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Ticket to Work and Work Incentives Advisory Panel

**Advice Report to the Commissioner Of Social Security Administration
on the Notice of Proposed Rulemaking for the Ticket to Work and Self
Sufficiency Program**

July 26, 2001

Message from the Panel

It is the Panel's distinct honor to transmit to the Commissioner of Social Security its Advice Report on the Notice of Proposed Rulemaking (NPRM), published in the Federal Register on December 28, 2000, for the Ticket to Work and Self-Sufficiency Program. The Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170) authorizes the Ticket program to expand the universe of service providers available to beneficiaries with disabilities. Social Security beneficiaries who are seeking employment services, vocational rehabilitation services, and other support services to assist them in obtaining, regaining, and maintaining gainful employment can use a ticket and other work incentives to secure work.

The recommendations in this report represent the Panel's informed deliberations after publication of a Preliminary Advice Report on February 21, 2001, public meetings and regional meetings, expert input from the field, briefings from Agency officials, and further research and analysis by the Panel. The Panel wishes to thank the Agency staff for their cooperation and support of the Panel's efforts and to acknowledge the Agency for its progress on implementation.

It is the Panel's duty to advise and assist the Commissioner in the successful implementation of the Ticket program so that individuals with disabilities nationwide can secure self-supporting employment. The Panel believes this report is an important step toward successful implementation.

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EXECUTIVE SUMMARY AND RECOMMENDATIONS

This Advice Report represents the further thinking, public input, deliberations, analysis and recommendations of the Ticket to Work and Work Incentives Advisory Panel (the Panel). The Advice Report builds on the advice and deliberations included in the Preliminary Advice Report (PAR) sent to the Commissioner of the Social Security Administration on the proposed rules for the Ticket to Work and Self-Sufficiency Program on February 21, 2001. The proposed rules appeared in a Notice of Proposed Rulemaking (NPRM) published in the Federal Register on December 28, 2000. The Panel collected additional information, did further analysis, solicited additional public comment and further deliberated in order to develop and submit this Advice Report on the NPRM to the Commissioner.

Public Law 106-170, The Ticket to Work and Work Incentives Improvement Act of 1999, established programs that are designed to provide SSA beneficiaries with disabilities with a broader array of providers and improved access to employment services and supports, vocational rehabilitation services and other support services. The Law also established the Ticket to Work and Work Incentives Advisory Panel, whose duty is to advise the Commissioner of Social Security and the President and Congress on issues related to work incentive programs, planning and assistance for individuals with disabilities and the Ticket to Work and Self-Sufficiency Program established under the Act.

The Panel is composed of twelve individuals, four of whom were appointed by the President, four by the Senate and four by the House of Representatives. The appointees represent a cross-section of individuals with experience and expert knowledge as beneficiaries, consumer advocates, providers, researchers, legal advocates, employers and individuals in the fields of employment services, vocational rehabilitation and other related support services. The majority of the members are individuals with disabilities or their representatives. There are current or former disability beneficiaries of Social Security on the Panel as well.

A summary of the Panel's twenty-four final recommendations to the Commissioner of SSA on the proposed rules precedes the full report. They are separated into four categories. The numbering and sequence of the recommendations do not reflect the order of importance.

SUMMARY OF PANEL RECOMMENDATIONS ON THE PROPOSED RULES

TICKET TO WORK AND BENEFICIARY USE

Recommendation 1: All SSI and SSDI adult disability beneficiaries, including those with a Medical Improvement Expected (MIE) designation, should be eligible to participate in the Ticket program.

Recommendation 2: Sixteen (16) and seventeen (17) year-old beneficiaries, including those with an MIE designation, should be eligible to participate in the Ticket program.

Recommendation 3: Eighteen (18) year-old beneficiaries who participate in the Ticket program should receive the same protection from redeterminations as other ticket users receive against CDR's.

Recommendation 4: SSA should conduct a cost-benefit analysis on the feasibility of a beneficiary receiving more than one ticket within a period of disability and/or a period of eligibility. The Agency should assess the potential cost impact of beneficiaries using more than one ticket in the Agency's overall evaluation report due to Congress.

EMPLOYMENT NETWORK REQUIREMENTS AND QUALIFICATIONS

Recommendation 5: An employment network (EN) should be required to retain staff that are otherwise qualified based on education or direct services experience, such as employees with a college degree in a related field, including but not limited to vocational counseling, education, human resources, human relations, social work, teaching, or psychology or employees with equivalent experience. SSA should not require licensure and/or certification that would exclude employers or other types of providers qualified to work with people with disabilities such as those who offer non-traditional supports that result in employment. The key criterion should be whether the entity is capable of successfully providing the service agreed to by the EN and the beneficiary. SSA should delete Section 411.315(c). The State agency certification process should not be used to limit who can participate as an EN in the Ticket program.

Recommendation 6: Delete Section 411.325(g) and Section 411.325(h) from the list of EN reporting and collection requirements. Section 411.325(g) currently requires "...among other things, submitting to the Program Manager, on an annual basis, a financial report that shows the percentage of the employment network's budget that was spent on serving beneficiaries with tickets..."

Recommendation 7: The Panel recommends that timely progress be defined by the terms and conditions of the IWP, as agreed to by the beneficiary and the EN. The reporting mechanism should be the annual report in Section 411.325(e).

Recommendation 8: SSA should permit other individualized service delivery plans to be used as substitutes to the IWP provided they meet the minimum requirements detailed in the statute.

Recommendation 9: **SSA should re-write Section 411.385 to clarify that an SSA beneficiary, whether a youth or adult, with a ticket who applies for or is receiving State Vocational Rehabilitation services has a choice in deciding whether to assign his/her ticket to the State VR agency, to assign it to another EN, or not to assign it at all. An 18-year old who is already receiving VR services and who then receives a ticket from SSA, should not be required to deposit the ticket with the State VR system.**

DISPUTE RESOLUTION

Recommendation 10: All beneficiaries should have access to Protection and Advocacy (P&A) services.

Recommendation 11: Mediation should be available as an avenue for resolving disputes but it should not be mandatory. It should be an option available to the parties to the dispute, after the Program Manager has considered the matter for resolution.

- All parties must agree to enter into mediation.
- Mediation should be external to the Social Security Administration and should not be provided or paid for by Protection and Advocacy agencies. Participation in the mediation process should not bar a party's access to further appeals.
- Because mediation is a more efficient and cost-effective way to resolve disputes, the Social Security Administration should set aside additional funds to support the use of mediation for all parties.
- The Social Security Administration should look at other successful mediation program models such as those established at the Equal Opportunity Employment Commission (EEOC) and the Department of Justice.

Recommendation 12: All decisions by the Social Security Administration involving disputes between or among all parties should, at the option of the parties, be subject to external review by either the Social Security Administration's administrative review process and/or judicial review.

Recommendation 13: Information about protection and advocacy services and how to access them should be available at any time to all beneficiaries seeking or using SSA or other work incentive programs, including the ticket. Specifically, a beneficiary should receive a formal notice of the availability of protection and advocacy services when he or she is issued a ticket and at the following junctures in the process:

- When he or she applies to the employment network for services;
- At the signing of his or her Individual Work Plan;
- In the event his or her services are decreased, suspended or terminated; or,
- When he or she files a complaint against the employment network.

Recommendation 14: The beneficiary's filing of a complaint with the Program Manager (PM) against an EN should, with the beneficiary's consent, trigger a notice to the Protection and Advocacy agency regarding the dispute to allow for an inquiry by the Protection and Advocacy agency as to the beneficiary's wish for protection and advocacy assistance.

Recommendation 15: Notices from the EN and the Protection and Advocacy agency, the beneficiary's IWP and any other documents should be in accessible format and, where practicable, in the beneficiary's primary means or language of communication.

Recommendations 16: Timelines for dispute resolution should be as follows:

- Employment networks should have fifteen (15) working days to resolve a complaint filed by a beneficiary. If not resolved satisfactorily, the beneficiary should be permitted to request a review by the Program Manager.
- The request for review, with the submission of all supporting documentation by both parties, should be submitted within ten (10) working days after the beneficiary receives the employment network's decision.
- The Program Manager should complete its review and render a decision within fifteen (15) working days, unless the parties agree to mediation.
- If the parties agree to mediation, mediation should commence within ten (10) working days after the Program Manager receives the parties' request for mediation and should be completed within twenty (20) working days after it is scheduled.
- The Social Security Administration should have no more than twenty (20) working days to resolve individual appeals.
- All disputes involving employment networks, State Vocational Rehabilitation agencies, and the Program Manager must be resolved within sixty (60) working days, including Social Security Administration review and issuance of a decision.

Recommendation 17: During the appeals process, services and supports to the beneficiary should be continued at the same level; that is, services and

supports should not be reduced or suspended by the employment network without the beneficiary's consent.

Recommendation 18: All parties in a dispute should have access to all information that is being considered and used to render a decision in the dispute.

EMPLOYMENT NETWORK PAYMENT RECOMMENDATIONS

Recommendation 19: SSA should adopt a payment structure that pays at least four milestone payments: 1) at the signing of the IWP; 2) at 3 months of SGA; 3) at 7 months of SGA; and 4) at 12 months of SGA.

Specifically the system would:

Pay a minimal milestone when a beneficiary and employment network signs an IWP;

Pay an additional milestone payment equal to the first two proposed (i.e., 3 and 7 months of SGA) at the end of 12 months of SGA;

Amortize the milestone payments over the entire 60-month outcome-only payment period rather than the 12 months proposed;

Pay a significantly greater overall percentage of the outcome-only payment option under the milestone/outcome payment option than the proposed 85% and should consider at least 95%; and,

Equalize the monthly outcome payments under the milestone/outcome payment period rather than the graduated method proposed in the NPRM.

Recommendation 20: In the Adequacy of Incentives Report due to Congress in December 2002, SSA should address the efficacy of individualized milestones. The Panel recommends that SSA also consider the immediate implementation of a second tier of the milestone system. Such a system would provide individualized milestones for individuals with a need for on-going support services, individuals who need high-cost accommodations, individuals who earn a sub-minimum wage, and individuals who work and receive partial cash benefits along the lines of systems already in use in Massachusetts, Oklahoma and other states. (These systems use the individualized planning process to determine if and when a different set of milestones is necessary, and establish a plan for payments and accountability for the payments.)

Recommendation 21: The Panel recommends SSA interpret “benefits not payable” as a reduction in benefits rather than zero cash benefits.

Recommendation 22: Because the Title II and Title XVI programs are distinctly different from each other with differing processes and timelines, SSA should develop two milestone/outcome payment systems, one for SSI recipients and another for SSDI beneficiaries, that take into account the differences between the two programs and that factor into consideration, issues of concurrent beneficiaries.

Recommendation 23: SSA should commission a full-cost benefit study to evaluate the Ticket to Work and Work Incentives Programs. Such a study should begin with a more complete view of the direct savings to the SSA Trust Fund, but should also consider savings to the Federal Treasury and increased productivity to the nation as a whole. Such a study would, at a minimum consider the impact of increased Federal Insurance Contributions Act (FICA) contributions by working beneficiaries, reduced use of Medicare, cash savings to the general fund by SSI recipients who work but who only receive partial cash benefits and estimated general fund savings beyond 60 months. The study should also consider reduced use of all other government transfers and increased taxes paid. It should consider the addition to Gross National Product from increased work. It should evaluate costs and benefits from SSA’s point of view, from the view of the Federal government, and from the view of the beneficiary and from society as a whole.

Recommendation 24: SSA should resolve the conflict between Sections 411.510 and 411.390 regarding VR’s choice of payment systems for beneficiaries who are already clients of VR.

NPRM ISSUES, PUBLIC INPUT, DISCUSSION AND RECOMMENDATIONS

INTRODUCTION

The Ticket to Work and Work Incentives Advisory Panel's (the Panel's) duty is to advise the Commissioner of the Social Security Administration, the President, and the Congress on the implementation and operation of the Ticket to Work and Self-Sufficiency Program and on issues related to work incentives programs and planning and assistance for individuals with disabilities. One of the Panel's first tasks outlined in the Ticket to Work and Work Incentives Improvement Act (TWWIIA) is to advise the Commissioner on the regulations for the Ticket program. The Panel, since its initial meeting in July 2000, has focused much attention on the Notice of Proposed Rulemaking (NPRM) published in the Federal Register on December 28, 2000.

In addition to the issues that are directly addressed in the NPRM, the Panel and the Agency have received numerous comments that relate to other work incentive and return-to-work program issues and, as such, could have significant impact on the success or failure of the programs in the Ticket to Work and Work Incentives Improvement Act. Hence, the Panel feels it important to raise these broader issues as well in this report in an effort to call attention to them and begin working on them with the Agency. These issues appear in the section following the Panel's recommendations on the NPRM.

NPRM ISSUE AREAS

In September, the Panel created four workgroups to focus on the four broad topic areas covered in the NPRM: Ticket to Work and Beneficiary Use of Ticket; Employment Network Requirements and Qualifications; Dispute Resolution; and, Provider Payment. This final Advice Report reflects the work of these workgroups, expert advice from invited guests of the workgroups, public input and Panel deliberations.

Panel Efforts to Solicit Input

The Panel felt it was very important to reach out to a variety of constituents, beneficiaries and advocates to solicit comments and opinions about the NPRM and the Agency's plans for ticket implementation. To achieve this, during the regular quarterly meetings of the Panel, a specific period was set aside for public comments. The Panel also conducted five other public meetings in Washington, DC, and Phoenix, Arizona and five public regional meetings - in Utah, Minnesota, Arizona, Georgia and New York. The Panel also held eight public conference

calls and two West Coast regional conference calls. The total hours of public comments from the public and regional meetings and conference calls are approximately 22. Lists of the relevant Panel meetings, conference calls, and commenters appear in Appendices A & B.

At each meeting, citizens with disabilities, their advocates, providers of services, and other stakeholders, were provided ample opportunity to comment. Additionally, individual Panel members attended numerous local, state and national level meetings and have been asked to speak to a variety of groups and organizations about the Panel and the issues in the ticket's implementation. The Panel also solicited and received correspondence from the public regarding the Agency's ticket implementation plans and the NPRM.

In sum, the Panel has made a concerted effort to solicit input from a broad cross-section of program constituents by holding meetings in Washington, D.C., as well as regional meetings and teleconferences across the country. The hours of public comments and the numerous letters and e-mails received by the Panel reflect this effort. The Panel also reviewed the public comments sent to SSA in response to the NPRM and the catalogue of these comments prepared by the Agency. A review of the public comments sent to SSA on the NPRM for the Ticket program shows that an overwhelming majority focused on five key issue areas: (1) who should be eligible for a ticket; (2) the adequacy of the payment structure; (3) the number of tickets a beneficiary may receive; (4) how to determine "timely progress"; and (5) qualifications and evaluations of employment networks. Several commenters raised issues regarding the participation of Vocational Rehabilitation agencies and concerns about overpayment issues and how they might affect ticket users and ENs.

