require modification or additional clarification in the final regulations. To be sure that comments on the proposed regulations are considered, the Social Security Administration must receive them no later than February 26, 2001.

BACKGROUND ABOUT SSA WORK-RELATED PROGRAMS

SSA Work-Related Programs in Existence Prior to TWWIIA

Under the Social Security Act (prior to the enactment of TWWIIA) two programs assist specified individuals obtain and retain employment. These specified individuals are individuals applying for or determined eligible for Social Security disability benefits on the basis of disability under title II of the Social Security Act (The Federal Old-Age, Survivors, and Disability Insurance Benefits program, hereinafter in this policy brief, the acronym "SSDI" refers to all benefit payments made to individuals on the basis of disability under Title II of the Social Security Act) and under Title XVI of the Social Security Act (The Supplemental Security Income, (SSI) program).

Under the first program, the Commissioner of the Social Security Administration (Commissioner) is required to promptly refer to state vocational rehabilitation agencies (state VR agencies) specified individuals applying for SSDI or SSI benefits for necessary vocational rehabilitation services. These state VR agencies are established in each state under Title I of the Rehabilitation Act of 1973, as most recently amended by Title IV of the Workforce Investment Act of 1998 (P.L. 105-220). A state VR agency is reimbursed for the costs of vocational rehabilitation services provided to SSDI and SSI beneficiaries with a single payment after the beneficiary performs "substantial gainful activity" (i.e., has earnings of \$740 per month for non-blind disabled beneficiaries and \$1170 per month for blind beneficiaries)

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for a continuous period of at least nine months. [Sections 222(a) and (d) and sections 1615(d) and (e) of the Social Security Act]

The Social Security Administration (SSA) also has established an “alternate participant program” under which private and other public agencies are eligible to receive reimbursement from SSA for providing VR and related services to SSDI and SSI beneficiaries. To participate in the alternate participant program, a beneficiary must first be referred to, and declined by, a state VR agency. These private and public agencies are reimbursed according to the same procedures as state VR agencies. [20 CFR 404.2104; 404.2106]

The Commissioner is authorized to impose sanctions (i.e., deduct or terminate SSDI or SSI benefits) with respect to an individual who refuses without good cause to accept rehabilitation services available under title I of the Rehabilitation Act.

Changes to Existing Programs Made By the Ticket to Work and Work Incentives Improvement Act of 1999

TWWIIA makes several changes to programs in existence prior to its passage. First, the provisions sanctioning SSDI and SSI beneficiaries for failure to accept rehabilitation services is repealed. [Section 101(b)(1)(B) and Section 101(b)(2)(B) of the Act]

Second, the provision requiring prompt referral of specified disabled individuals under the SSDI and SSI programs to state VR agencies is repealed. [Section 101(b)(1)(C) and Section 101(b)(2)(A) of the Act].

Overview of the New Ticket to Work Program

Title I of TWWIIA creates a new program called the Ticket to Work and Self-Sufficiency Program. (“The Ticket to Work” program). The new Ticket to Work program will be **phased into operation on a gradual basis** at sites selected by the Commissioner beginning no later than January 1, 2001. The new Ticket to Work program must be fully implemented as soon as practicable on or after December 17, 2000 but no later than January 1, 2004.

The new Ticket to Work program establishes an **entitlement** to a ticket for every individual who meets eligibility criteria established by the Commissioner. This entitlement goes into effect once the program is fully implemented in a state.

During the period for which an individual is using a ticket, the Commissioner (and the applicable state agency) may not initiate a **continuing disability review** or other review of whether an individual is or is not under a disability under the SSDI or SSI program.

The Commissioner of SSA has entered into a contract with a **Program Manager** who will be responsible for assisting the Commissioner of SSA in administering the Ticket to Work program.

The ticket may be used to obtain vocational rehabilitation, employment, and other support services. The disabled beneficiary holding a ticket may assign the ticket to any **employment network** (i.e., service provider) of their choice that is willing to accept the assignment. The employment network must ensure that services provided under the Ticket to Work program are provided under an appropriate **individual work plan** developed and implemented in partnership with each beneficiary receiving services.

The Commissioner pays the employment network in accordance with either the **outcome payment system** or the **outcome-milestone payment system**. An employment network may not request or receive compensation for such services from the beneficiary.

Each **State Vocational Rehabilitation agency (VR agency)** may elect to participate in the new Ticket to Work program as an employment network with respect to a disabled beneficiary under the SSDI or SSI program. If the state elects to participate in the new Ticket to Work program as an employment network, it must also elect to be paid under either the outcome payment system or the outcome-milestone payment system. The services provided under the VR program are governed by Title I of the Rehabilitation Act of 1973, as amended. With respect to a disabled beneficiary for whom the state VR agency does not elect to participate in the new Ticket to Work program as an employment network, the state VR agency will be paid under the cost reimbursement system in effect prior to the enactment of TWWIIA.

The Commissioner is expected to evaluate the cost-effectiveness and outcomes of the new Ticket to Work Program.

PROVISIONS IN THE PROPOSED REGULATIONS

Purpose and Phase-in of the new Ticket To Work Program and Phase-out of the Alternate Participant Program.

What is the purpose of the new Ticket to Work Program?

