

**SOCIAL SECURITY ADMINISTRATION****20 CFR Part 411**

RIN 0960-AF-11

**The Ticket to Work and Self-Sufficiency Program****AGENCY:** Social Security Administration.**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** We are proposing rules to implement the new "Ticket to Work and Self-Sufficiency Program" (Ticket to Work program) authorized by the *Ticket to Work and Work Incentives Improvement Act of 1999*.

The Ticket to Work program will provide disabled beneficiaries with expanded access to employment services, vocational rehabilitation services, or other support services. We will pay the providers of those services after the beneficiaries achieve certain levels of work.

**DATES:** To be sure that your comments are considered, we must receive them no later than February 26, 2001.

**ADDRESSES:** Comments should be submitted:

- In writing, to the Commissioner of Social Security, P.O. Box 17703, Baltimore, MD 21235-7703;
- By telefax to (410) 966-2830;
- By E-mail to [regulations@ssa.gov](mailto:regulations@ssa.gov); or
- Delivered to the Office of Process and Innovation Management, Social Security Administration, 2109 West Low Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235-6401, between 8 a.m. and 4:30 p.m. on regular business days. You may also inspect comments during these same hours by making arrangements with the contact person shown below.

**FOR FURTHER INFORMATION CONTACT:** Geoffrey Funk, Team Leader, Legislative Implementation Team, Office of Employment Support Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235-6401. Call (410) 965-9010 or TTY 1-(800) 988-5906 for information about these proposed rules. For information on eligibility or filing for benefits, call our national toll-free number, 1-(800) 772-1213 or TTY 1-(800) 325-0778. You may also contact SSA Online at [www.ssa.gov](http://www.ssa.gov).

**SUPPLEMENTARY INFORMATION:****Background**

The National Organization on Disability/Harris Survey of 1998 found that only 29 percent of individuals with disabilities were working full- or part-time. From 1986 to 1999, the number of individuals receiving disability benefits rose 80 percent, with about half

receiving Social Security disability benefits and half Supplemental Security Income (SSI) benefits. Among the factors contributing to this increase were expanded eligibility for benefits, SSA's outreach efforts, the recession of the late 1980's and early 1990's, greater demand for benefits due to the lack of adequate, affordable health care insurance, and the aging of the work force. The Federal government spent \$51.3 billion on Social Security disability benefits in 1999, and \$22.9 billion in SSI. Many States use State funds to supplement the benefits of SSI beneficiaries.

According to the U.S. General Accounting Office, less than 1 percent of Social Security disability and SSI beneficiaries leave the Social Security and SSI rolls each year as a result of paid employment. Of those who leave, about one-third return within 3 years. If just one-half of one percent of the current Social Security disability and SSI recipients were to cease receiving benefits as a result of engaging in self-supporting employment, savings in cash assistance would total \$3.5 billion over the work-life of those individuals.

These proposed rules are intended to expand the options available for Social Security disability beneficiaries and disabled or blind SSI beneficiaries to access vocational rehabilitation services, employment services, and other support services that are necessary for such beneficiaries to obtain, regain or maintain employment that reduces their dependency on cash assistance. We expect that the expansion of these options and the creation of new work incentives in the *Ticket to Work and Work Incentives Improvement Act of 1999* (TWWIIA) will remove some of the disincentives that many beneficiaries with disabilities face when they attempt to work or, if already working, continue working or increase their work effort. If more beneficiaries with disabilities engage in self-supporting employment, the net result will be a reduction in the Social Security and SSI disability rolls and savings to the Social Security Trust Fund and general revenues.

**Ticket to Work and Work Incentives Improvement Act of 1999**

On December 17, 1999, President Clinton signed into law the *Ticket to Work and Work Incentives Improvement Act of 1999* (Public Law 106-170).

In section 2(b) of TWWIIA, the Congress states that TWWIIA has four basic purposes. In general, these are:

- To provide health care and employment preparation and placement services to individuals

with disabilities that will enable those individuals to reduce their dependence on cash benefit programs.

- To encourage States to adopt the option of allowing individuals with disabilities to purchase Medicaid coverage that is necessary to enable such individuals to maintain employment.

- To provide individuals with disabilities the option of maintaining Medicare coverage while working.

- To establish a "Ticket to Work and Self-Sufficiency Program" that allows Social Security disability and disabled or blind SSI recipients to seek the employment services, vocational rehabilitation services, and other support services needed to obtain, regain, or maintain employment and reduce their dependence on cash benefit programs.

Section 101(a) of TWWIIA amends part A of title XI of the Social Security Act (the Act) by adding a new section 1148, The Ticket to Work and Self-Sufficiency Program (Ticket to Work program). The purpose of the Ticket to Work program is to expand the universe of service providers available to beneficiaries with disabilities who are seeking employment services, vocational rehabilitation services, and other support services to assist them in obtaining, regaining and maintaining self-supporting employment.

The Social Security Administration is required to develop the regulations necessary to implement TWWIIA and to provide details regarding the Ticket to Work program. Section 1148(l) of the Act requires the Commissioner to prescribe such regulations as are necessary to carry out the provisions of section 1148 of the Act. In addition, section 101(e) of TWWIIA requires the Commissioner of Social Security to prescribe such regulations as are necessary to implement the amendments made by section 101. We are proposing these regulations to address a number of areas where specific policy decisions were left to the discretion of the Commissioner.

Under the Ticket to Work program, the Commissioner may issue tickets to Social Security disability beneficiaries and disabled and blind SSI beneficiaries. Each beneficiary will have the option of using his or her ticket to obtain services from a provider known as an employment network (EN). The beneficiary will choose the EN, and the EN will provide employment services, vocational rehabilitation services, and other support services to assist the beneficiary in obtaining, regaining and maintaining self-supporting

employment. ENs will also be able to choose who they serve.

The Commissioner's intent in developing the proposed rules for the Ticket to Work program is to allow service providers that have traditionally provided employment services, vocational rehabilitation services and other support services, as well as other types of entities, to qualify as ENs and serve beneficiaries with disabilities under the program. The expansion of options available to obtain these services will provide beneficiaries with real choices in getting the services they need to obtain, regain, or maintain employment.

### Public Education Forums and Conferences

Immediately following passage of TWWIIA, we began working with the U.S. Departments of Health and Human Services, Education, and Labor, as well as the Presidential Task Force on the Employment of Adults with Disabilities, the President's Committee on Employment of People with Disabilities, and the National Council on Disability. These Federal partners joined together to plan and conduct a series of public education forums. The purpose of the forums was to increase the awareness of public disability programs among individuals with disabilities, their families and representatives, and service providers. The forums focused on Federal and State employment-related policies and programs for people with disabilities.

Forums were scheduled in eleven major cities across the country. Those cities were Baltimore, MD (December 12, 1999); Kansas City, MO (February 2, 2000); Durham, NC (March 9, 2000); Phoenix, AZ (March 30, 2000); New York, NY (April 6, 2000); Austin, TX (May 17, 2000); Seattle, WA (June 13, 2000); Worcester, MA (June 26, 2000); Chicago, IL (August 1, 2000); Harrisburg, PA (August 15, 2000); and Denver, CO (September 13-14, 2000).

Representatives from many national and community-based organizations (e.g., the SSI Coalition, Virginia Commonwealth University, Disability Rights Education and Defense Fund, the National Brain Injury Association, Consortium for Citizens with Disabilities, Robert Wood Johnson Foundation, National Council on Independent Living, Capstone Group, and State representatives from the Developmental Disabilities Councils, the State Independent Living Councils, and the Governors' Committees on Employment of People with Disabilities) participated in these forums.

The forums provided participants with both information and an opportunity for discussion. Topics included: SSA customer services and work incentives; State health care systems and models; and employment initiatives of the Departments of Education, Labor, and Health and Human Services.

The forums were also used as an opportunity to share information about TWWIIA and conduct exploratory discussions about policy issues relating to the implementation of the provisions in TWWIIA that were left to the Commissioner to interpret. New models where State and local systems are working together to serve their common customers with disabilities were highlighted.

SSA representatives have also been involved in meetings and conferences on the national, regional, State, and local levels. These included SSA-sponsored forums in Chicago, San Francisco, Dallas, Denver, and Philadelphia conducted in January and February 2000, which focused on the Ticket to Work program. At these meetings and conferences, SSA representatives made presentations on TWWIIA, facilitating discussion and obtaining recommendations that were considered in developing the provisions of the Ticket to Work program that are being addressed in these proposed rules.