During this first year of Panel activity, specific issues and concerns regarding implementation and rollout of the Ticket program and the proposed regulations have surfaced repeatedly in public comments and in Panel deliberations. After extensive discussion in the January and February meetings, the Panel concluded a letter outlining key implementation issues and concerns should be sent to the Acting Commissioner of SSA, prior to close of the NPRM public comment period (See Appendix C for copy of letter). The Panel is encouraged the letter dated February 21, 2001 sent to Acting Commissioner Halter resulted in the Agency's decision to delay issuing the Request for Proposals (RFP) for employment networks for 45 days in order to make many changes recommended by the Panel. In addition, the Agency decided to delay issuing tickets until the Regulations are issued after the publication of the RFP for employment networks.

SSA has provided the Panel regular briefings and updates on the NPRM and administrative implementation activities such as evaluation plans, the responsibilities and activities of the Program Manager (Maximus, Inc.),

contracting, grant-making, and other critical administrative rollout activities. The Panel recognizes the implementation and rollout of the new Ticket program pose tight timeframes and may demand major changes in the culture and business practices of the Agency. The Panel commends the Agency for its diligence in carefully listening to and studying all of the public comments and for giving thoughtful consideration to the advice of the Panel. The Panel believes if implemented carefully, with input from the Panel and constituents, the Ticket to Work and Self-Sufficiency Program has the potential to improve greatly the quality and availability of rehabilitation services, employment services and supports, and related health services for our nation's citizens with disabilities.

TICKET TO WORK AND BENEFICIARY USE

Issue: Should disability beneficiaries classified with a "Medical Improvement Expected (MIE)" diary be eligible to participate in the Ticket program?

Summary of Input: Public comment supported the inclusion of beneficiaries with the MIE designation in the Ticket program. Members of the public commented that the policy should be that services should be available to all disability beneficiaries sooner, rather than later, because recent research supports findings the longer someone receives cash benefits, the harder it is for them to become self-supporting. The public also stated that most people with an MIE designation do not know they have been given that designation. Further, testimony to the Panel indicated in their practical experience, people with MIE designations undergo delayed initial Continuing Disability Reviews (CDRs) often years after the date on which they were supposed to occur. Concern was expressed by national leaders from the mental health advocacy community and national organizations representing people who are developmentally disabled, that people with long-term mental illness (such as bipolar disorder) and cognitive impairments receive this designation disproportionately, and often with no real indication improvement is likely. In addition, members of the public were of the opinion if the designation of the MIE diary category for CDRs was used to limit a person's access to a benefit, it must be subject to due process review or appeal. In addition, Agency officials stated it is not known how many beneficiaries have their benefits terminated due to a CDR based on the MIE designation, reapply based on a decline in their condition, and then are awarded benefits a second time.

Discussion: The Panel agreed limiting a person's access to a Federal benefit (i.e. the ticket) without providing for a due process review is questionable practice and policy. If this exclusion remains in the final rule, it should outline a procedure for timely review and appeal. This would increase the administrative burden to SSA, the cost of which may outweigh the possible savings to the

programs created by such exclusion. One likely consequence may be the length of time required to process all appeals, not just MIE cases, will be negatively impacted, that is, all appeal cases would take longer given the additional caseload.

If the rule becomes final with its effect to limit a person's access to the benefits of the Ticket program, SSA should commit to policy and procedures ensuring that beneficiaries with the MIE designation receive their initial CDR on schedule. The exclusion of beneficiaries with the MIE designation from participation in the Ticket program does not appear to be justified. The SSA program and policy officials were not able to provide the Panel with a sound statistical analysis to justify this exclusion. The Panel was not provided with data on how long it takes for a person with the MIE designation to have the initial CDR completed. There was also no information that indicated a significant number of people with the MIE designation would be terminated after the completion of their initial CDR. There was no evidence to counter the argument that people with a MIE designation would be more successful in staying off the rolls through being allowed early participation in the Ticket program, even if their initial CDR resulted in a termination of benefits.

The proposed regulation states that a person who is awarded benefits with an MIE diary for the scheduling of their first Continuing Disability Review (CDR) is not eligible for the Ticket program until after the completion of their first CDR. A beneficiary with this designation is scheduled to have his or her case reviewed within 6 to 18 months after receiving benefits. This MIE category was created for the sole purpose of determining when the first CDR for a beneficiary should be completed.

In 1999, there were 60,766 DI and SSI adult beneficiaries who were classified first time MIEs on the rolls. Data from the Disability Determination Services decision files indicate that in 1999, 9,663 beneficiaries with a MIE designation were ceased for medical improvement. According to SSA's Office of Disability, on the average, about 16% of initial Titles II and XVI MIE allowances which come up for first-time CDRs are ceased because of medical improvement, usually 18-24 months after allowance. The Panel asked for and received cost estimates from the SSA Office of the Actuary (OACT) concerning the cost implications of including beneficiaries with an MIE designation in the population receiving tickets. OACT estimates the cost at \$747 million for OASDI benefit payments and \$75 million for Federal SSI benefit payments for a net subtotal of \$822 million over the period of 2001-2010. (See Appendix D)

Recommendation 1: All SSI and SSDI adult disability beneficiaries, including those with a Medical Improvement Expected (MIE) designation, should be eligible to participate in the Ticket program.

Issue: Should transition-aged youth (16-18) be eligible to receive and use a ticket in the Ticket to Work and Self-Sufficiency Program?

Summary of Input: The Panel and the Agency received many comments from the public on this issue, the majority of which supported providing tickets to at least 16 and 17 year olds. There was consensus from the public that the longer people receive cash benefits the less likely they are to be able to achieve independence and become self-supporting. The public also agreed that the expectations created for a young person with a disability might be the most important factor in whether they work or rely on benefits and allowing them to participate in the Ticket program makes another tool available to encourage positive expectations. Experts told the Panel that schools themselves could potentially be employment networks for youth.

The majority of comments received by the Panel were that making transition-aged youth ineligible for the Ticket program would send the wrong message to youth and could have the effect of encouraging lifelong dependency upon benefits. There may or may not be a determinable increase in cost to the program in the short-term. However, the long-term benefits to the program and the youth beneficiaries could far outweigh those expenditures. Many youth may not choose to participate in the program until after they are 18, but those who wish to participate should be allowed to do so. Programs and policy in the Individuals with Disabilities Education Act (IDEA) and the Workforce Investment Act promote seamless programming from school to work for students and young adults with and without disabilities.

On the other hand, the Consortium for Citizens with Disabilities (CCD) commented it was their understanding that SSA is currently evaluating the process used by State Disability Determination Services for conducting the required redeterminations at age 18. According to CCD, the project is being carried out with the American Association of University Affiliated Programs, and it is CCD's view that until SSA has had the opportunity to assess the outcome of the project, it may be premature to lower the eligibility age for tickets.

Discussion: The proposed regulations limit participation in the Ticket program to disability beneficiaries between the ages of 18 and 64. The Panel engaged in extended debate over whether to provide access to the Ticket program to 16 and 17 year olds. Panel members raised a number of concerns regarding the issuing of tickets to this age group. They included the following concerns:

- (1) Providing a ticket to 16- or 17-year-old youths might be construed as pressuring them into early employment instead of emphasizing educational goals;

(2) The Ticket is an adult program and that it was not in the taxpayer's best interest to use different criteria to give young people a ticket in a program for which they might not actually qualify as adults;

(3) Providing this age group with a ticket may have the unintended consequence of allowing States to supplant their mandatory obligations to serve these students under the Individuals with Disabilities Education Act (IDEA), thus precluding these students from any other options; fears that ENs would not want to serve 16-18 year olds because the mechanism that triggers EN payments is beneficiary exit from the program, a doubtful outcome for someone in that age group, especially because they are unlikely to work fulltime;

(4) The reasonable expectation that the VR system and other resources serve 16-18 year olds, along with still unanswered questions regarding the impact on student choice of the assignment of tickets to VR; and

(5) Uncertainties regarding the potential impact of the unresolved question of whether a beneficiary will be allowed more than one ticket.

Finally, although cost was not the primary reason for objecting to tickets being given to this age group, the issue of costs was raised. Some Panel members expressed concerns over projected costs provided by the Office of the Actuary that estimated participation by 16-18 year olds would cost \$284 million over the period 2001-2010, leading to questions about such expenditure of scarce resources. A different financial concern was brought up in the context of whether EN's who take tickets from youth and are successful in meeting the program's employment goals, will then be eligible for payments if the youth do not meet the adult medical standards.

Despite the concerns raised above by some Panel members, the majority felt very strongly that many young people with disabilities would be positively impacted by the opportunities the ticket could provide. Some Panel members expressed their belief that the Ticket program could especially benefit poor and minority students. The majority specifically noted that: only 25 percent of all Americans get a four year college degree; a much smaller percentage of youth with disabilities go on to higher education; 38 percent drop out of high school before graduation or before receiving their General Equivalency Diploma (GED); and a significant minority get into trouble and wind up in the juvenile justice system. The majority also felt part of the reason for creating the Ticket program in the first place was to increase consumer choices, a goal that would be totally ignored if the only option youth with disabilities had was the VR system. And, finally, it was pointed out that cost estimates from the Office of the Actuary showed only the costs at the front end of having 16-18 year olds in the program, and did not project any savings at the other end, even after 10 years, precluding

consideration of the possibility that the general funds would actually save money by the inclusion of young people in the Ticket program.

Recommendation 2: Sixteen (16) and seventeen (17) year-old beneficiaries, including those with an MIE designation, should be eligible to participate in the Ticket program.

Issue: Should young people with disabilities on SSI benefits be protected against a medical redetermination at age 18 if they are participating in the Ticket program?

Summary of Input: Regarding the issue of protection against a redetermination at age 18, the Panel received Congressional questions and input from the Office of the Actuary (OACT) regarding the current requirement that disabled young SSI beneficiaries must undergo a medical review (redetermination) at age 18 using different, more stringent adult disability standards. As a result of this process, in the year 2000, some 44.2% of 18-year old SSI beneficiaries initially had their benefits ceased. Further data from the Office of Disability showed of those 44.2 % whose benefits were initially ceased, many successfully appealed and had their benefits continued. Hence, after all appeals, the actual 18-year old redetermination cessation rate dropped to 32.7%. The Panel asked the Office of the Actuary to supply cost estimates on the increased expenditures could accrue if youth with disabilities who activate their ticket prior to notification of an age 18 redetermination were given benefit protection similar to the CDR deferral provisions. The Office of the Actuary estimates the cost of deferring redeterminations for 18-year olds would be \$256 million over the period 2001-2010. In summary, if 16-18 year olds were included in the Ticket program and had their medical redeterminations deferred, the OACT estimates the net cost to be \$540 million (i.e., \$284 + \$256 million) over the period 2001-2010. (See OACT estimates in Appendix D.)

Discussion: Under current rules, all 18 year-old SSI recipients must undergo a medical redetermination in order to be determined disabled under the adult standards. Under section 301 of the 1980 disability amendments (PL 96-265, section 301), if these youth, prior to turning age 18, are participating in a VR program that is expected to result in employment, their benefits are protected. Specifically, they still have a medical review, but if SSA makes a medical cessation decision, their benefits are nevertheless continued -- this is sometimes referred to as section 301 protection. The proposed rules would continue the redetermination requirement before 18-year old beneficiaries would be able to receive a ticket.

The Panel discussed the ramifications of providing protection from medical redeterminations for 18-year olds who participate in the Ticket program. The

idea would be to provide protections similar to those already afforded to ticket participants from CDR's. Simply providing the protection currently given 18-year olds who, prior to turning 18, are in VR programs will not produce the desired effect. Although youth in VR programs have their benefits protected, they still have a medical review. However, such a review for an 18-year old ticket user would mean that if the youth were found ineligible to meet the adult medical standards, an EN would not be paid for the young person's successful work outcomes. The Panel is greatly concerned therefore no EN will serve these youth if they must first have a medical redetermination. For that reason, the Panel is recommending CDR-type protection be given to 18-year olds who participate in the Ticket program so EN's would be eligible for payments for successful outcomes.

Panelists who dissented felt: (1) granting such protection would extend eligibility to those who would not otherwise be eligible for benefits as adults; (2) a redetermination needed to be done before an 18-year old is given a ticket to ensure the person still meets the definition of disability under SSI; (3) including these youths who would not otherwise be eligible on to the adult SSI rolls, will eventually lead SSA to exercise more scrutiny with respect to the contracts between consumers and providers.

However, the majority of the Panel felt that 18-year olds who choose to participate in the Ticket program should be entitled to the same protections against a medical review as anyone else who is a ticket user. The arguments made in support of extending protection include:

- (1) Unless the protection is offered, no provider is going to serve youth with disabilities;
- (2) The rationale for not serving them is simply a perceived potential saving to the program;
- (3) The choice of age 18 as a determinant of adult functioning for these youth with disabilities is arbitrary and capricious. For example, most young students are still eligible for coverage under their parents' health insurance until age 22 or 23;
- (4) Despite contention by some that there are other options available for transition-age youth with disabilities, the reality is that the services are not readily available. Instead, there is a waiting lists in most States and the numbers on it are in the thousands and in some States, in the tens of thousands;
- (5) Research has repeatedly demonstrated the sooner people are engaged in preparation for going to work, the greater the probability of long-term employment. Therefore any program, such as the ticket, that encourages heading towards employment early was good policy;

(6) Protection should be extended to these youths because otherwise, under the final program regulations, some people who participated in the program would be treated differently based on certain characteristics, and would not be entitled to all the protections accorded to other participants in the program.

Recommendation 3: Eighteen (18) year-old beneficiaries who participate in the Ticket program should receive the same protection from redeterminations as other ticket users receive against CDR's.

Issue: Should a person be entitled to more than one ticket within a period of disability?

Summary of Input: Concern was expressed by the public that beneficiaries would not be able to find ENs to provide services to them if they have a partially used ticket. Current research (See Schur, Lisa; Contingent and Part-time Employment Among Workers with Disabilities: Barriers and Opportunities; School of Management and Labor Relations; Rutgers University; 2000;) finds people with disabilities are twice as likely as non-disabled people to work in part time and temporary work. Concern was raised that the program would not work for a large segment of beneficiaries particularly those with disabilities episodic in nature.

Discussion: Many beneficiaries using the Ticket program are likely to go in and out of work, and not transition at first attempt from receipt of cash benefits to 60 months of continuous employment. A beneficiary whose ticket is partially used and needs other continuing support services may have a difficult time finding an EN willing to work with them. For example, a beneficiary returns to cash benefits after a work stoppage in the expedited reinstatement provision of TWWIIA. The person wants to return to work again and decides he/she needs support services. This consumer will be at a distinct disadvantage if interested in continuing to work. There is nothing in the Statute that prevents a beneficiary from receiving a second ticket and there may well be unassessed cash savings to SSA programs in allowing two or more tickets to a beneficiary, as warranted or appropriate.

In Section 411.125(b), the proposed rule states a person can have only one ticket during a period of entitlement for which a beneficiary is eligible to receive disability benefits. Regardless, if a beneficiary returned to work and her or his employment network received 35 out of 60 outcome payments, and the beneficiary then became unable to work, his or her ticket would only have 25 outcome payments left to pay out. That is what is being described as a partially used ticket. A related issue is whether an EN, new or old, would be willing to

provide a full array of services to a beneficiary with a partially used ticket and a significantly reduced number of payments.