The purpose of the new Ticket to Work program is to expand the universe of service providers and therefore enhance the range of choices available to SSDI and SSI disabled beneficiaries who are seeking employment services, vocational rehabilitation services, and other support services to assist them in finding, entering, and retaining self-supporting employment. Expanded employment opportunities for these individuals will also increase the likelihood that these individuals will reduce or eliminate their dependency on SSDI and SSI cash benefits. [20 CFR 411.105, .180(a)]

Will the new Ticket to Work program be implemented on a gradual basis? What will happen to the alternate participant program in effect prior to the enactment of TWWIIA?

Yes. The new Ticket to Work program will be implemented

in graduated phases in selected states around the country. The first group of states will begin implementation shortly after January 1, 2001. [20 CFR 411.110, .130] These states include Arizona, Colorado, Delaware, Florida, Illinois, Iowa, Massachusetts, Oklahoma, Oregon, South Carolina, Vermont, and Wisconsin. Phase-in of the new Ticket to Work program must be completed on or before January 1, 2004. [20 CFR 411.720, .725, and .730]

Once the new Ticket to Work program has been implemented in a state, the alternate participant program for payment of VR services will begin to be phased-out in that state. SSA will not pay any alternate participant under the programs in effect prior to the enactment of TWWIA for any services that are provided under an employment plan that is signed on or after the date of implementation of the Ticket to Work program in that state. Under no circumstances will SSA pay an alternate participant under these programs for any services provided on or after January 1, 2004. [20 CFR 411.720, .724, .725]

Tickets Under the New Ticket to Work Program

What is a ticket?

A ticket is a document that provides evidence of the Commissioner's commitment under the Ticket to Work program to make payments of a specified amount to an employment network or a state VR agency to which a disabled beneficiary's ticket has been assigned for employment services, vocational rehabilitation, and other support services provided to a disabled beneficiary. [20 CFR 411.120]

Who is eligible to participate in the new Ticket to Work program?

A SSDI disabled beneficiary must be age 18 to 64, and a SSI disabled beneficiary must be age 18 to 64 and be eligible for disability payments under the disability standards for adults.

In addition a disabled beneficiary must be in current pay status for monthly cash benefits based on disability under the SSDI program or monthly federal cash benefits based on disability or blindness under the SSI program.

Further, the disabled beneficiary must either (1) have a permanent impairment or a nonpermanent impairment (i.e., an impairment for which medical improvement is possible but cannot be predicted) or (2) have an impairment that is expected to improve and have undergone at least one continuing disability review. [65 FR 82846; 20 CFR 411.125(a)]

The Social Security Administration has decided not to extend eligibility for a ticket to the following two groups of beneficiaries: beneficiaries who have impairments that are expected to improve and for whom SSA has not yet conducted at least one continuing disability review; and those who received SSI payments prior to attaining age 18 (i.e., under the disability standard for children) and have

since attained age 18, but for whom SSA has not yet conducted a redetermination of their eligibility standard for adults.

Is an individual eligible for more than one ticket?

An individual will not be eligible to receive more than one ticket during any period during which he or she is either entitled to SSDI benefits based on disability or eligible for SSI benefits based on disability or blindness and his or her eligibility has not terminated. [20 CFR 411.125(b)]

Must all disabled beneficiaries participate in the new Ticket to Work Program?

No. Participation in the new Ticket to Work program is voluntary. The individual beneficiary is free to choose when and whether to assign the ticket to an employment network or to a state VR agency. [20 CFR 411.135]

If a disabled beneficiary wants to participate in the new Ticket to Work program, what must he or she do with the ticket?

A disabled beneficiary must take and then assign their ticket to an employment network or a state VR agency that is willing to provide services. In order to assign a ticket, the disabled beneficiary and the employment network or state VR agency must agree to and sign an individual work plan (or in the case of the state VR agency an individual plan for employment). This will be the effective date of the assignment of the disabled beneficiary's ticket [20 CFR 411.135, .140]

Can a disabled beneficiary assign a ticket to more than one provider of services at a time?

No. A disabled beneficiary may not assign his or her ticket to more than one provider of services (i.e., an employment network or state VR agency) at a time. [20 CFR 411.140]

If a disabled beneficiary is dissatisfied with the services being provided, may he or she retrieve the ticket and reassign it to another employment network or to the state VR agency?

Yes. If a disabled beneficiary is dissatisfied with the services being provided, he or she may retrieve the ticket and reassign it to another employment network or to the state VR agency. The disabled beneficiary must notify the Program Manager of his or her wish to retrieve the ticket. The ticket will no longer be assigned to that entity effective on the first day of the month following the month in which the disabled beneficiary notified the Program Manager of his or her desire to retrieve the ticket. [20 CFR 411.140, .145, .150]

When does a disabled beneficiary's entitlement to a ticket terminate?

A ticket terminates when entitlement to SSDI benefits ends or eligibility for SSI benefits based on disability or blindness terminates (whichever is later) for reasons other than the individual's work activity or earnings; when a Social Security

disabled widow (er) beneficiary attains 65; when a disabled or blind SSI beneficiary reaches age 65 and may qualify for SSI benefits based on age; or after the 60th month for which an outcome payment is made based on that ticket. Once a disabled beneficiary's ticket terminates, he or she may not assign or reassign it to an employment network or state VR agency. [20 CFR 411.155]

Suspension of Continuing Disability Reviews (CDRs)

What is a continuing disability review?