### SSA's Programs for Rehabilitation Services Prior to Implementation of the Ticket to Work Program

In titles II and XVI of the Social Security Act, Congress provided that we promptly refer individuals applying for or determined eligible for Social Security disability benefits or SSI benefits based on disability or blindness to State vocational rehabilitation (VR) agencies for necessary rehabilitation services. Under the statute and by regulations, if a State VR agency does not serve a beneficiary whom we referred, we may use other public or private agencies, organizations, institutions or individuals to provide services. Under our regulations, these other providers of services are known as alternate participants. We are authorized under the Act to pay State VR agencies and alternate participants for the reasonable and necessary costs of services provided to Social Security disability beneficiaries and disabled and blind SSI beneficiaries under specific circumstances. The most frequent circumstance permitting payment under the Act is when the services provided result in the beneficiary performing substantial gainful activity (SGA) for a period of at least 9 continuous months.

These programs for referral and reimbursement for VR services are provided for in sections 222(a) and (d), and sections 1615(a), (d), and (e) of the Act.

Section 101(b) of TWWIIA makes a number of conforming amendments to the Act, which require amendments to existing regulations that implement these statutory provisions. As we gradually implement the Ticket to Work program in States selected by the Commissioner, the provisions of the Act for referring beneficiaries to State VR agencies will cease to be in effect in those States as provided in sections 101(b), (c) and (d) of TWWIIA. Additionally, the use of alternate participants under the title II and title XVI vocational rehabilitation reimbursement programs will be phased out in the States as the Ticket to Work program is implemented, as authorized under section 101(d)(5) of TWWIIA.

Under sections 222 and 1615 of the Act, the Commissioner is authorized to impose sanctions (*i.e.*, make deductions from Social Security disability benefits or suspend SSI benefits) with respect to any beneficiary who refused, without good cause, to accept rehabilitation services made available by a State VR agency or an alternate participant.

The proposed rules to implement these statutory changes will be published in the **Federal Register** at a later date.

Section 101(b) of TWWIIA also amends sections 225(b)(1) and 1631(a)(6)(A) of the Act by striking "a program of vocational rehabilitation services" and inserting "a program consisting of the Ticket to Work and Self-Sufficiency Program under section 1148 or another program of vocational rehabilitation services, employment services, or other support services". Under existing law, SSA continues to pay disability benefits to individuals who recover medically while participating in an approved program of vocational rehabilitation services if the Commissioner determines that continuation in or completion of the program will increase the likelihood that the individual will be permanently removed from the disability rolls. The proposed rules to implement the expanded definition discussed above will be published in the **Federal Register** at a later date.

We will also publish at a later date in the **Federal Register** the rules for implementing section 112 of the TWWIIA, Expedited Reinstatement of Disability Benefits.

### General Goals of the Ticket to Work Program

The Ticket to Work program will enhance the range of choices available to Social Security disability and disabled and blind SSI beneficiaries when they are seeking employment services, VR services and other support services to obtain, regain or maintain self-supporting employment. The coordinated and interrelated public policy embodied in various provisions of TWWIA will remove several disincentives to employment faced by beneficiaries with disabilities. The Ticket to Work program will increase beneficiaries' access to public and private providers to obtain employment services, VR services, and other support services. As a result, the Ticket to Work program, together with other provisions of TWWIA, should substantially increase the number of beneficiaries who increase their work effort and leave the Social Security or SSI disability rolls due to income from employment.

In addition to providing the increased opportunity for these beneficiaries to obtain services when they seek employment, TWWIA may result in substantial savings for the Federal government and State governments. Not only should there be an increase in the number of beneficiaries leaving the Social Security and SSI disability rolls due to work or earnings, some individuals will secure work with employers who offer group health coverage, thereby reducing Medicaid and Medicare expenses. Earned income should also yield tax receipts while reducing expenses in Social Security disability and disabled and blind SSI benefits, food stamps, HUD rent subsidies, and veterans benefits. Improved employment rates of individuals with disabilities should increase the independence of such individuals and strengthen our communities and workforce.

### Ticket to Work Program

Section 1148 of the Act, which was added by section 101(a) of TWWIA, directs the Commissioner of Social Security (the Commissioner) to establish a Ticket to Work and Self-Sufficiency Program. Section 1148(b) of the Act authorizes the Commissioner to issue tickets to disabled beneficiaries. Beneficiaries may choose among public or private service providers that have been approved by SSA to function as ENs under the program to obtain employment services, vocational rehabilitation services, or other support services to assist them in obtaining, regaining or maintaining employment

that will reduce their dependence on cash benefits. Beneficiaries will also have the option of choosing to obtain services from their State VR agency. The overall purpose of the Ticket to Work program is to expand the universe of options available to beneficiaries with disabilities for obtaining such services.

Section 1148(d)(1) of the Act authorizes the Commissioner to conduct a competitive bidding process and enter into an agreement with one or more organizations to serve as a Program Manager (PM) to assist SSA in administering the Ticket to Work program.

The PM will recruit and recommend for selection by the Commissioner ENs for service under the program; monitor all ENs serving in the geographic areas covered under the PM's agreement to ensure that adequate choices of services are made available to beneficiaries; assure that payment by the Commissioner to ENs is warranted; facilitate access by beneficiaries to ENs; ensure the availability of adequate services; and ensure that sufficient ENs are available and that each beneficiary receiving services under the program has reasonable access to employment services, vocational rehabilitation services, and other support services. Section 1148(d)(4) of the Act directs the Commissioner to select and enter into agreements with service providers that are willing to function as ENs and assume responsibility for the coordination and delivery of employment services, vocational rehabilitation services, and other support services to beneficiaries with disabilities under the Ticket to Work program. A beneficiary with a ticket may assign his or her ticket to any provider that is serving as an EN under the Ticket to Work program and is willing to take the assignment.

Section 1148(l) of the Act requires the Commissioner to prescribe such regulations as are necessary to carry out the provisions of section 1148. In addition, section 101(e) of TWWIA requires the Commissioner to prescribe such regulations as are necessary to implement the amendments made by section 101 of TWWIA. The regulations proposed in this notice address those areas which must be regulated in order to begin implementing the Ticket to Work program. Additional regulations necessary for the ongoing implementation of the program will be issued in the **Federal Register** at a later date. For example, proposed performance measures to be used in conducting periodic reviews as necessary to provide for effective quality assurance in the provision of services by

ENs will need to be developed and published in the **Federal Register** for comment. Refer to the section near the end of this Supplementary Information, titled "Additional Matters for Comment," for more information on provisions that will be addressed in future regulations.

### Proposed Regulations

We are proposing to add a new part 411 to chapter III of title 20 of the Code of Federal Regulations to provide the rules for the Ticket to Work program. The new part 411 is divided into the following subparts.

#### *Subpart A—Introduction*

Subpart A of these proposed rules provides an introduction to the rules in the new part 411. Proposed § 411.100 provides an overview of the proposed rules in part 411. Proposed § 411.105 describes the purpose of the Ticket to Work program. Proposed § 411.110 explains that the Ticket to Work program will be implemented in graduated phases in sites around the country as required by section 101(d) of TWWIA. Proposed § 411.115 provides definitions of terms used in part 411.

#### *Subpart B—Tickets Under the Ticket to Work Program*

Subpart B of these proposed rules describes what a ticket is and explains who is eligible to receive a ticket.

Proposed § 411.120 explains that a ticket is a document that provides evidence of the Commissioner's agreement to pay an EN milestone or outcome payments for services to beneficiaries under the Ticket to Work program. Proposed § 411.125 states the following requirements, among others, for eligibility to receive a ticket: a title II beneficiary must be age 18 to 64, and a title XVI beneficiary must be age 18 to 64 and be eligible for disability payments under the disability standard for adults; a beneficiary must be in current pay status for monthly cash benefits based on disability under title II of the Act or monthly Federal cash benefits based on disability or blindness under title XVI of the Act; and a beneficiary must either: (1) Have a permanent impairment or a nonpermanent impairment (*i.e.*, an impairment for which medical improvement is possible but cannot be predicted), or (2) have an impairment that is expected to improve and have undergone at least one continuing disability review.

In developing requirements for ticket eligibility under the proposed rules, we considered, but decided not to propose,

extending eligibility for a ticket to two additional groups of individuals.