Recommendation 4: SSA should conduct a cost-benefit analysis on the feasibility of a beneficiary receiving more than one ticket within a period of disability and/or a period of eligibility. The Agency should assess the potential cost impact of beneficiaries using more than one ticket in the Agency's overall evaluation report due to Congress.

EMPLOYMENT NETWORK REQUIREMENTS AND QUALIFICATIONS

Issue: Who should be in an employment network (EN) providing services to beneficiaries who are ticket holders?

Summary of Input: Many of the commenters said State licensure laws dictate requirements for certain professions and providers so SSA should defer to those State rules. Some commenters expressed concern that the quality of services may be compromised if provided by less than trained personnel. However, they recognized the benefits of allowing support and other services by non-traditional providers if rendered under the auspices of an EN who is ultimately accountable for the services provided.

Discussion: Many people with disabilities have a "circle of support," that is, people whom they trust to provide additional support services. Most often, these individuals are non-traditional support providers. In some instances, they are family members, neighbors, or friends who provide needed supports. The final rule regarding EN qualifications should be broad enough to accommodate non-traditional providers while accomplishing the stated purpose of the Ticket program, to "expand the universe of service providers available to individuals who are entitled to Social Security benefits based on disability..." § 411.105 of the NPRM.

According to the proposed rule, an employment network is any qualified entity which has entered into an agreement with SSA to function as an EN, and assumes responsibility for the coordination and delivery of employment services, vocational rehabilitation services, or other support services to beneficiaries who have assigned their ticket to that EN. The proposed rule would require an eligible entity assure that it is licensed, certified, accredited, or registered if so required by State law to provide these services either directly or through arrangements with other entities. SSA should avoid the requirement for all employees or contractors of ENs have to be licensed or credentialed. It would also be reasonable to accept any business licensing or regulatory requirements ordinarily imposed on an entity seeking to become an EN. For example, proper

guidelines regarding proof of the business as a taxpaying, registered entity under federal and state law would also be appropriate.

Recommendation 5: An employment network (EN) should be required to retain staff that are otherwise qualified based on education or direct services experience, such as employees with a college degree in a related field, including but not limited to vocational counseling, education, human resources, human relations, social work, teaching, or psychology or employees with equivalent experience. SSA should not require licensure and/or certification that would exclude employers or other types of providers qualified to work with people with disabilities such as those who offer non-traditional supports resulting in employment. The key criterion should be whether the entity is capable of successfully providing the service agreed to by the EN and the beneficiary. SSA should delete Section 411.315(c). The State agency certification process should not be used to limit who can participate as an EN in the Ticket program.

Issue: What financial reporting is needed by the Program Manager or SSA from the employment network?

Summary of Input: Many commenters recommended the Agency try to “keep it simple” and not require unnecessary reporting. Some were concerned that a few of the reporting requirements may place an undue administrative burden on ENs and discourage the participation of potential providers. Still others in the public and on the Panel were of the opinion that it is inappropriate, invasive and unreasonable for SSA to require these kinds of reports in an outcome-based program.

Discussion: While there is a substantive evaluation component in the Ticket program, the Panel thinks using the financial reporting and collection requirements in Section 411.325 (g) and 411.325(h) is not the way to collect data for it. The requirement will prohibit providers and employers from participating who have no intention of adding to the financial disclosures they already make to the Federal government. Instead, the Panel believes such information could be gathered through voluntary participation by ENs in a study to determine the adequacy of payments. In addition, the PM’s could be asked to report problems with payment levels in its annual report to SSA, especially if providers go out of business or decide not to participate again because of inadequate payment levels.

Section 411.325 of the NPRM outlines the proposed reporting requirements of an EN. One of those requirements is for the EN to submit to the Program Manager, annually, a financial report showing the percentage of the employment network’s budget spent on serving beneficiaries with tickets.

Recommendation 6: Delete Section 411.325(g) and Section 411.325(h) from the list of EN reporting and collection requirements. Section 411.325(g) currently requires "...among other things, submitting to the Program Manager, on an annual basis, a financial report that shows the percentage of the employment network's budget that was spent on serving beneficiaries with tickets..."

Issue: Should "timely progress" toward an employment goal be measured by minimum standards for all beneficiaries, or, should the terms and conditions agreed to in each IWP determine timely progress?

Summary of Input: The Panel received public comment on this issue, engaged in extensive discussion and deliberation and came to a consensus on a recommendation.

Discussion: Beginning with a 24-month review after a ticket is assigned to an EN, the proposed regulations require the Program Manager to assess whether a beneficiary is making "timely progress towards self-supporting employment" which will then keep Continuing Disability Review (CDR) suspensions in place. There are no "timely progress" requirements in the Statute. "Timely progress" requirements in the proposed rule are directly related to the suspension of CDRs for Ticket program users. A ticket holder must meet the "timely progress" requirements to maintain the CDR suspension. One option would be to have the same net outcome as the proposed rule for the first three years. It would require the same minimum work standards for all ticket participants in years three, four and five of an EN-ticket contract with a beneficiary. The second option, and the option the Panel is recommending, would individualize "timely progress" and place the responsibility of proof and reporting on the EN with oversight by the Program Manager.

Another question raised during Panel deliberations was whether or not there should there be set minimum requirements for employment in years four and five of ticket use in order to keep CDR suspensions in place. The Statute and the proposed rule in Section 411.325 (e), require annual progress reports from the EN to the Program Manager using progress tracked in the Individual Work Plan.

Recommendation 7: The Panel recommends that timely progress be defined by the terms and conditions of the IWP, as agreed to by the beneficiary and the EN. The reporting mechanism should be the annual report in Section 411.325(e).

Issue: Should the State VR agency be allowed to use the Individual Plan for Employment (IPE) as a substitute for the Individual Work Plan (IWP)? If so, should other individualized service delivery plans be

acceptable alternatives, provided they meet the minimum standards outlined in the Statute for an IWP?

Summary of Input: The few commenters who discussed this issue stated that the IPE or any other work plan meeting the minimum IWP standards described in the Statute should be an acceptable alternative to the IWP. They stressed the need to reduce duplication with the same person, eliminate unnecessary paperwork, and reduce administrative burden.

Discussion: If a document already exists that meets the statutory requirements of an IWP, there should not be a requirement for a duplicate document. The proposed regulations recognize this and permit State VR agencies to use the IPE as a substitute for the IWP. Other programs should be permitted to do the same.

Recommendation 8: SSA should permit other individualized service delivery plans to be used as substitutes to the IWP provided they meet the minimum requirements detailed in the statute.

Issue: When a SSA beneficiary with a ticket applies to the State VR agency for services, should the beneficiary have the option of retaining his/her ticket for use with other ENs?

Summary of Input: The commenters to the Panel were concerned about choice, both here and in the related context of the rule allowing only one ticket per eligible beneficiary per period of entitlement for benefits. The proposed rule should not presume an applicant for VR services who is a SSA beneficiary would assign his or her ticket to VR.

Panel members received widespread comments that VR receives special treatment in many respects throughout the rule. In this context, there were comments that Section 411.385 needs clarification or change in the context of other special arrangements in the rule for the State VR agency.

NPRM Section 411.385 states:

“What does a State VR agency do if a beneficiary who is applying for services has a ticket that is available for assignment?” (a) Once the State VR agency determines that a beneficiary who is applying for services has a ticket that is available for assignment (see Section 411.140) and the State VR agency and the beneficiary have agreed to and signed the individualized plan for employment (IPE) required under Section 102(b) of the Rehabilitation Act of 1973, as amended, the beneficiary’s ticket is considered to be assigned.

Discussion: People with disabilities are eligible for a number of public programs offering counseling, rehabilitation, training, job placement, other employment services and support services from a wide variety of State and Federal systems and delivered at Federal, State and local levels. These systems include Federal housing programs, State developmental disabilities services, State mental health services, transportation services, one-stop training and employment services, independent living services, transition and special education, health care and related supports, and assistive technology, just to name a few. The intent of the Ticket program was to expand services and supports, not to limit them. A ticket should be seen as yet another tool the SSA beneficiary can choose to use to supplement what is already available to the individual under current public programs. Use of the ticket should improve that individual's chance of success in employment.

The Panel is also concerned that certain current provisions regarding young disability beneficiaries may unduly favor VR and severely limit client choice. Under current provisions, disabled young SSI beneficiaries who are receiving Vocational Rehabilitation (VR) services under an Individual Plan for Employment (IPE) are protected from benefit termination until the plan is completed. Furthermore, many VR agencies begin working with disabled youth at age 16. The Panel is highly supportive of the importance of encouraging employment-related services in the transition years. However, the Panel is greatly concerned that as a result of the multiple effects of these provisions, young disability beneficiaries will be forced to assign their ticket to VR and therefore will be precluded from the possibility of receiving services from other ENs. The Panel believes that it is especially important for young people with disabilities to have many career options and to play an active part in the planning process.

Informed choice is a key concern of the Panel. The Agency's outreach on the Ticket program should inform beneficiaries of the choice issues raised when they decide to apply for VR services. Eligibility for VR services and VR client status should not dictate when a beneficiary can use his or her ticket or where a beneficiary can deposit his or her ticket.

Recommendation 9: SSA should re-write Section 411.385 to clarify that an SSA beneficiary, whether a youth or adult, with a ticket who applies for or is receiving State Vocational Rehabilitation services has a choice in deciding whether to assign his/her ticket to the State VR agency, to assign it to another EN, or not to assign it at all. An 18-year old who is already receiving VR services and who then receives a ticket from SSA, should not be required to deposit the ticket with the State VR system.

DISPUTE RESOLUTION AND MEDIATION

Issue: Should protection and advocacy services be available to all beneficiaries of the Social Security Administration regardless of whether or not they are ticket users or living in a ticket roll out state?

Discussion: Section 1150(a)(b) (1) and (2) of the legislation provides that SSA beneficiaries are eligible to obtain information and advice about vocational rehabilitation and employment services and advocacy or other services a person with a disability may need to secure or regain gainful employment. There is no requirement in the legislation that a beneficiary be a ticket holder or currently living in a roll-out state in order to be eligible for protection and advocacy services.

Summary of Input: There was substantial public input in support of protection and advocacy services being provided to all SSA beneficiaries. Additionally, the Panel received substantial public comment regarding the fact that beneficiaries face many barriers to obtaining needed services and supports to enable them to go to work. Commenters stated repeatedly that P&A services should be available to assist all SSA beneficiaries, regardless of their status as a ticket holder or residence in a ticket roll-out state.

Recommendation 10: All beneficiaries should have access to Protection and Advocacy (P&A) services.

Issue: Should mediation be a part of the dispute resolution process?

Summary of Input: Commenters agree voluntary mediation should be available to all parties involved in a dispute under the Ticket to Work Program and mediation services should be paid for by the Agency.

Discussion: Subpart 1 of the proposed regulations on dispute resolution (Section 411.600 et seq.) does not address the use of mediation as a means of resolving disputes. Mediation is an informal, cost-effective means of resolving disputes and should be available on a voluntary basis. Neither Section 411.600 et seq., nor Section 411.435 addresses the use of mediation as a means of resolving disputes. Sections 411.660 and 411.630 of the proposed regulations state that the Social Security Administration makes the final decision in all disputes. There is no mention of an opportunity for an external review process.

Recommendation 11: Mediation should be available as an avenue for resolving disputes but it should not be mandatory. It should be an option available to the parties to the dispute, after the Program Manager has considered the matter for resolution.

- All parties must agree to enter into mediation.
- Mediation should be external to the Social Security Administration and should not be provided or paid for by Protection and Advocacy agencies. Participation in the mediation process should not bar a party's access to further appeals.
- Because mediation is a more efficient and cost-effective way to resolve disputes, the Social Security Administration should set aside additional funds to support the use of mediation for all parties.
- The Social Security Administration should look at other successful mediation program models such as those established at the Equal Employment Opportunity Commission (EEOC) and the Department of Justice.

Issue: Should there be an external appeals process for all parties? Should there be an opportunity for all parties to a dispute to have access to a review of SSA's decision, either through a SSA review process or an external judicial review process?

Summary of Input: Commenters were unanimous in their recommendations that all parties to disputes should have the opportunity to access an external appeal process beyond what is currently offered in the regulation. This more fully ensures fairness and impartiality are observed throughout the dispute resolution process.

Discussion: The Panel was in complete agreement on the need for an external review of SSA decisions but is cognizant such a review could pose additional problems under the current system. Specifically, the Administrative Law Judge system is already overburdened, resulting in long delays of typically more than one year before claimants have their cases heard. The Panel is concerned such waiting times could irreparably harm the goals of the Ticket program as well as disadvantage both beneficiaries and ENs alike. Resorting to the federal court system to resolve such disputes may prove equally problematic. The Panel discussed the possibility of SSA setting up an independent panel made up of SSA and consumer representatives. The Panel believes SSA should take the initiative for providing an external review process that is accessible and fair.

Recommendation 12: All decisions by the Social Security Administration involving disputes between or among all parties should, at the option of the parties, be subject to external review by either the Social Security Administration's administrative review process and/or judicial review.

Issue: At what point or points should a beneficiary receive information about the availability of protection and advocacy services and in what format should such information and other materials be provided?

Summary of Input: The Panel heard widespread comments that beneficiaries should be provided with notice of their right to advocacy and representation several times throughout their ticket experience. Beneficiaries will be overwhelmed with information about this new program and they should be reminded several times at key points throughout their experience of their right to legal advocacy and representation, especially, at the time of ticket issuance. All notices of this right as well as other materials must be available in the beneficiary's primary language or accessible means of communication.

Discussion: Section 411.465 (regarding requirements for an IWP) and Sections 411.605 and 411.610 require notice regarding the availability of protection and advocacy assistance in resolving disputes only to beneficiaries who become ticket users. There is no reference in the regulations to the need or requirement for all beneficiaries receive information regarding protection and advocacy assistance in areas other than dispute resolution or to beneficiaries who have not exercised their option to use their ticket.

Recommendation 13: Information about protection and advocacy services and how to access them should be available at any time to all beneficiaries seeking or using SSA or other work incentive programs, including the ticket. Specifically, a beneficiary should receive a formal notice of the availability of protection and advocacy services when he or she is issued a ticket and at the following junctures in the process:

- When he or she applies to the employment network for services;
- At the signing of his or her individual work plan;
- In the event his or her services are decreased, suspended or terminated; or
- When he or she files a complaint against the employment network.

Recommendation 14: The beneficiary's filing of a complaint with the Program Manager (PM) against an EN should, with the beneficiary's consent, trigger a notice to the Protection and Advocacy agency regarding the dispute to allow for an inquiry by the Protection and Advocacy agency as to the beneficiary's wish for protection and advocacy assistance.

Recommendation 15: Notices from the EN and the Protection and Advocacy agency, the beneficiary's IWP and any other documents should be in accessible format and, where practicable, in the beneficiary's primary means or language of communication.

Issue: Should there be time limits and other requirements imposed on all parties involved in the dispute resolution process?

Summary of Input: Commenters were concerned about the impact on a beneficiary once a dispute arises. One aspect of concern is the length of time it will take to resolve a complaint and what happens to the beneficiary's training and employment status during the complaint review process. It was suggested there should be strict timelines to minimize the adverse impact on all parties when a complaint is filed.