The Social Security Act authorizes SSA to conduct periodic reviews of SSDI and SSI disabled beneficiaries to ensure that they continue to meet the definition of disability and therefore remain entitled/eligible for cash benefits. These reviews are called continuing disability reviews (CDRs). [20 CFR 411.160]

The definition of "disability" for purposes of determining initial eligibility is identical under the SSDI and SSI programs. "Disability" is defined as the inability to engage in any substantial gainful activity (SGA) by reason of a medically determinable physical or mental impairment that is expected to last for a continuous period of not less than 12 months, or to result in death. SGA is defined for non-blind disabled beneficiaries as earnings of \$740 per month and \$1170 per month for blind disabled beneficiaries.

For purposes of the Ticket to Work program, CDRs do not include any review to determine if a disabled beneficiary's disability has ended because the individual has demonstrated an ability to engage in SGA. [20 CFR 411.160]

How does being in the Ticket to Work program affect a decision by SSA to conduct a CDR? What is the significance of suspending a continuing disability review?

If a disabled beneficiary is "using a ticket" under the Ticket to Work program, SSA will not begin a continuing disability review. [20 CFR 411.165] This provision requiring the suspension of continuing disability reviews is designed to address the fear experienced by some beneficiaries that working or even receiving vocational rehabilitation services may increase the likelihood that their benefits will be terminated in a continuing disability review. In other words, the primary purpose of the suspension of continuing disability reviews is to ensure that participants in the Ticket to Work program are not inhibited in their attempts to work or pursue an employment plan by the fear that such activities will increase the likelihood that their benefits will be terminated in a medical review.

For purposes of determining whether a continuing disability review must be suspended, when does the period of "using a ticket" begin and end?

The period of "using a ticket" begins on the effective date of the assignment of a ticket to an employment network or state VR agency. [20 CFR 411.170]

The period of "using a ticket" ends with the earliest of the following [20 CFR 411.171]:

- 1) The completion of the 60 month outcome payment period;
- 2) When the beneficiary is no longer making progress toward self-supporting employment;
- 3) Three months after the ticket is no longer assigned, if the beneficiary fails to reassign the ticket during this 3 month period; or
- 4) When the beneficiary's entitlement to or eligibility for disability benefits terminates. (Note: Although a beneficiary will no longer be considered to be using a ticket after this month, the beneficiary's employment network or the state VR agency may still be eligible for payments under the Ticket to Work program if the beneficiary's entitlement to or eligibility for disability benefits terminated due to the beneficiaries work activity or earnings.)

If SSA begins a CDR before the ticket is assigned, what are the consequences for the individual?

If SSA "begins" a CDR before the date a ticket is assigned, the beneficiary may still assign the ticket and receive employment-related services. **However**, SSA will complete the CDR. If SSA determines that the individual is no longer disabled, in most cases the individual will no longer be eligible to receive benefits.

The date on which SSA "begins" the CDR is the date SSA sends the notice to the individual specifying that SSA is beginning to review the individual's disability case.

If the individual assigns the ticket **before** SSA determines that he or she is no longer eligible, in certain circumstances, the individual may continue to receive benefits. If the decision by SSA that the individual is no longer eligible is appealed, the individual may choose to have the benefits continued pending the appeal. [20 CFR 411.175]

What are the guidelines for determining if a beneficiary is making "timely progress" toward self-supporting employment?

SSA considers that a disabled beneficiary is making "timely progress" toward self-supporting employment when the individual shows an increasing ability to work at levels that will reduce or eliminate dependence on benefits. [20 CFR 411.180(a)]

After assigning a ticket, beneficiaries are allowed **up to 2 years** to prepare for employment. They must show they are "actively participating in their individual work plan or individual plan for employment i.e., engaging in activities outlined in one's plan on a regular and timely basis. [20 CFR 411.180(b)(1)]

After 2 years, beneficiaries would be required to meet progressively higher levels of employment to continue to be considered "using a ticket" in order to receive protection regarding non-initiation of continuing disability reviews.

In the **3rd year** of participation in the Ticket to Work program, beneficiaries would be required to work at least 3 months in a 12-month period (not necessarily consecutive) at the Substantial Gainful Activity (SGA) level (currently set out \$740 for non-blind beneficiaries). This period is referred to as the “**first 12-month review period.**” [20 CFR 411.180(b)(2), .180(c)]

In the **4th year** of participation in the program, the beneficiary would be required to work at least 6 months during a 12-month period (not necessarily consecutive) at the SGA level. This period is referred to as the “**second 12-month review period.**” [20 CFR 411.180(b)(3), .180(c)]

In the **5th and succeeding years**, in order to be considered to be using a ticket, beneficiaries would be required to work at least 6 months in each year and have earnings in each such month that were sufficient to eliminate the payment of SSDI benefits and Federal SSI benefits. [20 CFR 411.180(b)(3), .180(c)]

SSA explains that progress toward self-sufficiency is not always continuous and that for some, full self-sufficiency may not be attained. Many beneficiaries have disabilities with cycles of relapse and remission. The requirements for only 3 months out of 12 in the third year and 6 months out of 12 in succeeding years recognizes that some beneficiaries may not be able to work on a continuous basis.

What are the guidelines for determining whether SSDI and SSI beneficiaries have sufficient “earnings” to indicate that the “timely progress” requirement is satisfied?

SSDI Beneficiaries

During the “**first and second 12-month work review periods**” SSA will consider a SSDI beneficiary to be working in any month in which earnings from employment or self-employment are at the SGA level.

For individuals in the trial work period, SSA will consider the following as fulfilling this requirement:

- Gross earnings from employment before any deductions for impairment related work expenses that are at or above the SGA level or
- Net earnings from self-employment before any deductions for impairment related work expenses that are at or above the SGA level.