The first group consists of beneficiaries who have impairments that are expected to improve and for whom we have not yet conducted at least one continuing disability review. Because these beneficiaries have conditions that are expected to medically improve in a relatively short period of time, they could be expected to return to work without the need for services under the Ticket to Work program. Continuing disability reviews for this category of beneficiaries are scheduled for six to eighteen months after the initial disability determination. Under the proposed rules, if we determine in the first continuing disability review that the beneficiary remains disabled, we would then issue a ticket, provided that the beneficiary met the other ticket eligibility criteria. This approach would ensure that beneficiaries whose conditions do not improve as anticipated have the opportunity to benefit from services under the Ticket to Work program within a relatively short period of time after the initial determination.

The second group consists of those who received title XVI payments prior to attaining age 18 (*i.e.*, under the disability standard for children) and have since attained age 18, but for whom we have not yet conducted a redetermination of their eligibility under the disability standard for adults. Because ongoing eligibility has not yet been determined for these beneficiaries, we believe that it is premature to issue a ticket to them immediately. Under the proposed rules, if we establish in the redetermination that a beneficiary in this group is eligible for disability payments under the disability standard for adults, we would then issue a ticket, provided that the beneficiary met the other ticket eligibility criteria. We plan to review periodically our policy regarding ticket eligibility, including whether it would be prudent to extend eligibility to the groups discussed above.

Proposed § 411.130 explains that SSA will distribute tickets in graduated phases. Proposed § 411.135 explains that participation in the Ticket to Work program is voluntary. This proposed section explains that if beneficiaries want to participate in the program they can take their tickets to any entity serving under the program. Proposed § 411.140 explains that a beneficiary may assign his or her ticket to any EN or State VR agency that is willing to provide services, and that the beneficiary may discuss his or her rehabilitation and employment plans

with as many entities as he or she wishes. This proposed section explains that the beneficiary can obtain a list of the approved ENs in his or her area. This section also explains certain requirements a beneficiary must meet in order to assign a ticket. This section provides that beneficiaries and ENs must agree to and sign an individual work plan (IWP) (or, in the case of a State VR agency, an individualized plan for employment (IPE)) before a ticket can be assigned. This provision requires that a copy of the plan be submitted to the PM to facilitate the assignment of the ticket. Proposed § 411.145 describes the conditions under which a beneficiary may take a ticket back after it has been assigned to an EN or State VR agency. It also describes other conditions under which a ticket that is assigned can be taken out of assignment. Proposed § 411.150 explains the beneficiary's right to reassign a ticket, if the beneficiary chooses.

Proposed § 411.155 explains when a beneficiary's ticket terminates and eligibility for participation in the Ticket to Work program ends. Once a ticket terminates, a beneficiary may not assign or reassign it to an EN or State VR agency. Under the proposed rules, a ticket will terminate when entitlement to Social Security disability benefits ends or eligibility for SSI benefits based on disability or blindness terminates (whichever is later) for reasons other than the individual's work activity or earnings; when a Social Security disabled widow(er) beneficiary attains age 65; when a disabled or blind SSI beneficiary reaches age 65 and may qualify for SSI benefits based on age; or after the 60th month for which an outcome payment is made based on that ticket.

#### *Subpart C—Suspension of Continuing Disability Reviews for Beneficiaries Who Are Using a Ticket*

Under section 221(i) of the Act and under the authority granted by sections 1631 and 1633 of the Act, we conduct periodic reviews to ensure that beneficiaries continue to meet the definition of disability under sections 223(d) and 1614(a) of the Act. These reviews are called continuing disability reviews. TWWIA amends the Act to add section 1148(i), which states that SSA may not initiate a continuing disability review during any period in which a beneficiary is using a ticket.

The statute states:

“During any period for which an individual is using, as defined by the Commissioner, a ticket to work and self-sufficiency issued under this section, the Commissioner (and any applicable

State agency) may not initiate a continuing disability review or other review under section 221 of whether the individual is or is not under a disability or a review under title XVI similar to any such review under section 221.”

The definition of using a ticket is to be determined by the Commissioner of Social Security. Subpart C outlines our proposed definition of using a ticket.

In developing our proposed definition of using a ticket, we considered two key factors. First, the intent of the Ticket to Work program is to allow beneficiaries with disabilities to seek the services they need to work and to reduce or eliminate dependence on Social Security disability and SSI benefits. However, anecdotal evidence suggests that some beneficiaries are afraid that working, or even receiving vocational rehabilitation services, may increase the likelihood that their benefits will be terminated in a continuing disability review. Therefore, using a ticket should be defined in a way that minimizes this employment disincentive for beneficiaries participating in the Ticket to Work program. However, in order to maintain the integrity of the disability programs, it is also important that beneficiaries who have medically improved and who no longer meet the definition of disability under sections 223(d) and 1614(a)(3) of the Act do not continue to receive disability benefits for an undue length of time.

Our proposed definition seeks to balance these concerns by ensuring that continuing disability reviews are suspended only during the period in which beneficiaries are making meaningful progress toward reducing or eliminating dependence on Social Security disability or SSI benefits, while at the same time recognizing that such progress may not always be rapid or continuous.

Under our proposed definition of using a ticket, a beneficiary would be considered to be using a ticket during the period in which he or she was making progress toward the goal of reducing or eliminating dependence on disability benefits within reasonable timeframes. Under this approach, beneficiaries would be allowed a limited period to prepare for work. At the end of this period, they would need to show that they were progressing toward self-sufficiency by demonstrating increasing levels of employment.

An important advantage of this definition of using a ticket is that it increases employment incentives by “rewarding” beneficiaries who work and progress toward self-sufficiency with continued deferral of continuing

disability reviews. However, requiring beneficiaries to demonstrate increasing levels of employment within a defined timeframe results in a fairly complex regulation. The complexity arises from our attempt to balance the concerns discussed above and, to the extent possible, to accommodate the diverse employment needs of a wide range of beneficiaries. While some level of complexity is unavoidable, we have attempted wherever possible to simplify the regulation and to make it straightforward to implement.

The following analysis discusses the major provisions of subpart C.

Proposed §§ 411.170 and 411.171 describe when the period of using a ticket begins and ends. We propose that the period of using a ticket begin when the ticket is first assigned to an EN or State VR agency. The primary purpose of the suspension of continuing disability reviews is to ensure that Ticket to Work program participants are not inhibited in their attempts to work or pursue an employment plan by the fear that such activities will increase the likelihood that their benefits will be terminated in a medical review. Prior to the assignment of the ticket, a beneficiary is not participating in these activities under the Ticket to Work program.

Under our proposed definition, the period of using a ticket ends with the earliest of the following:

- (1) The completion of the 60-month outcome payment period;
- (2) When the beneficiary is no longer making timely progress toward self-supporting employment according to our guidelines (see §§ 411.180 through 411.225);
- (3) Three months after the ticket is no longer assigned, if the beneficiary fails to reassign the ticket during this 3-month period; or
- (4) When the beneficiary's entitlement to or eligibility for disability benefits terminates.

Proposed §§ 411.180, 411.185, and 411.220 describe our guidelines for timely progress toward self-supporting employment. We propose that after assigning a ticket, beneficiaries be allowed up to two years to prepare for employment. Under the current VR system, the average time to attain employment with substantial earnings is approximately 2 years.

After 2 years, beneficiaries would be required to meet progressively higher levels of employment to continue to be considered to be using a ticket in order to receive the protection in 1148(i) of the Act regarding non-initiation of continuing disability reviews. Such a progression would allow beneficiaries

time to improve their employment capacities. Under our proposed definition, in the third year of Ticket to Work program participation, beneficiaries would be required to work at least 3 months at the SGA level. In the fourth year of the program, they would be required to work at least 6 months at the SGA level. In the fifth and succeeding years, in order to be considered to be using a ticket they would be required to work at least 6 months in each year and have earnings in each such month that were sufficient to eliminate the payment of Social Security disability benefits and Federal SSI benefits.

In developing these guidelines, we recognized that progress toward self-sufficiency is not always continuous and that for some, full self-sufficiency may not be attained. Many beneficiaries have disabilities with cycles of relapse and remission. In addition, some beneficiaries may need to try more than one job before finding a situation that suits their abilities and needs. The requirement that beneficiaries need only work 3 months out of 12 in the third year and 6 months out of 12 in succeeding years recognizes that some beneficiaries may not be able to work on a continuous basis.

In addition, since beneficiaries would be required to work for only 3 months in the third year of their participation in the program, beneficiaries would actually have a total of 2 years and 9 months to prepare for employment. This should allow beneficiaries sufficient preparation time even if they are incapacitated for some portion of that time due to the disabling impairment.