Discussion: The Panel hosted lengthy public discussion on this topic and was in agreement that timelines need to be spelled out in the final regulations. The proposed regulations either do not reflect timelines for dispute resolution or, where they do, they are inadequate. For example, there are no timelines for the employment network's internal grievance process or the Social Security Administration's review process. (See Sections 411.435, 411.615, 411.625, and 411.630.)

Recommendations 16: Timelines for dispute resolution should be as follows:

- Employment networks should have fifteen (15) working days to resolve a complaint filed by a beneficiary. If not resolved satisfactorily, the beneficiary should be permitted to request a review by the Program Manager.
- The request for review, with the submission of all supporting documentation by both parties, should be submitted within ten (10) working days after the beneficiary receives the employment network's decision.
- The Program Manager should complete its review and render a decision within fifteen (15) working days, unless the parties agree to mediation.
- If the parties agree to mediation, mediation should commence within ten (10) working days after the Program Manager receives the parties' request for mediation and should be completed within twenty (20) working days after it is scheduled.
- The Social Security Administration should have no more than twenty (20) working days to resolve individual appeals.
- All disputes involving employment networks, State Vocational Rehabilitation agencies, and the Program Manager must be resolved within sixty (60) working days, including Social Security Administration review and issuance of a decision.

Recommendation 17: During the appeals process, services and supports to the beneficiary should be continued at the same level; that is, services and supports should not be reduced or suspended by the employment network without the beneficiary's consent.

Recommendation 18: All parties in a dispute should have access to all information that is being considered and used to render a decision in the dispute.

EMPLOYMENT NETWORK PAYMENT

Issue: How can the milestone payment system be structured to encourage providers to serve all eligible individuals, including those who are harder to serve?

Summary of Input: As proposed, the milestone payment system allows two milestone payments to be made before the first outcome payment. These milestones recognize those currently on either SSDI or SSI benefits who are provided job-related services and return to work do not immediately reach a level of employment that makes them ineligible for cash benefits and their employment network eligible for outcome payments.

For the most part, there was consensus among commenters and the experts consulted that the milestone payment method proposed in the Notice of Proposed Rulemaking (NPRM) is not feasible and, if not significantly improved, will jeopardize the success of the Ticket program. They encouraged the Panel to recommend to the Commissioner a payment design that addresses provider choice and capitalization. As proposed, the milestone payment structure is not attractive to potential employment networks since it yields a smaller total payment than the outcome payment system. It places the majority of burden and risk on the EN, and requires an unrealistic up-front investment by the EN. Alternative proposals were presented that add additional milestones, spread the milestone payments over 5 years, and reduce the 15% penalty incurred by ENs who choose milestone payments to 5%.

Discussion: A milestone payment system having more payments earlier on in the employment process will attract more providers to the program and thus afford consumers more choice in service provision. A system paying a greater overall percentage of the outcome-only payment option would be more appealing to ENs than the one that has been proposed. In addition, a system providing for individualized milestones could increase the likelihood that individuals with significant disabilities would be served by ENs. Also, allowing for individualized milestones for individuals who are more difficult to serve better matches the current work and payment rules and would provide incentives and supports necessary for ENs to serve these individuals.

Recommendation 19: SSA should adopt a payment structure that pays at least four milestone payments: 1) at the signing of the IWP; 2) at 3 months of SGA; 3) at 7 months of SGA; and, 4) at 12 months of SGA.

Specifically the system would:

- a) Pay a minimal milestone when a beneficiary and employment network signs an IWP;
- b) Pay an additional milestone payment equal to the first two proposed (i.e., 3 and 7 months of SGA) at the end of 12 months of SGA;
- c) Amortize the milestone payments over the entire 60-month outcome-only payment period rather than the 12 months proposed;
- d) Pay a significantly greater overall percentage of the outcome-only payment option under the milestone/outcome payment option than the proposed 85% and should consider at least 95%; and,
- e) Equalize the monthly outcome payments under the milestone/outcome payment period rather than the graduated method proposed in the NPRM.

Recommendation 20: In the Adequacy of Incentives Report due to Congress in December 2002, SSA should address the efficacy of individualized milestones. The Panel recommends that SSA also consider the immediate implementation of a second tier of the milestone system. Such a system would provide individualized milestones for individuals with a need for on-going support services, individuals who need high-cost accommodations, individuals who earn a sub-minimum wage, and individuals who work and receive partial cash benefits along the lines of systems already in use in Massachusetts, Oklahoma and other states. (These systems use the individualized planning process to determine if and when a different set of milestones is necessary, and establish a plan for payments and accountability for the payments.)

Issue: How can the financial incentives to serve various groups of beneficiaries be structured to be more equitable?

Summary of Input: Among the various suggestions to restructure the milestone system, the Panel received comments on specific models that would allow distinctly different payment systems for SSI beneficiaries and SSDI beneficiaries (See EN Payment Models in Appendix E as possible examples of how such a system might be structured).

Discussion: Under the NPRM proposed system, most of the risk is with the provider and requires a person not be receiving any cash benefits before an outcome payment is made. The Panel recognizes it is SSA's responsibility to interpret sections of the Act that require further clarification for operational purposes. Furthermore, the Panel understands the rationale of the Agency's

interpretation of “benefits not payable” to mean zero benefits. However, the Panel and the Agency have received extensive comments that the Agency interpretation will distinctly disadvantage certain groups of beneficiaries, when compared to non-blind beneficiaries on DI benefits, from being served by EN’s. The disadvantage is financial to the EN’s, but may ultimately adversely affect the beneficiaries in these particular groups because they may not be served. The reason for the disadvantaged position stems from the fact that under the interpretation of zero cash benefits, some groups of beneficiaries would have to earn considerably more before they would reach the point of zero cash benefits and thereby trigger payments to providers – thus creating little or no incentives for providers to serve them.

Specifically, under current rules, non-blind DI beneficiaries would reach zero cash benefit status with earnings above \$740. In comparison, SSI recipients are disadvantaged because of the current \$1-for-\$2 cash offset in SSI work incentives. This would require SSI recipients to earn more than \$1,145 (their current individual Federal Benefit Rate) before an outcome payment is paid to an EN. As a result, ENs could be less inclined to serve the SSI population, many of whom may have lower education levels and a weaker work history than do most SSDI beneficiaries. This would leave SSI recipients, large numbers of whom have mental illness, mental retardation, cognitive or lifelong disabilities, at a distinct disadvantage in the Ticket program.

Blind DI beneficiaries are also likely to be disadvantaged as potential clients of EN’s because under current rules, they would have to earn more than \$1,240 before reaching zero cash benefit status. Finally, concurrent beneficiaries may also be adversely affected by the requirements to attain zero benefit status. Those on concurrent benefits would have their DI benefits ceased with earnings above \$740, but as long as their earnings were under \$1,145, their SSI payment would continue indefinitely. Again, EN’s may be reluctant to serve such clients because they would not get any outcome payments until the beneficiary’s earnings were over \$1145.

The Panel understands the rationale for the Agency’s interpretation that an outcome payment can be made only when a beneficiary is totally off of cash payments. However, the majority of the Panel is greatly concerned these differing levels at which benefits reach zero, originally intended to encourage work attempts by expanding the earnings potential of various categories of beneficiaries while still protecting their benefit status, will now create an unintended bias against their being served by EN’s or participating in the Ticket program. It is for this reason the Panel urges the Agency to interpret “benefits not payable” differently in the case of certain groups of beneficiaries who would otherwise be disadvantaged as ticket users.

Furthermore, the Panel acknowledges and appreciates the frequent references in the preamble of the legislation to “reducing dependency on the cash benefits program” and therefore, believes all beneficiary employment outcomes in the Ticket program are valued and that any savings to the Trust Fund or the general funds should be viewed as a positive outcome. The Panel urges the Agency to explore alternative payment options to create adequate incentives for providers to serve these other groups. A dissenting view on the Panel held the Agency interpretation in the Regulations was consistent with Congressional intent for zero cash benefits.

Recommendation 21: The Panel recommends SSA interpret “benefits not payable” as a reduction in benefits rather than zero cash benefits.

Issue: How can SSA restructure the milestone and outcome payment system for SSI beneficiaries in order to account for existing work incentives?

Summary of Input: The Panel received briefings and documents from senior SSA officials on various return-to-work programs and studies undertaken by the Agency, e.g., the Gallup poll of potential employment networks. The results indicated there is real interest in the program from potential providers but certain beneficiaries, by virtue of their group affiliation (e.g., blind DI beneficiary)—may not be served as readily as others. One reason is the length of time from the beginning of service provision to the point when payments to the EN can start is distinctly longer for some groups. The Panel received extensive public comment on this issue, most of which advocated for a common earnings level threshold for outcome payments for all beneficiaries. Also, commenters encouraged the Panel to recommend a payment system with financial incentives to serve individuals who are harder to serve (i.e., individuals with a need for ongoing support and services, individuals who need high-cost accommodations, individuals who earn a sub minimum wage, and individuals who work and receive partial cash benefits.) Further, the Panel heard it would be prudent of SSA to develop a payment system that includes all beneficiaries with disabilities to heighten the likelihood of savings to the programs.

Discussion: Of particular concern to the majority of the Panel are the inequities in the financial incentives structure related to certain beneficiaries, e.g., SSI beneficiaries and the harder-to-serve population. As proposed, the payment systems discourage ENs from serving SSI beneficiaries because the EN would receive a smaller return for similar effort and it could take considerably longer for SSI beneficiaries to reach the point in employment when ENs can be paid. This situation occurs, because in contrast to the DI program that has definite timelines, SSI benefits continue indefinitely as long as the beneficiary is working under their individual Federal Benefit Rate.

The Panel is also interested in the development of an effective milestone/outcome payment structure to address the barriers to service provision for individuals who are harder to serve. A consistent outcome-payment threshold for all ticket users could level the playing field, making all ticket users equally attractive to ENs in the context of when a payment can be made. A dissenting Panel view was that Congress was aware of the differences in the two disability programs and it was premature to recommend changes in the payment system when the issue will be part of the Adequacy of Incentives report mandated by the legislation.

Recommendation 22: Because the Title II and Title XVI programs are distinctly different from each other with differing processes and timelines, SSA should develop two milestone outcome payment systems, one for SSI recipients and another for SSDI beneficiaries, that take into account the differences between the two programs and that factor into consideration, issues of concurrent beneficiaries.

Recommendation 23: SSA should commission a full-cost benefit study to evaluate the Ticket to Work and Work Incentives Programs. Such a study should begin with a more complete view of the direct savings to the SSA Trust Fund, but should also consider savings to the Federal Treasury and increased productivity to the nation as a whole. Such a study would, at a minimum, consider the impact of increased Federal Insurance Contributions Act (FICA) contributions by working beneficiaries, reduced use of Medicare, cash savings to the general fund by SSI recipients who work but who only receive partial cash benefits and estimated general fund savings beyond 60 months. The study should also consider reduced use of all other government transfers and increased taxes paid. It should consider the addition to Gross National Product from increased work. It should evaluate costs and benefits from SSA's point of view, from the view of the Federal government, from the view of the beneficiary and from society as a whole.

Issue: There is an internal conflict in the NPRM between the language in Section 411.510(c) and the language in Section 411.390 regarding the State Vocational Rehabilitation agency's (VR) choice of payment methods for beneficiaries who are already clients of VR.

Summary of Input: There was no public input on this issue.

Discussion: Section 411.390 of the proposed regulations says the State VR agency may only seek payment under the cost reimbursement payment system for beneficiaries already receiving services under an IPE. This rule is in direct conflict with Section 411.510(C) which states that the State VR agency will notify

the Program Manager of the payment system election for each such beneficiary. The Panel had no opinion about either of the rules but felt that the regulatory provisions should be consistent.

Recommendation 24: SSA should resolve the conflict between Sections 411.510 and 411.390 regarding VR's choice of payment systems for beneficiaries who are already clients of VR.

Related Program Issues:

Overpayments

The Panel heard from several advocates concerning resolution of SSA's current problems concerning timely cessation of benefits and accurate record-keeping and reporting is critical to the success or failure of the Ticket program. The issue of accurate and timely record-keeping will impact both on ticket users who work, but continue to be sent benefit checks (overpayments), as well as on EN's who help them to go to work but will not be able to receive outcome payments as long as the checks continue. Many advocates believe the issue of overpayments threatens to derail one of the underlying premises of the Ticket program i.e., to reward EN's in a timely manner for their successful efforts in helping beneficiaries leave the rolls for work. The Panel is greatly concerned that slow or inaccurate record-keeping by SSA will undermine the goals of the Ticket program by provoking negative reactions from providers and beneficiaries alike, as well as increasing the frequency of disputes and appeals. Though not part of the Proposed Regulations, the Panel recommends that the Agency develop better, more timely and accurate mechanisms for record-keeping and reporting so that current overpayment problems are addressed before irreparable harm results to the Ticket program and other employment support programs.

Disabled Adult Children (DACs), Disabled Widows and Widowers

Although the Statute indicates Congress intended for these groups of beneficiaries with disabilities to be eligible to participate in the Ticket program, the NPRM did not directly mention them. The Panel heard from advocates that under the current law, members of these groups who choose to participate in the Ticket program, go to work and then for whatever reason fail at the work attempt, could be irreparably financially disadvantaged. This would occur because, under current law, a Disabled Adult Child (DAC) who, after exhausting the Extended Period of Eligibility (EPE) and then works above SGA, loses his or her DAC status. If he or she subsequently loses the job, his or her dependency status based on the parent's earnings record is lost and new entitlement must be established as a disabled beneficiary. That change in status could well result in a

significantly lower level of benefit because the new entitlement would be based on the beneficiary's little or no earnings record, whereas the previous DAC benefits were based on the parent's earnings record.

The issue also pertains to disabled widows and widowers and disabled surviving divorced spouses who stop receiving SSDI benefits due to work activity above the SGA level. The Panel commends the Agency for their quick response to this issue through providing new operating instructions to field components to assure Expedited Reinstatement prior to the actual publications of new Regulations. This temporarily ensures individuals from the above-mentioned groups will be able to participate in the Ticket program under the same protections as all other beneficiaries in the program without fear of loss of their status should their employment not continue. However, the Panel recommends SSA include clarification in the Ticket regulations and in the Expedited Reinstatement regulations to help ensure this policy is permanently adopted and understood by the public. The Panel further urges SSA to publish a repeal of, or a clarification of, any other regulations which could be interpreted to result in the loss of these dependent or survivor benefits.

Unintended Disincentives: Interaction between Existing Work Incentives and the Ticket Program:

The Panel believes there are a variety of issues which must be studied and addressed, related to the interaction between current work incentive and SGA-work related rules and the Ticket program, that may work to deter Ticket Program participation. Some of these issues are discussed in the input and discussion sections prior to Recommendations 20, 21 and 22. Specifically, existing program incentives are meant to recognize some individuals with severe disabilities have high or ongoing costs associated with their disability. If these individuals work, the expenditures for such costs are deducted from countable income in determining whether or not they are working above SGA. For example, Impairment-Related Work Expenses (IRWEs) can be used to exclude earned income if the costs of the item or services are related to the disability and are needed to work (such as attendant care services to help prepare the person for work everyday). Blind Work Expenses (BWEs) allow exclusion of earned income that is used to meet a variety of the expenses of working, whether or not they are related to the blindness (for example, childcare expenses).