During the **third 12-month work review period AND later 12-month review periods**, SSA will consider a SSDI beneficiary to be working in a month for which benefits are not payable because of work or earnings. [20 CFR 411.185(a)]

SSI Beneficiaries

During the “**first and second 12-month work review periods**” SSA will consider a SSI beneficiary to be working in a month in which the individual has:

- Gross earnings from employment, before any SSI income

exclusions, that are at or above the SGA level or

- Net earnings from self-employment before any SSI income exclusions that are at or above SGA level.

During the third 12-month work review period and later 12-month review periods, SSA will consider SSI beneficiaries to be working in a month for which the individual has earnings from employment or self-employment that are sufficient to preclude the payment of Federal SSI cash benefits for a month. [20 CFR 411.185(b)]

Concurrent SSDI and SSI Beneficiaries

During the “**first and second 12-month work review periods**” SSA will consider a concurrent SSDI and SSI beneficiary to be working in a month in which earnings from employment or self-employment are at the SGA level. For a month in which such an individual is in the trial work period, SSA will consider the following as satisfying this requirement:

- Gross earnings from employment, before any SSI income exclusions or deductions for impairment related work expenses that are at or above the SGA level or
- Net earnings from self-employment before any SSI income exclusions or deductions for impairment related work expenses that are at or above the SGA level.

During the **third 12-month work review period** and later 12-month work review periods, SSA will consider a SSDI, SSI concurrent beneficiary to be working in a month in which the individual has earnings from employment or self-employment sufficient to preclude the payment of SSDI benefits and Federal SSI cash benefits for a month. [20 CFR 411.185 (c)]

If a beneficiary expects that he or she will be unable to participate in the employment plan for a significant period of time due to a relapse or if he or she simply chooses to stop participating in the plan, what options are available?

Beneficiaries have the option of placing their ticket in **inactive status** during the initial two-year period following assignment of a ticket. Any period in which the ticket is inactive would not count toward the time limitations under the timely progress guidelines. However, since the ticket would not be in use during this period, the beneficiary would be subject to a continuing disability review. [20 CFR 411.192, .220]

If a beneficiary chooses to resume active participation in an employment plan, SSA will allow 3 months to demonstrate this active participation to the Program Manager. During this 3-month period, the individual will be considered to be making timely progress toward self-supporting employment. The Program Manager will send a written notice of its decision. The decision will become effective 30 days after the date on which the Program Manager sends the notice, unless a review is requested. [20 CFR 411.192(c)]

If a beneficiary who fails to make timely progress or chooses to be placed in inactive status decides to re-enter the “in-use” status, what guidelines are used to determine whether the individual is once again “using the ticket”?

In order to be considered to be “using a ticket” later, a beneficiary would need to work for a specified number of months. The number of months and earnings levels required would vary depending on how far the beneficiary had progressed when he or she failed to meet the guidelines. [20 CFR 411.192, .210] This policy is included in recognition of the reality that many beneficiaries may make unsuccessful attempts before eventually reaching their employment goals, and these unsuccessful attempts should not deprive them of the supports that they need to make renewed efforts.

What are the consequences for beneficiaries who fail to make timely progress toward self-supporting employment?

Beneficiaries who do not make timely progress toward self-supporting employment would be allowed to continue their participation in the Ticket to Work program and the beneficiary’s employment network or state VR agency assigned the ticket would still be eligible for any payments that become due. However, these beneficiaries would no longer be considered to be “using a ticket” and therefore would once again be subject to continuing disability reviews. [20 CFR 411.210]

Who is responsible for conducting reviews to determine if a beneficiary is making timely progress?

The Program Manager is responsible for conducting periodic reviews. The first review would be a progress review 24 months after assignment of the ticket. This would be followed by annual reviews. [20 CFR 411.190, .195, .200]

Is a determination by the Program Manager that a beneficiary is not making timely progress subject to review by SSA?

Yes. A beneficiary may request a review by SSA. [20 CFR 411.205]

What happens if an individual’s ticket is no longer assigned to an employment network or state VR agency?

If a ticket was once assigned to an employment network or state VR agency and is no longer assigned, the individual is eligible for an extension of up to 3 months to reassign the ticket. During the extension period, the ticket will still be considered in use and thus the individual will not be subject to a CDR during this period. Time spent in the extension period will not count toward the time limitations for the timely progress guidelines. [20 CFR 411.225]

PROGRAM MANAGER

What is a Program Manager?

A Program Manager is an organization in the private or

public sector that has entered into an agreement to assist SSA in administering the Ticket to Work program. Maximus Corp. was initially selected to serve as the Program Manager for the entire country based on a competitive bidding process. [20 CFR 411.230]

What are the Program Manager’s primary responsibilities?

The Program Manager’s primary responsibilities include recruiting, recommending and monitoring employment networks, facilitating access by beneficiaries to employment networks, facilitating payment to employment networks, and performing specified administrative requirements such as reviewing individual work plans, reviewing amendments to individual work plans, and resolving disputes between employment networks and state VR agencies. [20 CFR 411.245]

EMPLOYMENT NETWORKS

What is an employment network?

An employment network is any qualified entity that has entered into an agreement with SSA under the Ticket to Work program and has agreed to assume responsibility for the coordination and delivery of employment services, vocational rehabilitation services, and other support services to beneficiaries who have assigned their tickets to that entity. [20 CFR 411.300]

Who is eligible to be an employment network?