Beneficiaries would also have the option of placing their ticket in inactive status during the initial 24-month period following assignment of a ticket if they expected to be unable to participate in their employment plan for a significant period of time due to a relapse, or if they simply chose to stop participating in the plan temporarily. Any period in which the ticket was inactive would not count toward the time limitations under the timely progress guidelines. However, since the ticket would not be in use during this period, the beneficiary would be subject to a continuing disability review should one become due.

In § 411.185, we propose levels of earnings that an individual must have in order to be considered to be using a ticket. Under the proposed definition, the required earnings level would increase over time. In the third and fourth years, both Social Security disability beneficiaries and disabled and blind SSI beneficiaries would be

required to work at the SGA level applicable to non-blind beneficiaries for the specified number of months. This level is set by regulation under 20 CFR 404.1574 and is currently \$700 a month for non-blind beneficiaries. SSI disability and blindness beneficiaries, Social Security disability beneficiaries who are in a trial work period, and Social Security disability beneficiaries who are statutorily blind would be deemed to have met the requirement to work at the SGA level applicable to non-blind beneficiaries if their gross earnings from employment, before any exclusions, were at or above the dollar amount of the non-blind SGA level, or if their net earnings from self-employment, before any exclusions, were at the SGA level applicable to non-blind beneficiaries.

Earnings at the SGA level applicable to non-blind beneficiaries may not be sufficient to eliminate the payment of all disability benefits, since the amount of earnings needed to eliminate the payment of disability benefits depends on a variety of factors, including whether the beneficiary receives Social Security or SSI benefits, or both, whether the beneficiary is blind, and whether the beneficiary has impairment related work expenses or is eligible for other income exclusions. We are proposing that the earnings requirement for the third and fourth years be at the SGA level for non-blind beneficiaries to establish an initial earnings level that:

- (1) Is consistent across different categories of beneficiaries, increasing simplicity; and
- (2) Allows beneficiaries time to work toward the higher levels of earnings that may be required to eliminate the payment of disability benefits for the required months.

In the fifth and subsequent years, both Social Security and SSI beneficiaries would be required to work for at least 6 months with earnings in each such month that were sufficient to eliminate payment of Social Security disability and Federal SSI cash benefits in a month. The requirement that individuals using a ticket eventually attain this level of earnings is consistent with the payment structure of the Ticket to Work program, in which ENs receive outcome payments only when Federal disability benefit payments are eliminated. It also reflects that one of the purposes of the Ticket to Work program is to produce savings in benefit payments. Since the suspension of continuing disability reviews for individuals using a ticket means that it is possible that some beneficiaries who no longer meet the definition of disability will continue to be eligible for

benefits, it is important that the suspension of continuing disability reviews not continue for an undue length of time without a significant reduction in benefit payments due to earnings.

In proposed § 411.210, we discuss beneficiaries who do not meet the timely progress guidelines. Beneficiaries who do not make timely progress toward employment in order to be considered using a ticket would be allowed to continue in the Ticket to Work program, and the beneficiary's EN or State VR agency would still be eligible for any payments that became due. However, these beneficiaries would no longer be considered to be using a ticket as defined by the Commissioner, and therefore would once again be subject to continuing disability reviews.

We also propose that beneficiaries who fail to meet the timely progress guidelines to be considered to be using a ticket have the opportunity to be considered to be using a ticket later. In order to be considered to be using a ticket later, a beneficiary would need to work for a specified number of months. The number of months, and earnings level required, would vary depending on how far the beneficiary had progressed when he or she failed to meet the guidelines.

We propose this method of allowing a beneficiary to once again be considered to be using a ticket because we recognize, as mentioned above, that due to the nature of disability, progress toward increased self-sufficiency is not always direct. Beneficiaries may make unsuccessful attempts before eventually reaching their employment goals, and these unsuccessful attempts should not deprive them of the supports that they need to make renewed efforts.

In proposed §§ 411.190, 411.195, 411.200, and 411.205, we discuss how it will be determined if a beneficiary is meeting the timely progress guidelines. We are proposing that the PM conduct periodic reviews to ensure that beneficiaries are meeting the timely progress guidelines. The first review would be a progress review 24 months after the assignment of the ticket. This would be followed by annual work reviews. After each successful review, the beneficiary would be considered to be meeting the timely progress guidelines until the next review was completed. If a beneficiary disagreed with the PM's decision in any review, the beneficiary would have the right to ask SSA to review the PM's decision.

The criteria for the 24-month progress review and the annual work reviews are designed to be as clear cut as possible. This feature, combined with the PM's

responsibility for conducting the reviews should allow for rapid processing of reviews and decrease the administrative burden on both the beneficiary and SSA.

*Subpart D—Use of One or More Program Managers To Assist in the Administration of the Ticket to Work Program*

Section 1148(d)(1) of the Act requires the Commissioner to enter into an agreement with one or more organizations to serve as a PM to assist the Commissioner in administering the Ticket to Work program. Section 101(e)(2)(E) of TWWIA identifies specific regulations that SSA must promulgate regarding the terms of the agreements to be entered into with a PM. Three items are specifically required:

(1) The terms by which a PM would be precluded from direct participation in the delivery of services;

(2) Standards which must be met by quality assurance measures and methods of recruitment of ENs; and

(3) The format under which dispute resolution will operate under section 1148(d)(7) of the Act.

Among other things, section 1148(d)(7) requires the Commissioner to provide a mechanism for resolving disputes between PMs and ENs, and between PMs and providers of services.

Subpart D of these proposed rules explains that SSA will contract with one or more organizations to serve as a PM and assist SSA in administering the Ticket to Work program. Proposed § 411.230 explains that SSA will conduct a competitive bidding process to select one or more private organizations to perform the PM's functions. Proposed § 411.235 describes the minimum qualifications required of a PM. Proposed § 411.240 describes certain limitations that are placed on a PM regarding the provision of services under the Ticket to Work program. Proposed § 411.245 identifies key responsibilities that a PM must assume to assist SSA in administering the program and proposed § 411.250 explains how SSA will evaluate a PM.

*Subpart E—Employment Networks*

Section 1148(d)(4)(A) of the Act requires the Commissioner to select and enter into agreements with ENs to provide services as outlined under the Ticket to Work program. Section 1148(f)(1) states that each EN serving under the Ticket to Work program shall consist of an agency or instrumentality of a State (or a political subdivision thereof) or a private entity that assumes responsibility for the coordination and

delivery of services under the program to beneficiaries assigning tickets to it.

These ENs are in addition to State agencies administering or supervising the administration of the State plan approved under title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*), known as State VR agencies, that will also be serving beneficiaries with disabilities under the Ticket to Work program. State VR agencies will have the option of serving beneficiaries with tickets either as an EN (that is, to be paid under one of the EN payment systems described in subpart H of the proposed rules) or under the existing cost reimbursement payment system authorized in sections 222(d) and 1615(d) of the Act. The Commissioner is also directed to enter into an agreement with any alternate participant operating under the authority of section 222(d)(2) of the Act in any State where the Ticket to Work program is being implemented if the alternate participant chooses to serve as an EN. An EN may consist of a one-stop delivery system established under subtitle B of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2811 *et seq.*).

Section 1148(f) of the Act requires that entities seeking to participate in the Ticket to Work program as ENs meet certain qualifications. The Commissioner has discretion in determining the qualifications that an entity must meet to be approved to serve as an EN. We are proposing requirements for ENs that are not unduly burdensome and that are intended to permit both traditional as well as other types of entities to qualify. The Commissioner's intent is to ensure that non-traditional service providers are not prohibited from being approved as ENs, while still requiring evidence that all ENs meet certain minimum qualifications such as licensure, accreditation, academic qualifications, or experience. This inclusive approach is critically important to ensure that beneficiaries with disabilities have a real choice in services necessary to obtain, regain and maintain employment.

Section 1148(f) of the Act also addresses requirements for ENs under the Ticket to Work program. It requires each EN to serve a prescribed service area and ensure that employment services, VR services, and other support services are provided under appropriate IWPs.

Proposed §§ 411.300 and 411.305 explain what an EN is and what entities are eligible to apply to serve as ENs. Proposed § 411.310 explains how public or private entities will apply to us to be

approved as ENs and how we will determine whether an entity qualifies to be an EN. Proposed § 411.315 describes the minimum qualifications for an EN under the Ticket to Work program. Proposed § 411.320 describes the major responsibilities of an entity serving as an EN. Proposed § 411.321 explains the conditions under which we will terminate an EN for inadequate performance. Proposed § 411.325 lists the reporting requirements placed on an entity serving as an EN and proposed § 411.330 explains how we will evaluate an EN's performance.