The Panel has heard public comment and has discussed some of these issues. The Panel is very concerned that under the rules of the Ticket program, current work incentives to work may become disincentives to ENs to provide services to people with these needs, because they must earn considerably more than their counterparts who do not have those expenses in order to achieve zero benefit status and trigger EN payment. For example, someone who works and uses the

costs of their medication for schizophrenia as an IRWE, may be at a disadvantage as to whether the EN would take his or her ticket.

Another issue related to existing rules concerns how SSA interprets the value to be placed on an individual's work effort with regard to whether it exceeds SGA for people in supported employment. The Panel received comments from supported employment advocates that this issue continues to be the subject of confusion and concern in the field. The Panel believes that further guidance from the Agency or perhaps regulations may be needed to address these concerns.

The Panel is very concerned that, unless the work incentive issues are addressed, beneficiaries may be dissuaded from using a ticket to further enhance their work effort. Therefore, the Panel believes SSA must act to address these issues of complexity, conformity and inconsistency immediately. The two sets of program rules, the Ticket Program and current work incentive provisions, should act in concert and be clearly working toward the same goal to maximize employment effort and earnings for the program participants.

APPENDIX A

Schedule of Panel Meetings and Other Activities

Ticket to Work and Work Incentive Advisory Panel

Public comment Periods during Panel Meetings and Other Activities

Panel Meeting		Public Comment Period
1. July 24-25, 2000	2 Day Meeting	1 hr.
2. September 11, 2000	Teleconference	45 min
3. September 26-27, 2000	2 Day Meeting	Briefing
4. November 8, 2000	Teleconference	1 hr.
5. November 13-15, 2000	3 Day Meeting	1 hr.
6. November 27, 2000	Teleconference	1 hr.
7. December 12, 2000	Teleconference	1 hr.
8. December 19, 2000	Teleconference	1 hr.
9. January 3, 2001	Teleconference	1 hr.
10. January 9-10, 2001	2 Day Meeting	2 hrs.
11. January 23, 2001	Teleconference	1 hr.
12. February 6-8, 2001	3 Day Meeting	3 hrs.
13. March 26-28, 2001	3 Day Meeting	2.5 hours
14. May 8-10, 2001	3 Day Meeting	1 hr.
15. June 22, 2001	Teleconference	2.5 hours

REGIONAL MEETINGS

Panel Meeting Public Comment Period

1. January 22, 2001	Salt Lake City, Utah	3 hrs.
2. January 24, 2001	Minneapolis, Minnesota	3 hrs.
3. January 25, 2001	West Coast Teleconference	2 hrs.
4. January 26, 2001	Phoenix, Arizona	4 hrs.
5. January 29, 2001	Atlanta, Georgia	4 hrs.
6. February 15, 2001	West Coast Teleconference	2 hrs.
7. February 21, 2001	New York, New York	4 hrs.

APPENDIX B
List of Commenters

**Social Security Administration
Ticket to Work and Work Incentives Advisory Panel
Teleconference**

September 11, 2000

List of Commenters

Ron Calhoun
Office of Vocational and Educational
Services for Individuals with Disabilities
New York Department of Education

Jenny Kaufmann
National Senior Citizens Law Center
Washington, DC

**Social Security Administration
Ticket to Work and Work Incentives Advisory Panel
Teleconference**

**International Trade Commission
Washington, DC
November 8, 2000**

List of Commenters

Marty Ford
Director of Government Affairs
ARC of the United States
Washington, DC

Cheryl Bates Harris
NAPAS
Washington, DC

Linda Landry
Disability Law Center
Boston, MA

Ann Maclaine
Director of the Louisiana Protection
and Advocacy Agency
New Orleans, LA

Murray Manus
Equip for Equality
Chicago, IL

Aleisa McKinlay
Public Policy Analyst
Advocacy Service
Lincoln, NE

Gary Richter
Indiana Protection and Advocacy
Indianapolis, IN

Edward Wollman
Disability Community Small Business
Development Center
Ann Arbor, MI
Dave Ziskind
Director of the Division of Program
Administration, RSA, Vocational
Rehabilitation Program
Washington, DC

Dave Zehner
Protection and Advocacy for People
with Disabilities
Charleston, SC

**Social Security Administration
Ticket to Work and Work Incentives Advisory Panel
Quarterly Meeting**

**Embassy Suites at Chevy Chase Pavilion
Washington, DC
November 13-15, 2000**

List of Commenters

Sue Augustus
SSI Coalition
Chicago, IL

Alan Bergman
President and CEO
Brain Injury Association
Alexandria, VA

Kara Freeburg
American Network of Community
Options and Resources (ANCOR)
Annandale, VA

Marty Ford
Director of Government Affairs

ARC of the United States
Washington, DC

Charles Harles
Executive Director
International Association of Business,
Industry and Rehabilitation (INABIR)
Washington, DC

Mitch Jessirich
World Institute on Disability
Oakland, CA

Jenny Kaufmann
National Senior Citizens Law Center
Washington, DC

Mary Kelly
National Association of
Developmental Disabilities Council
Washington, DC

Dan O'Brien
Oklahoma Department of
Rehabilitation Services
Oklahoma City, OK

Mike O'Brien
Oklahoma Department of
Rehabilitation Services
Oklahoma City, OK

Katherine Mario
New York Vocational and Educational Services for Individuals with Disabilities (VESID)
Albany, NY

Celane McWhorter
Association for Persons in Supported Employment
Alexandria, VA

Susan Prokop
Paralyzed Veterans of America (PVA)
Washington, DC

Andrew Sperling
Director of Public Policy
National Association for the Mentally Ill (NAMI)
Arlington, VA

Michael Van Essen
AIDS Assistance Organization
Palm Springs, CA

**Social Security Administration
Ticket to Work and Work Incentives Advisory Panel
Meeting**

**Holiday Inn Capitol
Washington, DC
January 9-10, 2001**

List of Commenters

Dennis Born
Program Manager
Supported Employment Consultation
and Training Center
Anderson, IN

Paul Seifert
IAPSRs
Columbia, MD

Charles Harles
Executive Director of INABIR
Washington, DC

Damon Hicks
Supported Employment Consultation and Training Center
Anderson, IN

Mike O'Brien
DRS
Oklahoma City, OK

APPENDIX C

**Letter to Commissioner Halter
Concerning agency plans
For implementation
And first year roll out**

October 23, 2001

6401 Security Blvd.
Room 960 Altmeyer Building
Baltimore , MD 21235

Dear Commissioner Halter:

I am writing on behalf of the Ticket to Work and Work Incentives Advisory Panel (the Panel) to express the Panel's concerns regarding certain provisions in the Notice of Proposed Rule Making (NPRM), as well as the Social Security Administration's (SSA) plans for implementation and first year roll-out of the Ticket program in thirteen states.

As you know, the Panel has received regular briefings and updates from the Associate Commissioner for Employment Support Programs, Kenneth McGill, on NPRM implementation activities such as contracting and grant-making, and other critical administrative rollout activities. We have also received updates and information on program evaluation activities from the Acting Deputy Commissioner of Policy, Paul Van de Water. Both have been helpful in briefing the Panel on SSA's activities and in responding to requests for information. We are very appreciative of their cooperation.

The Panel recognizes that the implementation and rollout of the new TWWIIA programs pose enormous challenges to SSA and to the field of rehabilitation as a whole. We believe, however, if implemented cautiously, and with serious consideration given to input from the Panel and constituents, these programs have the potential to improve the overall quality and availability of rehabilitation services, employment services and supports, and related health services for our nation's citizens with disabilities. In keeping with this belief and with our commitment to the success of TWWIIA in increasing employment rates for people with disabilities, the Advisory Panel members take very seriously their responsibility to advise and assist the Commissioner of SSA.

After the Panel's initial meeting in July 2000, and its subsequent briefings on both TWWIIA and the NPRM, Panel members felt it was essential to reach out to a variety of constituent groups and advocates to solicit comments and opinions about the NPRM and the plans for Ticket implementation. To achieve this the Panel has conducted eleven days public meetings and seven public conference calls since July 2000. We have hosted over twenty (20) hours of public comment at those meetings. Additionally, public meetings in Phoenix, Minneapolis, Salt Lake, and Atlanta as well as teleconferences in California have been devoted solely to public comment on the NPRM. We have also solicited and received correspondence from the public regarding SSA's Ticket implementation plans and the NPRM. Not only have individual Panel members attended numerous meetings in their home states, but many also have been asked to speak to groups and organizations about the Panel and TWWIIA implementation.

During the past six months of Panel activity, specific issues relating to implementation and rollout and the proposed regulations in the NPRM, have surfaced repeatedly in public comment and in Panel deliberations. After extensive discussion in our January and February meetings, the Panel concluded that a letter outlining key implementation issues and concerns should be sent immediately, prior to close of the NPRM public comment period.

Issue one involves the NPRM's exclusion of certain beneficiaries from the Ticket program, specifically those who have a Medical Improvement Expected (MIE) diary and transition age youth 16-18 years old. We are aware that SSA officials did consider including both of these populations early in the development of the NPRM. We have requested an analysis of the cost implications for including these populations from the Office of the Actuary.

With regard to the exclusion of beneficiaries with an MIE diary, the Panel has four specific concerns. They are: (1) reports indicate that the MIE designation has a disproportionate impact on consumers who are diagnosed with mental illness; (2) placing someone in the MIE category appears to be based solely on diagnosis; (3) the NPRM does not address appeal and due process issues raised when denying a benefit (i.e., a Ticket) to a beneficiary based on a designation that most beneficiaries do not even know they carry; and, (4) denying access to the Ticket program to over approximately beneficiaries a year when only a small subgroup of approximately 9,600 (i.e. actual ticket users) are ceased by a Continuing Disability Review (CDR), is questionable public policy.

More specifically, in 1999, there were 60,766 DI and SSI adult beneficiaries on the rolls who were classified first time MIEs. The decision files of disability determination services indicate that in 1999, that same year, 9,663 beneficiaries with an MIE diary were ceased because of medical improvement. No one knows how many of those who were ceased would be likely to use a ticket. But, overall estimates of ticket use are very low. To exclude tens of thousands from the program for the savings realized by such a small number seems questionable. The Panel recommends that this entire population be included in the Ticket program in the final rule. Until a final rule is published, SSA's communications and information should be silent on this proposed exclusion.

With regard to the exclusion of transition aged youth, the Panel strongly recommends that SSA include this population in the Ticket program in the final rule. Other Federal agencies, such as the Office of Special Education Programs, the National Council on Disability and the President's Task Force on Employment of Adults with Disabilities, also support their inclusion in the Ticket program. The President's Task Force has recommended and promoted the inclusion of transition aged youth in all Federal employment policies and programs in their annual report to the President issued in December 2000. A well researched finding with this population is that success in employment is directly related to early intervention. Panel members believe that working with young people early on is sound public policy and makes good common sense. We do not believe that the potential savings outweigh the benefits of reaching these young people to prevent a lifetime of poverty and dependence.

The second major issue is the inadequacy of the proposed milestones payment system in the NPRM. After extensive public comments, testimony by experts and hours of deliberation, the Panel has concluded that the proposed milestone payment amounts and payment frequency outlined in the NPRM are grossly inadequate for the vast majority of private entities that are looking to become employment networks (ENs). There are thousands of small and medium-sized private non-profit and private for-profit rehabilitation and employment service providers in local communities all over the country that have expressed interest in this program. The Panel has received extensive public comments from individuals and organizations representing these providers and all have indicated that the proposed milestone payment system is inadequate.

The inadequacy of the payment system as proposed in the NPRM would also restrict the use of Tickets by those who are harder to serve. If Ticket implementation moves forward without the payment system issue resolved, it is likely that many individuals who are harder to serve will be unable to find an EN willing to take their Ticket.

Many commenters stated that if the milestone payment process issues are not resolved before SSA tries to enroll ENs, SSA will find that few, if any, ENs will sign up to provide services. Testimony from a number of State Vocational Rehabilitation Agencies (State VRs) further indicated that if no ENs sign up, all beneficiaries who want to use their Ticket will be forced to come to State VRs for services. This will create havoc in the VR Agency's system since State VR's are not prepared to deal with the onslaught of applicants. This will defeat the core purpose of the Ticket program -- to expand the number of providers working with SSA beneficiaries. It will also undermine the goal of providing a real choice of providers for all beneficiaries.

The third major issue relates to the protections to be accorded beneficiaries and the provision of timely dispute resolution services. In the NPRM, the burden to know of, and seek out, assistance and dispute resolution services is on the beneficiary. This is unrealistic and can lead to the denial of critical advocacy services for beneficiaries in need. We received extensive public comment on this issue from a number of advocates in the current State Protection and Advocacy Systems for people with developmental disabilities, people with mental illness and other disabilities, as well as clients of the State Vocational Rehabilitation system. Their experience, specifically with the Client Assistance Program for individuals served by the State Vocational Rehabilitation Agency, is that consumers must receive up-front and regular notice of the availability of advocacy services in order for the service to be effective in protecting beneficiaries and preventing disputes. People with disabilities should be notified of the availability of advocacy services when they receive their Ticket and at critical junctures throughout the process. It is not sufficient to provide information about the availability of protection and advocacy services only at the beginning of the process. Beneficiaries need to be reminded often that the service is available to them at any time. The Panel recommends that early and frequent notice be instituted immediately, beginning with public education brochures and distributed with the initial mailing of Tickets to beneficiaries in the rollout states.

A fourth issue reflects the Panel's concern regarding two reporting requirements. They are the reporting requirements for beneficiary earnings and the requirement that ENs submit an annual financial report showing the percentage of the EN's budget spent on serving beneficiaries.

To require ENs to provide monthly beneficiary earnings reports is unrealistic, costly, burdensome and unworkable for most ENs. Panel members believe that ENs will not be able to collect this information on a monthly basis and perhaps will find even quarterly difficult. The beneficiary has almost no incentive to provide earnings information after he/she is no longer receiving cash benefits. In addition, the requirement of an annual financial report is confusing at best, and can be burdensome and intrusive at worst. It appears unnecessary in the overall evaluation of effectiveness of the program. We believe it will discourage potential providers because it is unnecessarily intrusive and there is no indication what the government will do with the information once it collects it. What would an EN report? How would the information be used? Could it be used to propose a decrease in the payment and/or profit of ENs?

In addition to these major issues, the Panel in a recent meeting discussed two non-NPRM concerns with regard to the actual rollout of the program during its January. After a briefing on the terms and conditions of the draft Request for Proposals (RFP) for employment networks, and after receipt of public comments from State VR representatives at the meeting, the Panel discussed the planned schedule for roll-out of the RFP and the Ticket. All of the members present agreed that the terms and conditions in the RFP appeared to unnecessarily limit the types of providers the program would enroll and that many of the terms were confusing. Some members were also very concerned that beneficiaries would receive a Ticket and there would be no ENs signed up to provide services.