Any qualified agency or instrumentality of a state or political subdivision or a private entity willing to assume specified responsibilities may be considered an employment network. Employment networks may include (but are not limited to) state VR agencies, community rehabilitation providers and other alternate participants, One-stop centers under the Workforce Investment Act, state Mental Retardation/ Developmental Disabilities and Mental Health agencies, employers, non-traditional providers, public and private secondary schools, community colleges, and institutions of higher education. [20 CFR 411.305]

Must an employment network consist of a single entity or may it consist of a consortium or association of entities?

A single entity or an association or consortium of entities combining their resources is eligible to be an employment network. The entity may provide services directly or by entering into an agreement or other arrangement with other organizations or individuals to provide appropriate services. [20 CFR 411.305]

How does an entity apply to be an employment network and what are the qualifications?

An entity applies by responding to a request for proposals by SSA. The entity must assure that it is qualified to provide employment services, vocational rehabilitation services, or other support services to disabled beneficiaries either

directly or through contract or other arrangement. [20 CFR 411.315]

To serve as an employment network, an entity must meet and maintain compliance with both general and specific selection criteria.

General selection criteria include (but are not limited to) having systems in place to ensure confidentiality of personal information, physical and program accessibility, the existence of nondiscriminatory policies, practices, and procedures (based on beneficiaries age, gender, race, color, creed, or national origin), having adequate resources to perform activities, and implementing fiscal control and fund accounting procedures. [20 CFR 411.315(a)]

Specific criteria include (but are not limited to) use of qualified staff and providing medical and related health services under the formal supervision of licensed persons (if the employment network typically provides such services). [20 CFR 411.315(b)]

Any entity must have applicable certificates, licenses, or other credentials if state law requires such documentation. [20 CFR 411.325]

What are the employment network's primary responsibilities?

An employment network's primary responsibilities include entering into an agreement with the SSA; serving a prescribed service area; providing necessary services pursuant to a individual work plan to disabled beneficiaries with assigned tickets; electing a payment system at the time of signing an agreement with SSA; developing and implementing individual work plans in partnership with beneficiaries and satisfying specified reporting requirements. [20 CFR 411.320]

What are the specific reporting requirements placed on employment networks?

The following reporting requirements are placed on entities that wish to participate in the Ticket to Work program as employment networks [20 CFR 411.325]:

- 1) Report to the Program Manager each time it accepts a ticket for assignment.
- 2) Submit to the Program Manager a copy of each signed individual work plan and copies of amendments thereto.
- 3) Submit to the Program Manager a copy of any agreement the employment network has established with a state VR agency regarding the provision of VR services.
- 4) Report to the Program Manager the specific outcomes achieved consistent with a national model to be prescribed by the SSA.
- 5) Provide a copy of most recent annual report on outcomes to each beneficiary and ensure that copy available to public while ensuring confidentiality of personal information.
- 6) Meet financial reporting requirements, such as

demonstrating the percentage of the employment network's budget that was spent on serving beneficiaries with tickets (including the amount spent on beneficiaries who return to work and those who do not return to work).

7) Collect and record all data required by SSA.

8) Adhere to all statutory and regulatory requirements.

Under what circumstances will SSA terminate an agreement with an employment network?

SSA will terminate an agreement with an employment network if the entity does not comply with the responsibilities and reporting requirements described above, including minimum performance standards relating to beneficiaries achieving self-supporting employment and leaving the benefit rolls. [20 CFR 411.321]

How will SSA evaluate an employment network's performance?

SSA will periodically review the results of the work of each employment network to ensure effective quality assurance in the provision of services to ticket holders. In conducting these reviews, SSA will solicit and consider the views of the consumers of the employment network and the Program Manager that monitors the employment network. Results of these reviews must be made available to the disabled beneficiaries. [20 CFR 411.330]

PARTICIPATION BY STATE VR AGENCIES

Must a state VR agency participate in the Ticket to Work program? Must a state VR agency function as an employment network?

A state VR agency must participate in the Ticket to Work program if it wishes to receive payments from SSA for serving disabled beneficiaries. [20 CFR 411.350]

A state VR agency may choose on a case-by-case basis whether it will function as an employment network when serving disabled beneficiaries with a ticket. However, even if the state VR agency is not serving as an employment network, it still must tell the Program Manager whenever a beneficiary with a ticket is accepted for services to ensure that the beneficiary's ticket is assigned to that agency. [20 CFR 411.370]

What payment options does a state VR agency have under the Ticket to Work program?

On a case-by-case basis, the state VR agency may participate either as an employment network (and thus be paid under the outcome payment system or the outcome-milestone payment system) or under the cost reimbursement payment system authorized under policy in effect prior to the enactment of TWWIIA. [20 CFR 411.355, .360]

When a state VR agency functions as an employment network, must it still provide services in accordance with Title I of the Rehabilitation Act, including the state plan requirements?

Yes. The state VR agency must continue to provide services under the requirements of the state plan approved under Title I of the Rehabilitation Act. [20 CFR 411.375]

Can an employment network to which a beneficiary's ticket is assigned refer the beneficiary to a state VR agency for services?

Yes. An employment network may refer a beneficiary it is serving under the Ticket to Work program to a state VR agency for services. However, a referral can be made only if the state VR agency and the employment network have an agreement that specifies the conditions under which services will be provided by the state VR agency. The agreement must be in writing and signed by the state VR agency and the employment network prior to the employment network referral. [20 CFR 411.400, .405]

What information should be included in an agreement between an employment network and a state VR agency?