#### *Subpart F—State Vocational Rehabilitation Agencies' Participation*

Section 1148(c) of the Act addresses participation by State VR agencies in the Ticket to Work program. Among other things, this section gives each State VR agency the opportunity to determine, on a case-by-case basis, whether it will participate in the Ticket to Work program as an EN or under the cost reimbursement payment system authorized under sections 222(d) and 1615(d) of the Act (see 20 CFR 404.2101 *et seq.* and 416.2201 *et seq.*). The State VR agency must elect either the outcome payment system or the outcome-milestone payment system to be used when it chooses to function as an EN when serving a beneficiary with a ticket. The Commissioner is directed to provide for periodic opportunities to exercise this election. When the State VR agency serves as an EN under the Ticket to Work program, it means that the State VR agency has chosen, with respect to a particular beneficiary, the option of being paid under the EN payment system it has elected for this purpose. Generally under the Ticket to Work program, however, State VR agencies will continue to operate as they do today. For example, when a State VR agency functions as an EN, it will provide services in accordance with the requirements of the State plan approved under title I of the Rehabilitation Act of 1973, as amended, and a client will complete an individualized plan for employment (IPE) with the State VR agency. If a State VR agency has a dispute over a payment under the cost reimbursement payment system, the State VR agency will use the dispute resolution procedures already in place under 20 CFR 404.2127 and 416.2227. The new responsibilities for State VR agencies under the Ticket to Work program include checking if State VR agency clients have a ticket ready for assignment, routing EN payment dispute questions through the PM, and providing reports regarding the

outcomes achieved by its clients who have a ticket.

Subpart F of the proposed rules establishes that the cost reimbursement payment system is a payment option under the Ticket to Work program for State VR agencies. Proposed § 411.360 explains what a State VR agency must do to function as an EN under the Ticket to Work program with respect to a beneficiary and explains that a State VR agency may choose, on a case-by-case basis, to seek payment from SSA under the cost reimbursement payment system or its elected EN payment system. Proposed § 411.365 describes how a State VR agency will select an EN payment system for use when functioning as an EN. Proposed § 411.370 explains that a State VR agency may choose to serve all beneficiaries with tickets under the cost reimbursement payment system. Proposed § 411.375 explains that State VR agencies must continue to provide services to beneficiaries with tickets under the requirements of the State plan approved under title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*).

Proposed § 411.380 describes how a State VR agency will determine if a person seeking services is a disabled beneficiary with a ticket. Proposed § 411.385 explains what the State VR agency must do when it determines that a person is a beneficiary with a ticket available for assignment and how it will work with the PM to facilitate the assignment of a beneficiary's ticket to the State VR agency when the beneficiary chooses to make such assignment. It also explains how the State VR agency will notify the PM regarding the method of payment it is selecting for a particular beneficiary.

Proposed § 411.390 describes what a State VR agency should do when it determines that a beneficiary already receiving services under an approved IPE is a beneficiary with a ticket available for assignment. Proposed § 411.395 explains that each State VR agency will be required to provide periodic reports to SSA on the specific outcomes achieved with respect to the services provided to beneficiaries under the Ticket to Work program.

Section 1148(c)(3) of the Act requires State VR agencies and ENs to enter into agreements regarding the conditions under which services will be provided when an EN that has been assigned the beneficiary's ticket refers the beneficiary to a State VR agency for services. Proposed § 411.400 explains that an EN may refer a beneficiary that it is serving under the Ticket to Work program to a State VR agency for services only if such

an agreement is in place prior to the EN making the referral. Proposed § 411.410 explains that these agreements are broad-based and apply to all beneficiaries who may be referred by an EN to a particular State VR agency. Proposed § 411.415 explains that the PM will verify the establishment of such agreements based on the EN's submission of a copy of the agreement to the PM. Proposed § 411.420 provides guidance on what should be included in these agreements and proposed § 411.425 explains what a State VR agency should do if an EN attempts to refer a beneficiary being served under the Ticket to Work program to the State VR agency without having established such an agreement. Proposed § 411.430 explains what the PM should do when notified that a referral has been attempted in the absence of an agreement. Proposed § 411.435 establishes procedures for resolving disputes arising under these agreements.

#### *Subpart G—Requirements for Individual Work Plans*

Section 1148(g) of the Act requires each EN to ensure that employment services, vocational rehabilitation services, and other support services provided under the Ticket to Work program are provided under IWP. The minimum requirements for an IWP are spelled out in this section.

Subpart G of these proposed rules establishes the requirements for the IWP that must be developed when an EN and a beneficiary with a ticket come to a mutual understanding to work in partnership under the Ticket to Work program to assist the beneficiary in achieving employment that is self-supporting and that reduces dependence on cash assistance. Beneficiaries who are clients of the State VR agencies will continue to use the individualized plan for employment rather than an IWP. Proposed § 411.455 explains the purpose of the IWP and explains that the EN must develop and implement the plan in a manner that gives the beneficiary the opportunity to exercise informed choice in selecting an employment goal. Proposed § 411.460 explains that the beneficiary and the EN share the responsibility for determining the content of the IWP.

Proposed § 411.465 describes the specific information that must be included in each IWP and proposed § 411.470 explains that an IWP becomes effective on the date it was signed by a beneficiary, or the beneficiary's representative, and by the EN, provided that the program manager verifies that a beneficiary has a ticket eligible for assignment and records the assignment.

*Subpart H—Employment Network  
Payment Systems*

Section 1148(h) of the Act provides that the Ticket to Work program shall provide for payments authorized by the Commissioner to ENs. These payments shall occur under either an outcome payment system or an outcome-milestone payment system. The two systems are defined in § 411.500. This section also defines two other terms we use related to the payment systems.

The amount we can pay to an EN (including a State VR agency choosing to be paid as an EN) under either payment system is based upon the prior calendar year's national average disability benefits payable under title II or title XVI, not upon the specific benefit payable to a beneficiary with a ticket. The amount payable to an EN will depend upon whether the individual who assigned his or her ticket to the EN is entitled to benefits under title II or is eligible for benefits under title XVI. If the beneficiary is concurrently entitled under title II and eligible under title XVI, we will use the title II payment calculation base.

Payments to ENs are for specific milestones or outcomes achieved by a beneficiary who assigns a ticket to the EN. Such payments are not based upon the costs of specific services provided by the EN.

The outcome payments under either EN payment system are payable for a maximum of 60 months. These months do not have to be consecutive. Section 1148(h)(3)(C) of the Act provides that the schedule of payments to the EN under the outcome-milestone payment system shall be designed so that the total of the payments is less than, on a net present value basis, the total payments the EN would be limited to if the EN were paid under the outcome payment system.

Section 1148(c) of the Act permits each State VR agency to participate in the program as an EN with respect to a disabled beneficiary. When the State VR agency elects to participate in the Ticket to Work program as an EN with respect to a disabled beneficiary, the State VR agency shall be paid in accordance with its elected EN payment system. If the State VR agency chooses not to participate as an EN with respect to a disabled beneficiary, the State VR agency shall be paid for services provided to that beneficiary in accordance with the cost reimbursement payment system under sections 222(d) and 1615(d) and (e) of the Act. Our regulations concerning this cost reimbursement payment system are at 20 CFR §§ 404.2101 through 404.2127

and §§ 416.2201 through 416.2227. Payments to State VR agencies are discussed in § 411.510.

Each EN will elect the EN payment system it will be paid under when it agrees to become an EN. We periodically will offer each EN (including a State VR agency) the opportunity to change its elected payment system. If the EN does change its elected payment system, the change will apply only to tickets assigned to the EN after the change in the elected payment system is made known to SSA. These provisions, including the frequency of opportunity for an EN to change its payment system, are discussed in §§ 411.505 through 411.520.

Sections 411.525 through 411.565 provide our proposed rules for computing payments to ENs under the two EN payment systems and for allocating payments to multiple ENs to whom the ticket was assigned at different times.