After receiving further information from Mr. McGill that appeared to address some of the Panel's concerns and thorough discussion and deliberation during its February meeting, the Panel passed a motion by a 4/3 vote to recommend that SSA not release the RFP for the ENs or Tickets to beneficiaries until the regulations are final. The final poll of the entire Panel after the meeting indicated that five (5) of the Panel members were in favor of the motion and six (6) were opposed. Further motions, one to delay the distribution of Tickets until the final rules are issued, and one to delay publishing the RFP for at least two months after the NPRM comment period closes, were supported by the majority of Panel members with 10/1 and 9/2 in favor respectively.

The Panel is very appreciative of SSA efforts to move forward with the Ticket program and we are aware of the tight timeframes in the statute. Given the significance of the issues raised and concerns expressed, however, we recommend that SSA proceed with caution and with due regard for the input of the Panel and the public.

Finally, the Panel recommends that all public information and public education materials, as well as communications to the field and to the public, include plain and clear language acknowledging that the above NPRM issues are not resolved and that current implementation activities should not be confused with final decision-making on the regulatory issues in question. Any such communication should indicate that SSA plans to work with advocates, providers, constituents, the new Administration and Congress to resolve the NPRM issues in a balanced and reasonable way.

We further urge SSA to be very careful in public education materials and in all communication with beneficiaries to state clearly that to date, no one is excluded from the Ticket program. It takes only one rumor, regardless of its veracity, to have the effect of exclusion for large numbers of people whose history and experience is full of exclusions.

The Panel shares your enthusiasm and commitment to this very important program, and we look forward to working with SSA to ensure that its promise becomes a reality for people with disabilities. To that end, we would appreciate receiving a written response to this letter. If you have questions, please contact Marie Strahan, Executive Director for the Advisory Panel, or me.

Thank you for your cooperation and support. I look forward to hearing from you.

Sincerely,

/S/
Sarah Wiggins Mitchell, Chair

cc: Marie Strahan
Glenna Donnelly
Ken McGill
Paul Van De Water

APPENDIX D

**Response from the
Office of the Actuary
On cost implications
Of Proposals**



SOCIAL SECURITY

MEMORANDUM

Date: March 26, 2001 Refer To: **TCB**

To: Richard V. Burkhauser
Ticket to Work Advisory Panel

From: Bert Kestenbaum
Mary E. McKay
Office of the Chief Actuary

Subject: Estimates of the Short-Range Effects on OASDI Benefits and Federal SSI Payments of Modifications to the Implementation of the Ticket to Work Program Specified in the Notice of Proposed Rulemaking (NPRM)—**INFORMATION**

Under the provisions of P.L. 106–170 establishing the Ticket to Work (TTW) program, the Commissioner of Social Security has the authority to specify the details of certain aspects of the program's implementation. Three key aspects of this delegation of authority are (1) the timing of the program's startup in various States across the nation, (2) the determination of which disabled beneficiaries will be eligible to participate in the TTW program, and (3) the timing and amount of the milestone and outcome payments to employment networks (ENs) providing services under the program.

We previously prepared estimates of the impact of the TTW program consistent with the proposed implementation as published in the NPRM. The key aspects incorporated into these estimates are described below.

- The TTW program is assumed to be made available to 30, 60, and 100 percent of the eligible population in the first, second, and third years, respectively, with implementation starting in some States early in calendar year 2001. Please note that, in actuality, the issuing of tickets will be delayed until the publication of the final regulation, resulting in a somewhat later startup in some States than has been assumed.
- The eligible population, as specified in the NPRM, will consist of disabled adults aged 18 to 64 who (1) have a permanent impairment; (2) have an impairment classified as medical improvement possible; or (3) have undergone at least one continuing disability review (CDR) for an impairment classified as medical improvement expected (MIE). SSI disabled children will be eligible to receive a ticket after attaining age 18 and undergoing a medical redetermination to assure that they meet the adult disability standard.
- P.L. 106–170 authorizes two payment systems under which ENs can be paid. The NPRM sets the monthly outcome payment under the outcome-only payment system at 40 percent of the payment calculation base. Outcome payments are made for each month for which OASDI or SSI disability benefits are not payable to the individual because of work, up to a maximum of 60 months.

Under the outcome-milestone payment system, the NPRM provides for up to two milestone payments. The first milestone, set at 68 percent of the payment calculation base, is payable after the disabled beneficiary has worked for 3 months within a 12-month period and has earnings at or above the SGA amount for each of these 3 months. The second milestone, set at 136 percent of the payment calculation base, is payable after the disabled beneficiary has worked for 7 months within a 12-month period and has earnings at or above the SGA amount for each of these 7 months. Outcome payments increase from 30 percent of the payment calculation base for the first 12 outcome payments to 38 percent of the payment calculation base for the 49th to 60th outcome payments. The first 12 outcome payments are reduced by the amount of any milestone payments made.

The TTW Advisory Panel has requested that we provide estimates for two options to expand the group of disabled beneficiaries who are eligible to receive tickets. The first option would extend eligibility to disabled adults

who are classified as MIEs and have not yet undergone a CDR. The second option would further extend eligibility to SSI disabled child recipients aged 16 to 18. This second option could have different costs depending on whether a child recipient who was using a ticket would still have to undergo a medical redetermination upon attainment of age 18. If the timing of the medical redetermination were not affected, a child recipient whose redetermination resulted in a decision to cease benefits would only be protected under the provisions of the Social Security Act which provide for benefit continuation while participating in a vocational rehabilitation program. However, if age 18 redeterminations were to be treated as CDRs and deferred until the child recipient were no longer participating in the TTW program, benefit cessation would be delayed still further, resulting in additional SSI program outlays. For purposes of completeness, the Office of Employment Support Programs (OESP) has requested that we provide estimates for each of these alternative treatments of age 18 redeterminations, although OESP indicated that if tickets were to be given to disabled children their preferred option would be to treat age 18 redeterminations as CDRs.

The net effect of the proposed options to expand the group of disabled beneficiaries is rather complicated due to the interaction between the TTW program and the separate legislative mandates to conduct CDRs of disabled adults and medical redeterminations of SSI disabled children attaining age 18. The attached table lays out the detailed aspects of these program outlay effects. The first tier of the table presents the estimated effects of TTW as specified in the NPRM. The succeeding tiers present the estimated effects of the proposed expansion options, including estimated additional costs attributable to providing disabled children subject to age 18 redeterminations the same benefit protection as adults due a CDR. As noted previously, the actual program startup depends on the timing of the publication of the final regulation and will be delayed somewhat from the assumed startup timing incorporated into our estimates.

/S/
Bert Kestenbaum., A.S.A.
Actuary

/S/
Mary E. McKay, F.S.A.
Actuary

Attachment

Estimated increases(+) or decreases(-) in program expenditures under the Ticket to Work program due to providing additional services or protection to certain newly disabled individuals and certain disabled children, fiscal years 2001-10
(In millions)

Option	2001	2002	2003	2004	Fiscal year		2007	2008	2009	2010	Total, 2001-10
					2005	2006					
Ticket to Work program effects based on implementation as specified in the Notice of Proposed Rulemaking (NPRM):											
OASDI benefit payments.....	-	\$2	\$2	\$3	-\$10	-\$20	-\$29	-\$41	-\$64	-\$101	-\$258
Federal SSI payments.....	-\$1	-4	-12	-19	-21	-18	-18	-27	-48	-67	-235
Subtotal, OASDI and SSI.....	-1	-2	-10	-16	-31	-38	-47	-68	-112	-168	-493
Revisions to estimated program effects due to the inclusion of newly disabled persons classified as Medical Improvement Expected(MIE) in the population receiving tickets:											
Ticket to Work program:											
OASDI benefit payments.....	-	1	1	2	-1	-11	-18	-25	-35	-49	-135
Federal SSI payments.....	(1/)	-3	-6	-9	-9	-10	-15	-22	-32	-42	-148
Continuing Disability Reviews:											
OASDI benefit payments.....	-	2	11	32	72	108	135	153	173	195	882
Federal SSI payments.....	(1/)	1	4	11	24	32	33	37	39	41	222
Net effect of MIE inclusion:											
OASDI benefit payments.....	-	3	12	34	71	97	117	128	138	146	747
Federal SSI payments.....	(1/)	-2	-2	3	15	22	18	15	7	-1	75
Subtotal, OASDI and SSI.....	(1/)	1	10	37	86	119	135	143	145	145	822
Revisions to Federal SSI payments due to the inclusion of SSI disabled children aged 16 and older in the population receiving tickets 2/:											
Ticket to Work program:											
Federal SSI payments.....	-1	-7	-19	-32	-40	-41	-47	-64	-86	-110	-446
Continuing Disability Reviews:											
Federal SSI payments.....	(1/)	4	22	53	86	97	100	117	123	127	730
Net effect of inclusion of children without deferral of age 18 redeterminations:											
Federal SSI payments.....	-1	-3	3	21	46	57	53	53	36	18	284
Revisions to Federal SSI payments due to deferral of age 18 redeterminations in accordance with CDR deferral provisions:											
Continuing Disability Reviews:											
Federal SSI payments.....	(1/)	(1/)	(1/)	1	9	28	47	56	58	57	256
Ticket to Work program effects if newly disabled MIEs and certain disabled children are included and age 18 redeterminations are treated as CDRs:											
OASDI benefit payments.....	-	5	14	37	61	77	88	87	74	45	489
Federal SSI payments.....	-2	-9	-10	6	49	88	100	98	53	8	380
Total, OASDI and SSI.....	-2	-4	4	43	110	165	188	185	127	53	869

1/ Net change in OASDI benefit payments or Federal SSI payments of less than \$500,000.

2/ Assumes disabled children who activate their ticket prior to notification of an age 18 redetermination would be given benefit protection under the provisions of the Act which provide for benefit continuation while participating in a vocational rehabilitation program. The cost of according those children the same benefit protection as adults due a CDR is presented in the next tier of this table.

Notes: 1. Above estimates based on the intermediate assumptions of the 2000 OASDI Trustees Report and the 2000 SSI Annual Report.

2. Totals may not equal sum of rounded components.

Social Security Administration
Office of the Chief Actuary
March 26, 2001



SOCIAL SECURITY

MEMORANDUM

Date: April 11, 2001 Refer To: **TCB**

To: Richard V. Burkhauser
Ticket to Work Advisory Panel

From: Bert Kestenbaum
Mary E. McKay
Office of the Chief Actuary

Subject: Estimates of the Short-Range Effects on OASDI Benefits and Federal SSI Payments of Alternatives to the Ticket to Work Outcome-Milestone Payment System Specified in the Notice of Proposed Rulemaking (NPRM)—
INFORMATION

Under the provisions of P.L. 106–170 establishing the Ticket to Work (TTW) program, the Commissioner of Social Security has the authority to specify the details of certain aspects of the program's implementation. Three key aspects of this delegation of authority are (1) the timing of the program's startup in various States across the nation, (2) the determination of which disabled beneficiaries will be eligible to participate in the TTW program, and (3) the timing and amount of the milestone and outcome payments to employment networks (ENs) providing services under the program.

We previously prepared estimates of the impact of the TTW program consistent with the proposed implementation as published in the NPRM. The key aspects incorporated into these estimates are described below.

- The TTW program is assumed to be made available to 30, 60, and 100 percent of the eligible population in the first, second, and third years, respectively, with implementation starting in some States early in calendar year 2001. Please note that, in actuality, the issuing of tickets will be delayed until the publication of the final regulation, resulting in a somewhat later startup in some States than has been assumed.
- The eligible population, as specified in the NPRM, will consist of disabled adults aged 18 to 64 who (1) have a permanent impairment; (2) have an impairment classified as medical improvement possible; or (3) have undergone at least one continuing disability review for an impairment classified as medical improvement expected. SSI disabled children will be eligible to receive a ticket after attaining age 18 and undergoing a medical redetermination to assure that they meet the adult disability standard.
- P.L. 106–170 authorizes two payment systems under which ENs can be paid. The NPRM sets the monthly outcome payment under the outcome-only payment system at 40 percent of the payment calculation base. Outcome payments are made for each month for which OASDI or SSI disability benefits are not payable to the individual because of work, up to a maximum of 60 months.

Under the outcome-milestone payment system, the NPRM provides for up to two milestone payments which were designed to equal in total 10 percent of the total outcome payments available under the outcome-milestone payment system. The first milestone, set at 68 percent of the payment calculation base, is payable after the disabled beneficiary has worked for 3 months within a 12-month period and has earnings at or above the SGA amount for each of these 3 months. The second milestone, set at 136 percent of the payment calculation base, is payable after the disabled beneficiary has worked for 7 months within a 12-month period and has earnings at or above the SGA amount for each of these 7 months. Outcome payments increase from 30 percent of the payment calculation base for the first 12 outcome payments to 38 percent of the payment calculation base for the 49th to 60th outcome payments. The first 12 outcome payments are further reduced by the amount of any milestone payments made.

At the request of the TTW Advisory Panel we prepared estimates for two options to expand the group of disabled beneficiaries who are eligible to receive tickets. These estimates were presented in our memorandum dated March 26, 2001.

The TTW Advisory Panel has also requested that we provide estimates for several alternatives to the TTW outcome-milestone payment system specified in the NPRM. These alternatives are described below.

- Alternative 1—Increase the total potential milestone payments to 20 percent of the total outcome payments available under the outcome-milestone payment system by establishing a third milestone payment equal to the sum of the first two milestone payments. This third milestone would be payable after the disabled beneficiary completes 12 months of SGA. In addition, increase from 12 to 24 the number of outcome payments from which the milestone payments will be recovered.
- Alternative 2—Same as alternative 1 except increase from 12 to 60 the number of outcome payments from which the milestone payments will be recovered.
- Alternative 3—Same as alternative 2 except set all outcome payments under the outcome-milestone payment system to 38 percent of the payment calculation base. Since the total potential milestone payments are assumed to equal 20 percent of the total potential outcome payments, the milestone payments are proportionately higher than those in alternative 2.
- Alternative 4—The Advisory Panel also requested estimates for several options which provide for establishing milestones much earlier in the process than does the NPRM. Rather than prepare separate estimates for each of these options for which it may be difficult to differentiate costs, we have developed one alternative to show the order of magnitude of program costs that might be expected under such an alternative. For this alternative we increase the potential milestone payments to 40 percent of the total potential outcome payments under the outcome-milestone payment system with about 60 percent of these milestone payments payable much earlier in the process than under the payment system specified in the NPRM. Outcome payments average 34 percent of the payment calculation base similar to the NPRM. The recovery of milestone payments is spread over all 60 outcome payments.

The attached table 1 presents the estimated impact on program outlays of these proposed alternatives to the outcome-milestone payment system. The differences between the estimated program expenditures for these alternatives and the estimated program expenditures for the TTW program based on the proposed implementation as specified in the NPRM are presented in table 2. These estimates are based on the intermediate assumptions of the 2000 OASDI Trustees Report and the assumptions underlying the 2000 SSI Annual Report. As noted previously, the actual program startup depends on the timing of the publication of the final regulation and will be delayed somewhat from the assumed startup timing incorporated into our estimates. It should also be noted that these estimates should be considered quite rough and providing order of magnitude estimates only since there is little experience upon which to base them.