The agreement between an employment network and a state VR agency should state the conditions under which the state VR agency will provide services to a beneficiary when the beneficiary is referred by the employment network to the state VR agency for services. Examples of information may include: procedures for making referrals and sharing information; a description of financial responsibilities of each party; terms and procedures under which the employment network will pay the state VR agency for providing services; and procedures for resolving disputes. [20 CFR 411.420]

How will disputes between employment networks and state VR agencies be resolved?

Disputes between employment networks and state VR agencies should be resolved using the following steps. First, the parties should use the procedures set out in the agreement described above. If procedures are not specified in the agreement, the parties should use procedures for resolving disputes under state law. If procedures for resolving disputes are not spelled out in the agreement or in state law, the employment network or the state VR agency may request that the Program Manager resolve the dispute. [20 CFR 411.435]

INDIVIDUAL WORK PLANS

What is an individual work plan? What is the purpose of the individual work plan? Who is responsible for determining the contents of the individual work plan?

An individual work plan is a written document signed by an employment network and a beneficiary (or a representative of a beneficiary) with a ticket. It is developed and implemented in partnership when a beneficiary and an

employment network come to a mutual understanding to work together to pursue the beneficiary's employment goals under the Ticket to Work program. [20 CFR 411.450]

An individual work plan provides written documentation for both the employment network and the beneficiary. The employment network must develop and implement the plan in a manner that gives the beneficiary the opportunity to exercise informed choice in selecting an employment goal. Specific services needed to achieve the designated employment goal are discussed and agreed to by both parties. [20 CFR 411.455]

The beneficiary and the employment network share the responsibility for determining the employment goal and specific services needed to achieve the employment goal. The employment network must present information and options in a way that affords the beneficiary the opportunity to exercise informed choice. [20 CFR 411.460]

Will beneficiaries who are clients of state VR agency use the individual work plan or the individualized plan for employment required under Title I of the Rehabilitation Act?

Beneficiaries who are clients of the state VR agency will continue to use the individualized plan for employment rather than the individual work plan.

What are the minimum requirements of an individual work plan?

The individual work plan must contain at least the following ten components [20 CFR 411.465]:

- 1) A statement of the vocational goal, including as appropriate, goals for earnings and job advancement;
- 2) A statement of the services and supports necessary to accomplish the goal;
- 3) A statement of any terms and conditions related to the provision of these services and supports;
- 4) A statement that the employment network may not request or receive any compensation for the costs of services and supports from the beneficiary;
- 5) A statement of the conditions under which an employment network may amend the individual work plan or terminate the relationship;
- 6) A statement of the beneficiary's rights under the program, including the right to retrieve the ticket at any time if the beneficiary is dissatisfied with the services being provided by the employment network;
- 7) A statement of the remedies available to the beneficiary, including information on the availability of advocacy services and assistance in resolving disputes through the state protection and advocacy system;
- 8) A statement of the beneficiary's rights to privacy and confidentiality regarding personal information, including information about the beneficiary's disability;
- 9) A statement of the beneficiary's right to seek to amend

the individual work plan (the individual work plan can be amended if both the beneficiary and the employment network agree to the change); and

- 10) A statement of the beneficiary's right to have a copy of the individual work plan made available to the beneficiary, including an accessible format chosen by the beneficiary.

When does the individual work plan become effective?

Once the Program Manager verifies that the beneficiary has a ticket that is eligible for assignment and records the beneficiary's decision to assign his or her ticket, the individual work plan becomes effective on the date it is signed by both parties. [20 CFR 411.470]

PAYMENT SYSTEMS

How does SSA pay an employment network under the Ticket to Work program?

An employment network can elect either of two payment systems for outcomes and long term results for all disabled beneficiaries served by the employment network—the outcome payment system or the outcome-milestone payment system. [20 CFR 411.505]

How is the state VR agency paid under the Ticket to Work program?

On a case-by-case basis, the state VR agency may participate either as an employment network (and therefore elect either the outcome payment system or the outcome-milestone payment system) or under the cost reimbursement payment system in effect prior to the enactment of TWWIIA. The state VR agency must notify the Program Manager of its selected payment system for each particular beneficiary. [20 CFR 411.510]

Can the employment network and the state VR agency change its elected payment system?

The employment network, including the state VR agency, may periodically change its elected payment system. During the 12 months following the month the employment network or state VR agency first elects a payment system, it can choose to make one change in its elected payment system at any time.

After an employment network or a state VR agency first elects a payment system, the employment network and the state VR agency will have the opportunity to change from its existing elected payment system during times announced by SSA. SSA will offer the opportunity for employment networks and state VR agencies to make a change in their elected payment system at least every 18 months following January 2001.

A change in the employment network's election will become effective with the month following the month in which the employment network notifies SSA of the change.

For beneficiaries who already assigned their ticket to an employment network under the employment network's earlier elected payment system, the employment network's earlier elected payment system will continue to apply. [20 CFR 411.515]

How are beneficiaries whose ticket is assigned to an employment network affected by an employment network's decision to change its elected payment system?

A change in an employment network's elected payment system has no effect on the beneficiaries who have assigned their ticket to an employment network. [20 CFR 411.520]

Can an employment network request payment from the beneficiary who assigned a ticket to the employment network?

No. Employment networks are prohibited from requesting or receiving compensation from the beneficiary for the services of an employment network. [20 CFR 411.570]

How are payments calculated under the outcome payment system?