Section 1148(h)(2) of the Act provides that the outcome payment system shall provide for a schedule of payments to an EN, in connection with a beneficiary who assigns a ticket to the EN, for each month, during the individual's outcome payment period, for which Social Security disability benefits and Federal SSI benefits based on disability or blindness are not payable to the individual because of work or earnings. There can be a maximum of sixty outcome payment months and, therefore, a maximum of sixty monthly outcome payments. In proposed § 411.525, we explain that an outcome payment month is a month for which Social Security disability benefits and Federal SSI benefits based on disability or blindness are not payable to the individual because of work or earnings. The proposed rules also provide criteria for determining whether a month occurring after the month in which a beneficiary's entitlement to Social Security disability benefits ends or eligibility for SSI benefits based on disability or blindness terminates due to work activity or earnings will be considered to be an outcome payment month. Under the proposed rules, we will consider any month after the month in which such entitlement ends or eligibility terminates because of work or earnings to be an outcome payment month if the individual has gross earnings from employment (or net earnings from self-employment) in that month that are at or above the SGA dollar amount in 20 CFR 404.1574(b)(2) (for an individual who is not statutorily blind) or in 20 CFR 404.1584(d) (for an individual who is statutorily blind), and

the individual is not entitled to any monthly benefits under title II or eligible for any benefits under title XVI for that month.

In § 411.525, we propose that monthly payments under the outcome payment system will be 40 percent of the payment calculation base, which is defined in § 411.500. This percentage is the maximum the law allows at the beginning of the program. Under the outcome payment system, each monthly outcome payment is the same during a calendar year. At the end of each calendar year, the payment calculation base will be re-figured for the next year.

For example, at the end of calendar year 2000 the national average disability benefits payable per month for 2000 will be calculated for title II and for title XVI. Forty percent will be multiplied by each of these two amounts to determine the monthly outcome payment amounts for calendar year 2001 under the outcome payment system. At the end of 2001, the computation will be repeated using the 2001 national average disability benefits payable per month to determine the monthly payment under the outcome payment system for 2002.

To illustrate with sample data, if outcome payment months occurred in calendar year 2, the following maximum monthly outcome payments would be based upon the calendar year 1 payment calculation base as follows—

For title II and concurrent title II/XVI beneficiaries:

Average national disability benefit for year 1 = \$693 per month  
 $\$693 \times 40\% = \$277$   
 \$277 is the monthly payment amount to the EN for an outcome payment month in calendar year 2

For title XVI recipients:

Average national disability payment for year 1 = \$440 per month  
 $\$440 \times 40\% = \$176$   
 \$176 is the monthly payment amount to the EN for an outcome payment month in calendar year 2

As the national average disability benefit payable tends to rise every year due, in part, to cost-of-living adjustments, the annual computation of the payment calculation base should increase the monthly outcome payment amount for each succeeding year.

The outcome-milestone payment system provides payments to the EN when the beneficiary achieves milestones directed toward the goal of permanent employment. Payments for the milestones achieved come before, and are in addition to, payments made during the outcome payment period.

Proposed § 411.525 explains that we will pay an EN to whom a ticket has



been assigned only for milestones or outcomes that are achieved prior to the month in which an individual's ticket terminates. We will not pay milestone or outcome payments based on an individual's work activity or earnings in or after the month a ticket terminates.

Section 411.535 describes the two milestones we are proposing. Both milestones occur after work begins and are based upon an earnings level and duration of work. Both milestones can be attained even if there are interruptions in the work pattern. The amount of the second milestone payment is more than the first, but the beneficiary must work longer in order for the EN to receive the second milestone payment. Both milestones are based upon the dollar amount we use when we evaluate monthly earnings to determine if work activity is SGA. For calendar year 2000, these dollar amounts are \$700 per month for beneficiaries who are not statutorily blind and \$1,170 per month for beneficiaries who are statutorily blind. Section 411.535 proposes the milestone requirements. Section 411.540 proposes how we will calculate the payment for each milestone. For milestone one, we propose using a percentage of the payment calculation base defined in § 411.500 that approximately equals two outcome payment months under the outcome-milestone payment system. For milestone two, we propose to double the percentage used for milestone one.

Section 411.545 proposes how, under the outcome-milestone payment system, we will calculate the amount payable for outcome payment period months following the payment of milestones. Monthly outcome payments during the first 12 outcome payment period months (months 1–12) will be the lowest and also will be reduced each month by an amount equal to  $\frac{1}{12}$ th of the total milestone payments made with respect to a ticket. Monthly outcome payments during the fifth interval of 12 outcome payment period months (months 49–60) will pay the highest amount per month. The outcome month payments under the outcome-milestone payment system will be a percentage of the payment calculation base applicable to the year in which the outcome payment month occurs. Under the outcome-milestone payment system we propose to use, the total potential payment will be about 85 percent of the total potential payment that could be made under the outcome payment system. As stated previously, the outcome payment months do not have

to be consecutive months under either EN payment system.

Section 411.555 proposes that an EN may generally keep its milestone and outcome payments received under the elected payment system, even if the beneficiary does not sustain work for 60 outcome payment period months. This section also states that retroactive adjustments to payments already received by ENs may occur for reasons related to our modifying our previous determination about a beneficiary's right to benefits, or due to allocating a prior payment with another EN.

Sections 411.560 and 411.565 explain that it is possible to pay more than one EN for the same milestone or outcome payment month. In this situation, the payment would be allocated among the ENs that qualify for payment. Section 1148(e)(3) of the Act provides that the PM will determine the allocation based on the services provided by each EN. We propose it also will be possible to pay more than one EN for different milestones or outcome payment months on the same ticket. When more than one EN is eligible for payment with respect to a ticket, we propose paying each EN in accordance with its elected payment system at the time the ticket was assigned to each EN.

Section 411.570 provides that the Act prohibits an EN from requesting or accepting compensation from a beneficiary for the EN's services.

Proposed § 411.575 describes how an EN will request payment for either a milestone payment, or an outcome payment month. The EN will make a written request to the PM for payment for each milestone. The request will be accompanied by evidence showing that the milestone was achieved. We do not have to stop a beneficiary's monthly cash payment in order to pay a milestone payment to an EN.

For outcome payments under either EN payment system, an EN must submit a written request for payment to the PM. The request and evidence of work or earnings that is sufficient to reduce monthly Federal cash benefits to zero are required in order to begin outcome payments to the EN. We will make the determination that the work or earnings are sufficient to stop the beneficiary's monthly cash payment by using the same criteria we already use to make this determination. For outcome payments for months after a beneficiary's entitlement to Social Security disability benefits ends or eligibility for SSI benefits based on disability or blindness terminates due to

work activity or earnings, an EN must submit evidence that the individual has monthly gross earnings from self-employment or net earnings from self-employment that are at or above the applicable SGA dollar amount. In order to continue receiving monthly outcome payments, the EN must provide ongoing evidence of work and earnings to demonstrate that it is entitled to each monthly outcome payment.

Proposed § 411.580 explains that an EN must first have had the ticket assigned to it before it can be eligible to receive milestone or outcome payments.

As a beneficiary is free to choose where to assign a ticket, proposed § 411.585 explains that a State VR agency and an EN can both be eligible for payment on a ticket if the State VR agency elects to be paid as an EN. Therefore, each entity can be paid as an EN under its respective EN payment system. However, if the State VR agency chooses to serve a beneficiary with a ticket and to be paid under the cost reimbursement payment system, then we will pay either the State VR agency under the cost reimbursement payment system or we will pay an EN under its elected payment system. We propose that, for each ticket, a payment either under the cost reimbursement payment system or under an elected EN payment system will exclude any payment under the other payment system. We propose this restriction to comply with the payment limitations that exist in the Act for the cost reimbursement payment system and for the EN payment systems. Absent this restriction, it would be possible to pay separately under both the cost reimbursement payment system and under the EN payment systems such amounts as, when combined, would exceed the statutory limitation of one or both of these payment systems for serving the same beneficiary under the same ticket.

Following is a chart showing an example of payments under each of the two EN payment systems. This chart illustrates how we propose to calculate payments under the outcome payment system and under the outcome-milestone payment system. The payment calculation base was determined as discussed above in the preamble. Actual data, based upon calendar year 2000, should be available at the end of the calendar year for implementing the EN payment systems in calendar year 2001.