/S/
Bert Kestenbaum, A.S.A.
Actuary

/S/
Mary E. McKay, F.S.A.
Actuary

Attachments: 2

Table 1—Estimated increases(+) or decreases(-) in OASDI benefits and Federal SSI payments under the Ticket to Work program for selected alternatives to the outcome-milestone payment system, fiscal years 2001-10
(In millions)

Option	Fiscal year										Total, 2001-10
	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	
Ticket to Work program effects based on implementation as specified in the Notice of Proposed Rulemaking:											
OASDI benefit payments.....	-	\$2	\$2	\$3	-\$10	-\$20	-\$29	-\$41	-\$64	-\$101	-\$258
Federal SSI payments	-\$1	-4	-12	-19	-21	-18	-18	-27	-48	-67	-235
Subtotal, OASDI and SSI	-1	-2	-10	-16	-31	-38	-47	-68	-112	-168	-493
Alternative 1—establish a 3rd milestone and extend recovery of milestone payments to 24 months:											
OASDI benefit payments.....	-	2	7	16	12	-1	-14	-25	-47	-85	-133
Federal SSI payments	-1	-4	-10	-17	-19	-16	-16	-24	-41	-58	-205
Subtotal, OASDI and SSI	-1	-2	-3	-1	-7	-17	-30	-49	-88	-143	-338
Alternative 2—establish a 3rd milestone and extend recovery of milestone payments to 60 months:											
OASDI benefit payments.....	-	2	8	19	21	13	2	-13	-39	-80	-66
Federal SSI payments	(1/)	-4	-9	-14	-15	-12	-11	-18	-32	-45	-160
Subtotal, OASDI and SSI	(1/)	-2	-1	5	6	1	-9	-31	-71	-125	-226
Alternative 3—establish a 3rd milestone, extend recovery of milestone payments to 60 months, and increase outcome payments:											
OASDI benefit payments.....	-	4	16	35	47	39	29	14	-12	-53	119
Federal SSI payments	(1/)	-2	-6	-8	-8	-4	-2	-4	-9	-16	-58
Subtotal, OASDI and SSI	(1/)	2	10	27	39	35	27	10	-21	-69	61
Alternative 4—establish additional milestones earlier in the process and extend recovery of milestone payments to 60 months:											
OASDI benefit payments.....	60	154	300	341	358	371	382	375	357	329	3,028
Federal SSI payments	4	21	35	52	46	57	93	135	159	165	768
Total, OASDI and SSI	64	175	335	393	404	428	475	510	516	494	3,796

1/ Net change in OASDI benefit payments or Federal SSI payments of less than \$500,000.

Notes: 1. Above estimates based on the intermediate assumptions of the 2000 OASDI Trustees Report and the 2000 SSI Annual Report.

2. Totals may not equal sum of rounded components.

Social Security Administration
Office of the Chief Actuary
April 11, 2001

Table 2—Estimated OASDI benefits and Federal SSI payments in excess of those estimated for the Ticket to Work program based on implementation as specified in the Notice of Proposed Rulemaking (NPRM), due to selected alternatives to the outcome-milestone payment system, fiscal years 2001-10
(In millions)

Option	Fiscal year										Total, 2001-10
	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	
Ticket to Work program based on implementation as specified in the NPRM											
OASDI benefit payments.....	—	—	—	—	—	—	—	—	—	—	—
Federal SSI payments	—	—	—	—	—	—	—	—	—	—	—
Subtotal, OASDI and SSI	—	—	—	—	—	—	—	—	—	—	—
Alternative 1—establish a 3rd milestone and extend recovery of milestone payments to 24 months:											
OASDI benefit payments.....	—	(1/)	\$5	\$13	\$22	\$19	\$15	\$16	\$17	\$16	\$125
Federal SSI payments	—	(1/)	1	2	3	2	2	3	7	9	30
Subtotal, OASDI and SSI	—	(1/)	6	15	25	21	17	19	24	25	155
Alternative 2—establish a 3rd milestone and extend recovery of milestone payments to 60 months:											
OASDI benefit payments.....	—	(1/)	6	16	31	33	31	28	25	21	192
Federal SSI payments	—	\$1	3	5	6	6	7	9	16	22	74
Subtotal, OASDI and SSI	—	1	9	21	37	39	38	37	41	43	266
Alternative 3—establish a 3rd milestone, extend recovery of milestone payments to 60 months, and increase outcome payments:											
OASDI benefit payments.....	—	2	14	32	57	59	58	55	52	48	377
Federal SSI payments	—	2	6	11	14	14	16	23	39	51	177
Subtotal, OASDI and SSI	—	4	20	43	71	73	74	78	91	99	554
Alternative 4—establish additional milestones earlier in the process and extend recovery of milestone payments to 60 months:											
OASDI benefit payments.....	\$60	152	298	338	368	391	411	416	421	430	3,286
Federal SSI payments	5	25	47	71	68	75	111	162	207	233	1,002
Total, OASDI and SSI.....	65	177	345	409	436	466	522	578	628	663	4,288

1/ Net change in OASDI benefit payments or Federal SSI payments of less than \$500,000.

Notes: 1. Above estimates based on the intermediate assumptions of the 2000 OASDI Trustees Report and the 2000 SSI Annual Report.

2. Totals may not equal sum of rounded components.

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APPENDIX E
Two EN Milestone Payment
Models for SSI

**Model Presented by Paul J. Seifert
International Association of Pscho-Social Rehabilitation
Services**

This proposal restructures the milestone-outcome system for beneficiaries in order to account for the existing work incentives. It would allow outcome payments when the amount of earnings of a SSI recipient partially reduces their SSI check because of earnings or income. The amount paid would still be based on the maximum of 40% of the benefit not paid. Such a proposal might pay a \$500 milestone the first month a SSI recipient worked and earned over \$125 in gross income. A second milestone would be paid in the next month the SSI recipient earned over \$325 in gross income. In any month after the second milestone was paid that the SSI recipient's income was between \$326 and \$550, SSA would pay an outcome payment of \$53. In any month after the milestone was paid in which the recipient's income was between \$551 and \$750, SSA would pay an outcome payment of \$93. In any month where earnings were between \$751 and \$1002, SSA would pay \$138. This is calculated using average Federal SSA payment as determined by in calculating the payment calculation base for SSI. The amount of the outcome payment would be paid according to the 40% maximum allowed under the law.

Prepared by: Paul J. Seifert, Int'l Assoc. of Psychosocial Rehabilitation Services -- February 7, 2001
 SSA's PROPOSED SSI MILESTONE-OUTCOME PAYMENT SYSTEM

Monthly Earnings	Countable Income	Amount of Benefit Offset	SSI Cash Payment	Milestone Payment	Monthly Outcome Payment Amt	SSA Breakeven
\$1 to \$85	\$0	\$0	\$459		\$0	
\$100	\$15	\$7.50	\$451.50		\$0	
\$125	\$40	\$20	\$439		\$0	
\$150	\$65	\$32.50	\$426.50		\$0	Under this scenario, SSA breaks even at dollar one
\$175	\$90	\$45	\$414		\$0	
\$200	\$115	\$57.50	\$401.50		\$0	
\$225	\$140	\$70	\$389		\$0	
\$250	\$165	\$82.50	\$376.50		\$0	
\$275	\$190	\$95	\$364		\$0	SSA shares no risk under this scenario
\$300	\$215	\$107.50	\$351.50		\$0	
\$325	\$240	\$120	\$339		\$0	
\$350	\$265	\$132.50	\$326.50		\$0	
\$375	\$290	\$145	\$314		\$0	
\$400	\$315	\$157.50	\$301.50		\$0	
\$425	\$340	\$170	\$289		\$0	
\$450	\$365	\$182.50	\$276.50		\$0	
\$475	\$390	\$195	\$264		\$0	
\$500	\$415	\$207.50	\$251.50		\$0	
\$525	\$440	\$220	\$239		\$0	
\$550	\$465	\$232.50	\$226.50		\$0	
\$575	\$490	\$245	\$214		\$0	
\$600	\$515	\$257.50	\$201.50		\$0	
\$625	\$540	\$270	\$189		\$0	
\$650	\$565	\$282.50	\$176.50		\$0	
\$675	\$590	\$295	\$164		\$0	
\$700	\$615	\$307.50	\$151.50		\$0	
\$725	\$640	\$320	\$139		\$0	
\$740	\$655	\$327.50	\$131.50	\$300/3 months \$600/7 months		
\$750	\$665	\$332.50	\$126.50		\$0	
\$775	\$690	\$345	\$114		\$0	
\$800	\$715	\$357.50	\$101.50		\$0	
\$825	\$740	\$370	\$89		\$0	
\$850	\$765	\$382.50	\$76.50		\$0	
\$875	\$790	\$395	\$64		\$0	
\$900	\$815	\$407.5	\$51.50		\$0	
\$925	\$840	\$420	\$39		\$0	
\$950	\$865	\$432.50	\$26.50		\$0	
\$975	\$890	\$445	\$14		\$0	
\$1000	\$915	\$457.50	\$1.50		\$0	
\$1003	\$918	\$459	\$0.00			
						Year 1 2 3 4 5 \$57, \$141, \$150, \$158, \$167

Prepared by: Paul J. Seifert, Int'l Assoc. of Psychosocial Rehabilitation Services -- February 7, 2001
 ALTERNATIVE SSI MILESTONE-OUTCOME SYSTEM

Monthly Earnings	Countable Income	Amount of Benefit Offset	SSI Cash Payment	Milestone Payment	Monthly Outcome Payment Amt	SSA Breakeven
\$1 to \$85	\$0	\$0	\$459		\$0	
\$100	\$15	\$7.50	\$451.50		\$0	
\$125	\$40	\$20	\$439	\$500	\$0	25 months
\$150	\$65	\$32.50	\$426.50		\$0	
\$175	\$90	\$45	\$414		\$0	
\$200	\$115	\$57.50	\$401.50		\$0	
\$225	\$140	\$70	\$389		\$0	
\$250	\$165	\$82.50	\$376.50		\$0	
\$275	\$190	\$95	\$364		\$0	
\$300	\$215	\$107.50	\$351.50		\$0	
\$325	\$240	\$120	\$339	\$1000	\$0	13 months
\$350	\$265	\$132.50	\$326.50		\$53	11 months
\$375	\$290	\$145	\$314		\$53	
\$400	\$315	\$157.50	\$301.50		\$53	Total Payment
\$425	\$340	\$170	\$289		\$53	\$4,680
\$450	\$365	\$182.50	\$276.50		\$53	milestone \$1,500
\$475	\$390	\$195	\$264		\$53	outcome \$3,180
\$500	\$415	\$207.50	\$251.50		\$53	
\$525	\$440	\$220	\$239		\$53	6 months
\$550	\$465	\$232.50	\$226.50		\$93	10 months
\$575	\$490	\$245	\$214		\$93	
\$600	\$515	\$257.50	\$201.50		\$93	Total payment
\$625	\$540	\$270	\$189		\$93	\$7,080
\$650	\$565	\$282.50	\$176.50		\$93	milestone \$1,500
\$675	\$590	\$295	\$164		\$93	outcome \$5,580
\$700	\$615	\$307.50	\$151.50		\$93	
\$725	\$640	\$320	\$139		\$93	
\$750	\$665	\$332.50	\$126.50		\$93	6 months
\$775	\$690	\$345	\$114		\$138	7 months
\$800	\$715	\$357.50	\$101.50		\$138	
\$825	\$740	\$370	\$89		\$138	
\$850	\$765	\$382.50	\$76.50		\$138	Total payment
\$875	\$790	\$395	\$64		\$138	\$9,780
\$900	\$815	\$407.5	\$51.50		\$138	milestone \$1,500
\$925	\$840	\$420	\$39		\$138	outcome \$8,280
\$950	\$865	\$432.50	\$26.50		\$138	
\$975	\$890	\$445	\$14		\$138	
\$1000	\$915	\$457.50	\$1.50		\$138	5 months
\$1003	\$918	\$459	\$0.00		\$150	5 months
					milestone \$1,500	outcome + \$9,000
						Total payment = \$10,500

Example of a Ticket Scenario that Addresses a Number of the Equity of Access Issues

Prepared by Dan O'Brien, OK Department of Rehabilitation Services

Potential Breakeven Scenario for SSI Recipients

If the intent of the ticket is to create a breakeven scenario for the SSA, then SSI must be considered separately from SSDI as the baseline assumptions are different. Specifically, savings accrue, i.e., some benefits are not payable, from any SSI work activity that exceeds \$85 per month whereas for SSDI no savings accrue below SGA. This allows a breakeven scenario for SSI based on payment of milestone and outcome payments using 35% of the benefits not payable due to work activity.

Milestone	Payment Criteria	Payment Threshold	Payment	Cumulative Savings to SSA	Total + or -
Job Placement	Minimum 1 month work	Earnings of at least \$200	\$1,000	\$58	-942
Job Training Complete	Minimum 3 months work	Avg. earnings in the last 2 months of at least \$530 (trial work period amount)	\$1,000	\$445+58=\$503	-1497
Integration into Worksite	Minimum 6 months of work	Avg. earnings in the last 3 months of at least \$600/month	\$1,000	\$772+503=\$1275	-1725
Attainment of SGA	Minimum of 9 months work	Avg. earnings in last 3 months at least SGA (\$700)	\$1,000	\$938+1275=\$2213	-1787
Quarterly Job Retention Outcome Payment	3 months of job retention	Monthly earnings at \$53 0+ /mo \$70 0+ /mo \$10 00+ /mo	Quarterly \$234 \$323 \$480 35% of benefits not paid	Breakeven point beyond 9 mo. Milestone 13 months 9 months 6 months	

APPENDIX F
Summary of Critical Issues
Raised in Public Comments

Summary of Critical Issues from Public Comments

Public comments on the NPRM for the Ticket to Work and Self-Sufficiency Program were garnered from five sources: U.S. mail, e-mail, Panel public meetings, Panel regional meetings, and from SSA. The public comments sent to SSA were catalogued by subject by the agency. The catalogue of comments can be accessed at www.ssa.gov/work. The comments overwhelmingly addressed five issues:

Provider Payment

Ticket Eligibility

Employment Network Qualifications

Number of Tickets per Beneficiary

Determining "Timely Progress"

Also, of major concern to those who made public comments were the participation of Vocational Rehabilitation Agencies in the Ticket program and evaluation of Employment Networks. Specifically, respondents addressed over 20 issues related to the NPRM and several issues that are indirectly related, e.g., overpayments. What follows are excerpts, by topic, of comments that typify those received.

PROVIDER PAYMENT

"The proposed regulations set the payment rate for ENs that select the outcome-milestone payment system at 85% of the total payments made under the outcome-only payment system. The law only specifies that the total payment to an EN opting to take the milestone/outcome payment system must be lower than the total paid to an EN under the outcome-only system (Section 101 (h) (3)(C). Setting the percentage so low will discourage many providers from participating in the Ticket program. Milestone payments were included in the law to allow providers who can not afford to wait months if not years until a beneficiary is completely off benefits before receiving any type of payment to participate in the program. Setting the percentage this low will likely create a disincentive that keeps those providers from participating, thus, undermining the goal of increasing consumer choice."