Under the outcome payment system, SSA pays up to a maximum of 60 monthly payments to the employment network for each month for which SSDI benefits and federal SSI cash benefits are not payable to the individual because of work or earnings. Payment is equal to 40% of the preceding calendar year's national average disability benefit. [20 CFR 411.525]

For example, the national average disability benefit for SSDI and concurrent SSDI/SSI beneficiaries for year 1 is \$693 per month. [65 FR 82851] Forty percent (40%) of \$693 is \$277, which is the monthly outcome payment amount to the employment network in calendar year 2. On a yearly basis, the total payment to the employment network would be \$3,324 ($\$277 \times 12 = \$3,324$). For the 60-month period, the total payment to the employment network would be \$16,620 ($\$277 \times 60 = \$16,620$).

For SSI recipients, the national average disability payment for year 1 is \$440. [65FR 82851] Forty percent (40%) of \$440 is \$176, which is the monthly outcome payment amount to the employment network in calendar year 2. On a yearly basis, the total payment to the employment network would be \$2,112 ($\$176 \times 12 = \$2,112$). For the 60-month period, the total payment would be \$10,560 ($\$176 \times 60 = \$10,560$).

How are payments calculated under the outcome-milestone payment system?

The outcome-milestone payment system is a system providing a schedule of payments to an employment network that includes payment for completion by a beneficiary of up to two milestones directed toward the goal of permanent employment. In addition to the milestone payments, monthly outcome payments can be paid to the employment network during the outcome payment period.

Recall, that under the outcome payment system, SSA pays up to a maximum of **60 monthly payments** to the employment network for each month for which SSDI benefits and federal SSI cash benefits are not payable to the individual because of work or earnings. In other words, payments may only be made to an employment network for a month (maximum of 60 months) during which a beneficiary is not entitled to any monthly benefit under SSDI or eligible for any benefits under SSI for that month. [20 CFR 411.525]

Under the outcome-milestone payment system, the employment network's total potential payments for a beneficiary is about **85%** of the total that would have been potentially payable under the outcome payment system for the same beneficiary. For **months 1-12** (including milestone payments), the payments for a beneficiary is about **75%** of the total that would have been potentially payable under the outcome payment system for the same beneficiary; for **months 13-24** payments are about **80%**; for **months 25-36** payments are about **85%**; for **months 37-48** payments are about **90%**; and for **months 49-60** payments are about **95%**. [20 CFR 411.545]

With respect to the two milestones, both milestones occur **after** the beneficiary starts to work. The **first milestone** is met when the beneficiary has worked for **3 calendar months** within a 12-month period and has gross earnings from employment (or net earnings from self-employment) **at the SGA dollar amount** (\$740 for non-blind disabled beneficiaries) **or above** for each of the three months. [20 CFR 411.535]

The **second milestone** is met when the beneficiary has worked for **7 calendar months** within a 12-month period and has gross earnings from employment (or net earnings from self-employment) **at the SGA level** (\$740 for non-blind disabled beneficiaries) **or above for each of the 7 months**. Any of the 3 months used to meet the first milestone can be included in the 7 months used to meet the second milestone. [20 CFR 411.535]

The **payment for the first milestone** approximates the average value of **two** monthly outcome payments under the outcome-milestone payment system. The **payment for the second milestone** approximates the average of **four** monthly outcome payments under the outcome-milestone payment system. [20 CFR 411.540]

Set out below are actual dollar amounts to illustrate the policies described above.

For SSDI and SSDI/SSI Beneficiaries:

Recall the monthly outcome payment is \$277 and the total for a 12-month period is \$3324. Eighty-five percent (85%) of \$277 is \$235. The maximum total payment over a 60-month period (including payments for milestones) is **\$14,127** ($\$16,620 \times .85 = \$14,127$)

The **payment for the first milestone is \$470** ($\$235 \times 2 = \470). The **payment for the second milestone is \$940** ($\$235 \times 4 = \940). The **total payment for both milestones is \$1410** ($\$470 + \$940 = \1410).

Payments for the milestones (**\$1410**) and outcome payments for the **months 1-12 (\$1083)** equals 75% of the total that would have been potentially payable under the outcome payment system for the same beneficiary, which comes to **\$2493** ($\$3324 \times .75 = \2493).

Payments for months 13-24 equals 80% of the total that would have been potentially payable under the outcome payment system, which comes to **\$2659 (\$222 per month x 12 months=\$2659)**.

Payments for months 25-36 equals 85% of the total that would have been potentially payable under the outcome payment system, which comes to **\$2825 (\$235 per month x 12 months=\$2825)**.

Payments for months 37-48 equals 90% of the total that would have been potentially payable under the outcome payment system, which comes to **\$2992 (\$249 per month x 12 months=\$2992)**.

Payments for months 49-60 equals 95% of the total that would have been potentially payable under the outcome payment system, which comes to **\$3158 (\$263 per month x 12 months=\$3158)**.

For SSI Beneficiaries:

Recall the monthly outcome payment is \$176 and the total for a 12-month period is \$2112. Eighty-five percent (85%) of \$176 is \$150. The maximum total payment over a 60-month period (including payments for milestones) is **\$8976** ($\$10,560 \times .85 = \$8,976$).

The **payment for the first milestone is \$300** ($\$150 \times 2 = \300).
The **payment for the second milestone is \$600** ($\$150 \times 4 = \600).
The **total payment for both milestones is \$900** ($\$300 + \$600 = \900).

Payments for the milestones (**\$900**) and outcome payments for the **months 1-12 (\$684)** equals 75% of the total that would have been potentially payable under the outcome payment system for the same beneficiary, which comes to **\$1584** ($\$2112 \times .75 = \1584).