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EXAMPLE USING SAMPLE DATA

	Outcome Month Payment Period *						Total*
	Milestones	Months 1-12	Months 13-24	Months 25-36	Months 37-48	Months 49-60	
<b>OUTCOME PAYMENT SYSTEM</b>							
<u>Title II and Title II/XVI</u>							
-Monthly payments (\$)	--	277	277	277	277	277	
-Yearly payments (\$)	--	3,324	3,324	3,324	3,324	3,324	\$16,620
<u>Title XVI only</u>							
-Monthly payments (\$)	--	176	176	176	176	176	
-Yearly payments (\$)	--	2,112	2,112	2,112	2,112	2,112	\$10,560

**OUTCOME-MILESTONE PAYMENT SYSTEM**

<u>Title II and Title II/XVI</u>	
-Milestone 1 (68% of PCB)	\$ 470
-Milestone 2 (136% of PCB)	\$ 940
-Milestone total	\$ 1,410
-Monthly payments (\$)	90 **
-Yearly payments (\$)	1,083
<u>Title XVI only</u>	
-Milestone 1 (68% of PCB)	\$ 300
-Milestone 2 (136% of PCB)	\$ 600
-Milestone total	\$ 900
-Monthly payments (\$)	57 **
-Yearly payments (\$)	684

\* Excludes year-to-year increase from the average monthly benefit recomputation  
 \*\* Monthly outcome payment after deducting 12 equal amounts for prior milestone payments

Note: The 60 potential outcome payment months do not have to be consecutive.

Proposed § 411.590 describes what an EN or State VR agency can do if either disagrees with our decision on a payment request which is submitted. This section also explains that an EN cannot appeal our determination about a beneficiary's right to benefits even when that determination affects the payment to an EN.

Proposed § 411.595 identifies various methods we will use to monitor the EN payment systems for financial integrity. Section 411.597 proposes that we periodically review the conditions affecting payment under the two EN payment systems to determine if these payment systems are providing adequate incentives and appropriate economies for ENs to assist beneficiaries to enter the workforce.

#### *Subpart I—Ticket to Work Program Dispute Resolution*

Program managers and employment networks may have disputes with us under the Ticket to Work program. In addition, section 1148(d)(7) of the Act requires us to provide for a mechanism for resolving disputes between beneficiaries and ENs, between ENs and PMs, and between PMs and service providers. As part of this process, SSA is required to provide a party to a dispute a reasonable opportunity for a full and fair review of the matter in dispute. Finally, beneficiaries and State VR agencies may have disputes. The various dispute resolution mechanisms are discussed below.

#### **PM and EN Disputes With SSA**

Since PMs will operate under contracts with SSA and since ENs, other than State VR agencies functioning as ENs, will operate under agreements with SSA, disputes between SSA and PMs and between SSA and ENs will be subject to the dispute resolution procedures contained in the contracts and agreements with SSA.

#### **Disputes Between Beneficiaries and ENs**

There is a three-step process for resolving disputes between beneficiaries and ENs. This three-step process will ensure that both beneficiaries and ENs have the opportunity to resolve disputes using informal means.

As a first step in the dispute resolution process, each EN is required to have an internal grievance procedure whereby beneficiaries have the opportunity to work with representatives of the EN to try to resolve any disputes arising during the implementation or amending of an IWP. If the dispute is not resolved using the EN's internal grievance procedures, both

the beneficiary and the EN will have the option of contacting the PM for assistance in resolving the dispute. Upon request, the PM will conduct a full review of the matter in dispute and make a recommendation to the beneficiary and the EN as to how the dispute might be resolved (see proposed § 411.615). This second step is intended to provide the parties to the dispute the opportunity to present their case before an impartial third party, the PM. The third step involves bringing the dispute to SSA.

Proposed § 411.605 explains the EN's responsibilities regarding this dispute resolution process, including informing beneficiaries of the availability of assistance from the State Protection and Advocacy (P&A) system at every step in the dispute resolution process. Proposed § 411.610 identifies specific points in the rehabilitation process when beneficiaries must be informed about the procedures for resolving disputes.

Proposed § 411.615 describes how a disputed issue will be referred to the PM, including what information should be submitted. Proposed § 411.620 tells how long the PM has to provide a written recommendation on how to resolve the dispute. Proposed § 411.625 explains that if the parties to the dispute do not agree with the PM's recommendation and the dispute continues to be unresolved, either the beneficiary or the EN has the option of bringing the dispute to the attention of a Dispute Resolution Board that will be created within SSA to resolve such disputes and issue administrative decisions.

The Dispute Resolution Board will consist of five members. The members will be SSA staff from the Office of Employment Support Programs who are knowledgeable regarding the Ticket to Work program. As appropriate, the membership will be supplemented with SSA staff with specialized knowledge in other areas.

Proposed § 411.625 also describes the information that must be submitted to SSA to facilitate the Dispute Resolution Board's review of the dispute. Proposed § 411.630 explains that SSA's decision is final.

Proposed § 411.635 explains that a beneficiary has the right to be represented in the dispute resolution process under the Ticket to Work program and that the State P&A system is available to provide assistance and advocacy services to beneficiaries seeking or receiving services from ENs operating under the Ticket to Work program.

#### **Disputes Between ENs and PMs**

Proposed § 411.650 explains that a dispute between an EN and the PM, that does not involve an EN's payment request, will be resolved using the procedures for resolving disputes developed by the PM. If the matter cannot be resolved using these procedures, it will be forwarded to SSA for resolution. Proposed § 411.655 explains how a PM will refer disputes to us. Proposed § 411.660 explains that SSA's decision on a dispute between an EN and a PM is final.

A dispute over a payment request submitted by an EN, including a State VR agency serving as an EN, will be resolved using the dispute resolution procedures contained in § 411.590.

#### **Disputes Between Service Providers and PMs**

We are required to provide a mechanism for resolving disputes between service providers and program managers. Most service providers approved to serve beneficiaries under the Ticket to Work program will be serving as ENs. Disputes between ENs and PMs over payments are discussed in subpart H. Other disputes between ENs and PMs are discussed above, and in §§ 411.650, 411.655, and 411.660. State VR agencies that choose not to serve beneficiaries with tickets as ENs will be the only other service providers having a relationship with a PM under the Ticket to Work program. Disputes between a State VR agency that is not functioning as an EN and a PM, that involve issues related to ticket assignment and do not involve a request for payment or other reimbursement issue, will be handled in accordance with the PM's dispute resolution procedures. A dispute over a payment request submitted by a State VR agency which is serving a beneficiary with a ticket under the vocational rehabilitation cost reimbursement system (see sections 222(d) and 1615(d) of the Act) will be resolved under existing regulations governing the resolution of disputes regarding a payment request (see 20 CFR 404.2127(a) and 416.2227(a)).

#### **Disputes Between Beneficiaries and State VR Agencies**

Proposed § 411.640 explains that the dispute resolution procedures in the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*) apply to any dispute arising between a disabled beneficiary and a State VR agency, regardless of whether the services are being provided under one of the EN payment systems or under the cost

reimbursement payment system authorized under sections 222(d) and 1615(d) of the Act.

*Subpart J—The Ticket to Work Program and Alternate Participants Under the Programs for Payments for Vocational Rehabilitation Services*

Section 101(d) of TWWIA requires graduated implementation of the Ticket to Work program. The program will be phased in nationally over a three-year period, with the first tickets being issued early in 2001. SSA will announce the States selected for participation in the Ticket to Work program in the **Federal Register**, until the program has been implemented nationwide. By January 1, 2004, the program will be operating in all States and U.S. Territories.

Section 1148(d)(4)(B) of the Act requires the Commissioner, in any State where the Ticket to Work program is implemented, to enter into agreements with any alternate participant that is operating under the authority of section 222(d)(2) of the Act in the State as of the date of enactment of TWWIA if the alternate participant chooses to serve as an EN under the program.

Subpart J of these proposed rules describes how implementation of the Ticket to Work program affects the current alternate participant payment programs under 20 CFR 404.2101 *et seq.* and 416.2201 *et seq.* Proposed § 411.700 explains what an alternate participant is. Proposed § 411.705 and § 411.710 explain that an approved alternate participant has the option of becoming an EN when the Ticket to Work program is implemented in a State and tells an alternate participant what it must do to become an EN. Sections 411.715 through 411.730 describe how the transition process will occur for alternate participants who choose to become ENs. These sections explain how SSA will handle payments related to beneficiaries who were being served by alternate participants under existing employment plans prior to the Ticket to Work program being implemented in the State and the alternate participant becoming an EN. These sections also provide that SSA will not provide reimbursement for any services provided to a beneficiary under the alternate participant payment system after December 31, 2003.

*Clarity of These Proposed Rules*

Executive Order 12866 and the President's memorandum of June 1, 1998 (63 FR 31885) require each agency to write all rules in plain language. In addition to your substantive comments on these proposed rules, we invite your

comments on how to make these proposed rules easier to understand.

For example:

- Have we organized the material to suit your needs?
- Are the requirements in the rules clearly stated?
- Do the rules contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rules easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rules easier to understand?