"Given that a \$1 difference in payment would meet the letter of the law, the rate should be set to create an incentive for as many providers as possible to participate in the program. SSA should consider raising the percentage closer to 100 percent in order to accomplish that goal."

"The milestone payments proposed in this section are inadequate to encourage any new entities to participate in the program. Small and medium size service providers will be unable to offer Ticket holders the tailored services required to allow them to succeed in their search for work if they receive no payment until after a person has worked for three months. The rationale for including milestone payments in the law was to provide an incentive for providers to participate in the Ticket program and encourage as many different entities as possible to do so. The system proposed in the NPRM will not accomplish this objective. In fact, the proposed milestone payment system may actually create a disincentive for many providers.

In addition, the proposed design of the milestones will likely have a negative impact on beneficiaries considered "hard to serve." Agencies that do decide to participate in the program will have no reason to work with Ticket holders whose service needs are costly, more intensive, and/or longer in duration. Obviously, the longer it takes a beneficiary to become employed, the longer it will be before the EN receives a payment. Milestones should be designed in a more flexible way so that the payments create an incentive for ENs to serve a broader range of beneficiaries, regardless of the level of services needed. Authorizing a milestone payment for the completion of a distinct, measurable goal in the IWP is one way to encourage agencies to become ENs (e.g., with some type of limit on the number and amount of any pre-employment milestones). For example, the completion of a training course by a ticket holder could entitle the EN to a milestone payment. This milestone could be in addition to the milestones in the proposed regulations or as a substitute for one of them. This type of milestone would also encourage ENs to serve people with more significant disabilities who require more time and/or more intensive services to acquire the skills necessary to transition permanently off benefits.

While this pre-employment milestone could be viewed as contrary to the ideal of paying only for an employment outcome, this is not the case. Completing a goal in the IWP is itself a measurable outcome that, in the view of the EN, will lead to employment. The PM could be required to agree with the EN on which particular objective in an IWP would warrant the payment of a milestone. While paying only for the outcome of employment is a worthy goal, it must be balanced with the ability to recruit and retain ENs. If limiting all payment to post employment causes very few (or no) agencies to participate as ENs, there will be no outcomes for which to pay as no beneficiaries will be leaving the rolls and there will be no corresponding savings to the trust funds.

The payment system has a built-in bias toward higher functioning beneficiaries who have short-term, low-cost needs. It will discourage employment networks from working with the very beneficiaries the program is supposed to be aimed at - persons with longer-term, higher-cost needs. This will leave out, for example, persons with severe mental illnesses, traumatic brain injury, pronounced or multiple developmental disabilities, or anyone whose vocational training requires a greater investment in time and assistive technology.

The payment system is biased against beneficiaries who must reach a higher level of earnings (for example, blind beneficiaries with higher substantial gainful activity levels) before the employment network is paid. The payment system also has a built-in bias toward established providers pursuing traditional methods to become employment networks. New providers with innovative approaches are not likely to have the capital resources and cash flow to operate under the payment systems, especially the milestone payments.

TICKET ELIGIBILITY

Transition-aged youth (ages 16 & 17) should be allowed to participate in the Ticket to Work program. Youth with disabilities have tremendous potential to achieve independence from benefits and enter the world of work. Every possible support and service should be made available to young SSI beneficiaries to ensure that they do not begin a life-long dependency on public benefits. Substantial evidence indicates that the longer a person remains on benefits, the less likely they are to be able to successfully enter the workforce. Given all these facts, it is not sound public policy to exclude them from this program. While it may be difficult to coordinate participation by those under 18 with existing statute (e.g. the CDR protection for beneficiaries using a ticket with the required 18 year old redetermination), administrative difficulty does

not justify the categorical exclusion of a class of people that are likely to benefit substantially from inclusion in the program.

Disability beneficiaries with the designation MIE should be eligible to participate in the Ticket program prior to the completion of the first CDR. People in this category probably have a recent work history and are highly likely to succeed in their work attempt if appropriate services and supports are available. With only 16% of beneficiaries with the MIE designation having their benefits ceased when their first CDR is completed, the other 84% of this population who remain eligible for benefits would be unjustly prevented from participating in the program by the proposed regulations. While the first CDR is scheduled to be conducted at sometime between 3 and 18 months after the award of benefits, it often takes several years for these reviews to be completed. Once again, the longer a person remains on benefits, the less likely that person is to be able to become independent again. Hence, beneficiaries with the MIE designation are one of the most likely groups to be able to benefit from this program and should be included.

The apparent rationale for the exclusion of this category of beneficiaries is the cost of outcome payments for someone whose benefits would have been ceased at the first CDR - presumably resulting in increased expenditures rather than savings to the Trust Fund. This viewpoint appears to be shortsighted. Without thorough tracking of the MIE beneficiaries who are ceased at the initial CDR, it is impossible to know the true impact of their inclusion in the Ticket program on overall expenditures. For instance, it would be important to know exactly how many of the 16% whose benefits are ceased are likely to reapply for and receive benefits in the future. It would also be useful to know how many actually go to work rather than simply applying for and receiving other public benefits.

It is difficult to justify the exclusion of this population without first obtaining this type of data. If this exclusion remains in place, SSA is strongly encouraged to change the administrative procedure that governs the award of the MIE designation. Many, probably most, beneficiaries that are currently categorized as MIE do not even know it. This has not mattered in the past because the only consequence of being labeled MIE was to have a diary for a CDR sooner than other beneficiaries. If the proposed regulations are implemented with this provision intact, beneficiaries must be made explicitly aware of the fact that they have been placed in this category. In addition, since this designation will limit access to a benefit, the decision must be appealable. Currently SSA has no process in place to appeal the decision to place a beneficiary in this group.

EMPLOYMENT NETWORK QUALIFICATIONS

Employment network qualifications set out in the law are fairly general. Those of us who helped to develop the legislation were determined not to impose any arbitrary barriers to entities wishing to serve an individual who wants to go to work. We remind SSA that a major objective of the Ticket to Work program was to get away from the heavy reliance on state vocational rehabilitation agencies and traditional rehabilitation models which, in fact, did not work for many people. It was particularly important that ENs would not be limited by licensing or certification criteria unrelated to their mission.

Section 411.315, which sets out EN minimum qualifications, has a number of troubling aspects as currently constituted. The language seems to imply that employment networks must provide health and medical services and includes stipulations that an EN must have "applicable certificates, licenses or other credentials

if such documentation is required by state law...." Where a profession requires licensing or credentialing under state law, such a requirement is certainly reasonable. However, SSA should avoid giving the impression that all employees or contractors of ENs have to be licensed or credentialed. Also reasonable would be any business licensing or regulatory requirements ordinarily imposed on an entity that seeks to become an EN. For example, proper guidelines regarding proof of the business as a taxpaying, registered entity under federal and state law would obviously be appropriate. SSA must make it clear that standards must be met only where required for licensed professionals and that any services such as those outlined in subsection [C] would only be those provided in the normal course of business.

SSA should clarify the regulations to avoid the interpretation that only state certification or licensing will qualify an entity as an EN. Instead, SSA should make it clear that there are any number of avenues by which a provider can qualify as an EN: certification or licensing under applicable state law; credentialing under other nationally recognized standards; or education or experience in successful employment of people with disabilities. What must remain the key criteria is whether the entity is capable of successfully providing the service agreed to by the EN and the beneficiary. Questions have arisen in various discussions about ENs whether families or personal support networks could serve as an EN. If the family or group of friends can meet the requirements of an EN, then they should be able to serve as an EN. However, we suspect that a beneficiary's family or friends would be in a better position to associate themselves with or subcontract with an EN to provide services to an individual, particularly if the extent of their services are limited to that individual. However, we urge SSA to make it clear that such arrangements are allowed through individual arrangements with an EN.

NUMBER OF TICKETS PER BENEFICIARY

There should be no limit on the number of Tickets a person can receive over the course of a lifetime, as long as a person is not using more than one ticket at a time. People eligible for the program have very severe disabilities that may not allow them to work consistently or for long periods of time the first time they attempt to work. Limiting the number of tickets would ignore the reality that disability can be a sporadic, episodic, lifelong event or that other factors such as job loss may trigger the need for additional assistance in the future.

DETERMINING TIMELY PROGRESS

The proposed rules regarding "timely progress" discriminate against persons with disabling conditions that are episodic and intermittent in nature (e.g., some persons with chronic mental illness). While some people may not be able to work right away, others might be able to work sooner, but may experience difficulties later. It is not fair to those who can work earlier to penalize them because their work effort did not fall precisely within the stringent timeframe as currently prescribed in the proposed regulations. Further, the proposed rule virtually ignores that many people may work at gradually increasing levels of income or hours, but never reach the SGA earnings threshold.

Beneficiaries should be able to "bank" work months in the first two years to count towards the work requirements in later years. In year 5 and beyond, work in excess of the six-month requirement should count toward the next year's requirement. Further, increasing amounts of work or earnings, even if below SGA, should be evaluated as meeting the definition of "progressively higher levels of employment" in order for a person to keep their CDR protection.

APPENDIX G
Information in Response
To Panel's Questions on Plan for Impact
Of Ticket Rollout

February 7, 2001

NOTE TO SARAH WIGGINS MITCHELL FOR THE TWIIA ADVISORY PANEL

As requested, I am sending the following information regarding our planning dates and numbers for distribution of Tickets. The number of individual Tickets that we expect to send out in the first year is about 2.3 million, including both beneficiaries currently on the rolls and new beneficiaries added during the year. This estimate is based on the most recent counts provided by our systems administrators. The break down is based on a systems selection of people by terminal digit of the Social Security number, as follows:

Mar 2001 (terminal digit 1)	236,000
Apr 2001 (term. digits 2,3)	452,000
May 2001 (term digits 4,5,6)	669,000
Jun 2001 (term. Digits 7,8,9,0)	885,000
Jul 2001 and ongoing	20,000

Note that each month after March includes new accretions with the terminal digits up to and including the terminal digits released for that month. For example, in May 2001, we will release terminal digits 4,5 and 6 selected in March plus all new accretions ending in digits 1-6—new accretions ending in 7-0 will be released in June.

I will be attending the Panel sessions on February 8 and will be glad to answer any questions you might have.

APPENDIX H
How to contact the Panel

Contact Information

Anyone requiring materials in alternative formats, information regarding this document or the Ticket to Work and Work Incentives Advisory Panel should contact the Panel staff. Records are kept of all Panel proceedings and are available for public inspection under the Federal Advisory Committee Act by appointment at the Panel office.

Anyone requiring information may contact the Panel staff.

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(The official copy of this document contains a printout of the Panel Website. To view the site, please visit
<http://www.ssa.gov/work/panel>

The Ticket to Work and Work Incentives Advisory Panel

Establishment of the Panel

The Ticket to Work and Work Incentives Improvement Act of 1999, Public Law 106-170, established the Ticket to Work and Work Incentives Advisory Panel (the Panel) within the Social Security Administration on December 17, 1999. Members were appointed by the President, the House of Representatives and the Senate during May and June of 2000. The Commissioner of the Social Security Administration, Kenneth S. Apfel, swore in the Panel on July 24, 2000.

Panel duties include advising the Commissioner of Social Security and reporting to the President and Congress on issues related to work incentives programs, planning, and assistance for individuals with disabilities and the Ticket to Work and Self-Sufficiency Program established under the Ticket to Work and Work Incentives Improvement Act (TWWIIA).

The Panel is composed of 12 members. The President, the Senate and the House of Representatives each appointed four. Appointments are for four-year terms. Of the members first appointed, one-half are appointed for a term of two years and the remaining are appointed for four years.

The Chair of the Panel is appointed by the President for a 4-year term.

Members of the Panel

Sarah Wiggins Mitchell, R.N., M.S.W., J. D., Chair

Sarah Wiggins Mitchell is the President and Executive Director of the New Jersey Protection and Advocacy, Inc., the designated protection and advocacy system for the State. She was appointed by President Clinton to chair the Panel for a four-year term. She is a member of the New Jersey and Pennsylvania Bars and has a background in nursing and social work.

Richard V. Burkhauser, Ph.D.

Dr. Richard V. Burkhauser serves as the Professor of Policy Analysis and Chair, Department of Policy Analysis and Management at Cornell University, Ithaca, NY. He is also active as a consultant, writer and researcher, focusing on various economic and social issues relating to persons with disabilities.

Thomas P. Golden

Mr. Golden is a faculty member of Cornell University's Program on Employment and Disability in the School of Industrial and Labor Relations in Ithaca, NY. He is currently project director for numerous efforts focusing on training and activities relating to work incentives for people with disabilities.

Kristin E. Flaten, M. Div.

Ms. Flaten is an Employment Consultant for Lifetrack Resources, Inc., St. Paul, MN. She started her own small business, INITIATIVES, dedicated to enhancing the lives of persons with mental illnesses by providing educational and support services, advocacy, benefits analysis, and work incentive plans.

Frances Gracechild

Frances Gracechild is the Executive Director, Resources for Independent Living, Inc., Sacramento, CA and instructor at California State University at Sacramento. She is president of Health Access America and serves as a commissioner for the California Attorney General's Commission on Disability.

Christine M. Griffin, J.D.

Christine M. Griffin is the Executive Director, Disability Law Center, Boston, MA. She is a Trustee for the Paralyzed Veterans of America Spinal Cord Research Foundation and is a member of the Massachusetts and the Washington, DC Bar.

Larry D. Henderson

Mr. Henderson is the Executive Director of Independent Resources, Inc., Wilmington, DE and chair of the Developmental Disabilities Planning Council of Delaware. Prior to his current position he was associated with the Salvation Army's Family Service Department.

Jerome Kleckley

Jerome Kleckley, MSW, CSW, is the Director of Hospital Services for the Eastern Paralyzed Veterans Association in Jackson Heights, NY and an advocate for veterans with disabilities. He is a veteran of the U.S. Navy and has been actively involved in veteran's issues.

Stephanie Smith Lee

Stephanie Smith Lee is the Governmental Affairs Representative of the National Down Syndrome Society and resides in Oakton, VA. She has played a key role in the passage of Federal disability legislation and has led successful grass roots advocacy efforts at the local, State and Federal levels.

Bryon R. MacDonald

Mr. MacDonald is employed as a Public Policy Advocate with the World Institute on Disability, Oakland, CA. He is a Board member at large of the National Council on Independent Living and chair of that organization's Social Security Subcommittee. For many years, he has developed employment support and benefits counseling programs and served as a consultant to several advisory committees on employment support for persons with disabilities.

Stephen L. Start

Stephen L. Start is the founder, President and Chief Executive Officer of S.L. Start & Associates, Spokane, WA, a company that provides professional management, rehabilitation, and residential services for people with disabilities, seniors and economically disadvantaged individuals. He is a member of numerous national and regional residential and rehabilitation boards.

Susan Webb

Susan Webb is the President, Webb Transitions, Inc. of Phoenix, AZ. A former Social Security Disability Insurance beneficiary, she used work incentives and vocational rehabilitation services to return to work. She has served on the Board of Directors of the National Council on Independent Living for three consecutive years, serving as its Social Security Subcommittee chair.

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