Payments for months 13-24 equals 80% of the total that would have been potentially payable under the outcome payment system, which comes to **\$1690** ($\$141 \text{ per month} \times 12 \text{ months} = \1690).

Payments for months 25-36 equals 85% of the total that would have been potentially payable under the outcome payment system, which comes to **\$1795** ($\$150 \text{ per month} \times 12 \text{ months} = \1795).

Payments for months 37-48 equals 90% of the total that would have been potentially payable under the outcome payment system, which comes to **\$1901** ($\$158 \text{ per month} \times 12 \text{ months} = \1901).

Payments for months 49-60 equals 95% of the total that would have been potentially payable under the outcome payment system, which comes to **\$2006** ($\$167 \text{ per month} \times 12 \text{ months} = \2006).

Is it possible to pay a milestone or outcome payment to more than one employment network?

Yes. If the beneficiary has assigned the ticket to more than one employment network *at different times*, and more than one network requests payment for the same milestone or outcome payment, the program manager will make a determination of the allocation of payment based on the services provided by each employment network. [20 CFR 411.560]

Can a state VR agency and an employment network both receive payment for serving the same beneficiary?

Yes. It is possible if the state VR agency serves the beneficiary as an employment network. If SSA pays a state VR agency under the cost reimbursement payment system with respect to a ticket, such payment **precludes** any subsequent payment by SSA based on the same ticket to an employment network (or to the state VR agency serving as an employment network) under the outcome payment system or the outcome-milestone payment system. If SSA pays an employment network or a state VR agency under one of the payment systems with respect to a ticket, such payments **precludes** subsequent payment to a state VR agency under the cost reimbursement system. [20 CFR 411.585]

What can an employment network do if it disagrees with SSA's decision on a payment request?

If the employment network (other than a state VR agency) has a dispute with SSA, the dispute must be resolved under the dispute resolution procedures contained in the employment network's agreement with SSA. If a state VR agency has a dispute with SSA, it can send a letter requesting reconsideration within 60 days from the date of the original decision. [20 CFR 411.590]

Will SSA periodically review the outcome payment system and the outcome-milestone payment system for possible modifications?

Yes. SSA will periodically review the system of payments and their programmatic results to determine if they provide adequate incentive for employment networks to assist beneficiaries to enter the work force, while providing appropriate economies. SSA will consider altering the payment system conditions based on the information gathered and SSA's determination that an alteration would better provide for the incentives and economies described in the regulations. [20 CFR 411.597]

DISPUTE RESOLUTION

What categories of individuals and entities are covered by dispute resolution procedures?

Disputes between beneficiaries and employment networks are described in 20 CFR 411.600-.635.

Disputes between beneficiaries and state VR agencies are described in 20 CFR 411.640.

Disputes between employment networks and program managers are described in 20 CFR 411.650-.660. The proposed regulations do not specify whether and the extent to which a beneficiary may participate in disputes between employment networks and a program manager.

Resource List

For further information on the Ticket to Work and Self-Sufficiency Program and regulations, contact:

Geoffrey Funk, Team Leader
Legislative Implementation Team
Office of Employment Support Programs
Social Security Administration
6401 Security Boulevard
Baltimore, MD 21235-6401
Voice: (410) 965-9010; TTY: (800) 988-5906
Web site: www.ssa.gov/work

Text of the regulations:

The Ticket to Work and Self-Sufficiency Program:
Proposed Rule; Part 411 of Title 20 of the Code of
Federal Regulations [20 CFR Part 411]; Federal Register,
December 29, 2000

Available on-line at:

[http://frwebgate.access.gpo.gov/cgi-bin/
getdoc.cgi?dbname=2000_register&docid=fr28de00-45](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2000_register&docid=fr28de00-45)

Additional ICI - RRTC Publications on TWWIIA:

Tools for Inclusion Series

The Proposed Ticket to Work Regulations (*Vol. 9, No. 1, January 2001, 12pp.*)

Policy Brief Series

The Ticket to Work and Self-Sufficiency Program and Established Under the Ticket to Work and Work Incentives Improvement Act of 1999. (*Vol. 2, No. 2, February 2000, 4pp.*)

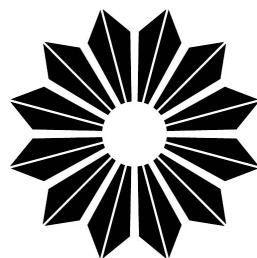
Improvements to the SSDI and SSI Work Incentives and Expanded Availability of Health Care Services to Workers with Disabilities under the Ticket to Work and Work Incentives Improvement Act of 1999. (*Vol. 2, No. 1, February 2000, 8pp.*)

ICI publications are available via the Institute for Community Inclusion Web site at:

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www.comop.org

Policy Brief, Vol. 3, No. 1

This policy brief was written by Robert Silverstein of The Center for the Study and Advancement of Disability Policy (CSADP). The CSADP is a partner of the Rehabilitation Research and Training Center on State Systems and Employment at the Institute for Community Inclusion/UAP (#H133B30067), and the Rehabilitation Research and Training Center on Workforce Investment and Employment Policy at Community Options, Inc. (#H133B980042). The Centers are funded, in part, by the National Institute on Disability and Rehabilitation Research (NIDRR) of the US Department of Education. The opinions contained in this publication are those of the grantees and do not necessarily reflect those of the US Department of Education.

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