*Additional Matters for Comment*

While we are proposing rules to implement the new Ticket to Work program authorized in section 101 of TWWIA, we will at a future time address the following matters:

1. Section 1148(f)(4) of the Social Security Act, as added by section 101 of TWWIA, requires that "Each employment network shall prepare periodic reports, on at least an annual basis, itemizing for the covered period specific outcomes achieved with respect to specific services provided by the employment network. Such reports shall conform to a national model prescribed under this section." We invite public comments on what this national model for periodic reports should include.

2. Section 1148(d)(6) of the Social Security Act, as added by section 101 of TWWIA, requires that "The Commissioner shall provide for such periodic reviews as are necessary to provide for effective quality assurance in the provision of services by employment networks. The Commissioner shall solicit and consider the views of consumers and the program manager under which the employment networks serve and shall consult with providers of services to develop performance measurements." We invite comments from consumers, service providers, and other members of the public on the performance standards we should use to provide for effective quality assurance of the Ticket to Work program.

*Eligibility for a Ticket for SSI Childhood Disability Beneficiaries Age 16 and Older*

Proposed 411.125 states that an individual will be eligible to receive a ticket in a month in which he or she is age 18 or older and has not attained age 65, provided the individual has

qualified for title II benefits based on disability or qualified for title XVI benefits based on disability under the adult standard or based on blindness. As we gain experience with the Ticket to Work program, we plan, at a later time, to explore the possibility of expanding the age criteria for receiving a ticket to include those SSI beneficiaries age 16 and older who are eligible for disability benefit payments based on the childhood disability standard. We plan to seek comments on this possible age expansion at a later time, but if you wish to comment on the issue of providing tickets to this group of beneficiaries now, please do so. We will consider carefully any comments we receive.

*Electronic Version*

The electronic version of this document is available on the Internet at [http://www.access.gpo.gov/su\\_docs/aces/aces140.html](http://www.access.gpo.gov/su_docs/aces/aces140.html). It is also available on the Internet site for SSA at <http://www.ssa.gov>.

**Regulatory Procedures**

*Executive Order 12866*

We have consulted with the Office of Management and Budget (OMB) and determined that these proposed rules meet the criteria for a significant regulatory action under Executive Order 12866. Thus, they will be subject to OMB review. For the five-year period from fiscal year 2001 through 2005, the effects on the Old Age, Survivors and Disability benefit payments range from minimal in fiscal year 2001 to savings of \$10 million in fiscal year 2005. For the same period, the effects on Federal Supplemental Security Income payments range from minimal in fiscal year 2001 to savings of \$22 million in fiscal year 2005. As the costs and savings from fiscal year 2001 through 2005 are not expected to exceed \$100 million in any one year, these proposed rules are not "major" under the provisions of 5 U.S.C. 801 *et seq.*

*Regulatory Flexibility Act*

We certify that these proposed rules would not have a significant economic impact on a substantial number of small entities because they would primarily affect only individuals, and those entities that voluntarily enter into a contractual agreement with us. Thus, an initial regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

*Paperwork Reduction Act*

The proposed regulations contain new reporting, recordkeeping and disclosure requirements in the sections listed

below. As required by the Paperwork Reduction Act of 1995, we have submitted the information requirements to OMB for its review. Organizations and individuals desiring to submit comments on these requirements should direct them to the Office of Information and Regulatory Affairs, OMB, ATTN: OMB Desk Officer for SSA, New Executive Office Building, Room 10235, Washington, D.C. 20503; and to the Social Security Administration, ATTN: Reports Clearance Officer, 1-A-21 Operations Building, Baltimore, MD 21235-6401. OMB is required to make a decision concerning the collections of information contained in these proposed regulations between 30 and 60 days after publication of this document

in the **Federal Register**. Therefore, a comment to OMB will be most useful if received by OMB within 30 days of publication.

The public burden includes the time it will take to understand what is needed, gather the necessary facts and provide the information or maintain the specified records.

SSA is soliciting comments in order to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency including whether the information will have practical utility;

- Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information,

including the validity of the methodology and assumptions used;

- Enhance the quality, utility, and clarity of the information to be collected; and

- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology (e.g., permitting electronic submission of responses).

Following is a table of the reporting (Rpt), recordkeeping (Rec) and disclosure (Dis) burdens imposed on the public (beneficiaries, ENs, PMs, State vocational rehabilitation agencies):

Section number & requirement	Number of respondents	Frequency of response	Average burden per response	Estimated annual burden (hours)
§ 411.140(c)—Rpt .....	31,450	One time .....	4½ hours .....	141,525
§ 411.325(e)—Rpt .....	<sup>1</sup> 2,582	Quarterly .....	2 hours .....	20,656
§ 411.325(f)—Dis .....	45,000	Occasional .....	5 min .....	3,750
§ 411.190(a)—Rpt .....	1,000	One time .....	.5 hours .....	500
§ 411.220(b)(1)—Rpt .....	1,000	One time .....	.5 hours each .....	500
§ 411.220(c)(1)—Rpt .....	500	One time .....	5 min .....	42
§ 411.245(b)(1)—Rec .....	<sup>2</sup> 1,000	One time .....	1 min .....	200
§ 411.325(d)—Rpt .....	1,800	One time .....	8 hours .....	14,400
§ 411.365 .....	82	One time .....	4 hours .....	328
§ 411.575—Rpt .....	13,000	Daily .....	.5 hours .....	6,500
§ 411.605(b)—Dis .....	45,000	Occasional .....	5 min .....	3,750
§ 411.435(c)—Rpt .....	2,582	One time .....	1 hour .....	2,582
§ 411.615—Rpt .....	3,000	One time .....	1 hour .....	3,000
§ 411.625—Rpt .....	1,500	One time .....	1 hour .....	1,500

<sup>1</sup> Per quarter.  
<sup>2</sup> Per month.

Below is a brief description of each requirement subject to OMB clearance under the Paperwork Reduction Act. We have used the following abbreviations in the description:

EN—Employment Network  
 IWP—Individual Work Plan (between a beneficiary and an EN)  
 IPE—Individualized Plan for Employment (between a beneficiary and a State VR agency)

PM—Program Manager  
 SSA—Social Security Administration  
 SVRA—State Vocational Rehabilitation Agency

CFR section	Reporting, recordkeeping or disclosure requirement
§ 411.140(c) .....	Information collected from beneficiary to prepare an IWP/IPE.
§ 411.325(e)-(f) .....	General reporting and disclosure from EN
§ 411.190(a) .....	Beneficiary/EN/SVRA/PM reporting beneficiaries' non-participation.
§ 411.220(b)(1) .....	Reporting—Beneficiary requests inactive status from PM.
§ 411.220(c)(1) .....	Reporting—Beneficiary requests reactivation of ticket from PM.
§ 411.245(b)(1) .....	Beneficiary requests/receives current EN roster from PM.
§ 411.325(d) .....	EN reports referral agreement with SVRA.
§ 411.365 .....	SVRA reporting payment option to PM.
§ 411.575 .....	ENs and SVRAs request payment under EN payment election and provides wage/earnings evidence.
§ 411.605(b) .....	Disclosure—Provide internal grievance procedures from EN to beneficiary.
§ 411.435(c) .....	Reporting—Request to PM from EN or SVRA on dispute resolution.
§ 411.615 .....	Reporting—beneficiary or EN request to PM to review disputed issue.
§ 411.625 .....	Reporting—beneficiary or EN request for SSA review of PM's recommendation on resolution of dispute.

(Catalog of Federal Domestic Program Nos. 96.001, Social Security-Disability Insurance; 96.002, Social Security-Retirement Insurance;

96.004, Social Security-Survivors Insurance; and 96.006, Supplemental Security Income)

**List of Subjects in 20 CFR Part 411**

Administrative practice and procedure, Blind, Disability benefits,

Old-age, survivors, and Disability Insurance, Reporting and recordkeeping requirements, Social Security, Supplemental Security Income, Public assistance programs, Vocational rehabilitation.

Dated: August 28, 2000.

**Kenneth S. Apfel,**

*Commissioner of Social Security.*

For the reasons set forth in the preamble, we propose to add a new part 411 to chapter III of title 20 of the Code of Federal Regulations to read as follows:

**PART 411—THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM**

*Sec.*

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- 411.100 Scope.
- 411.105 What is the purpose of the Ticket to Work program?
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- 411.115 Definitions of terms used in this part.

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- 411.140 When can I assign my ticket and how?
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- 411.150 Can I reassign my ticket to a different EN or the State VR agency?
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**Authority:** Sec. 1148 of the Social Security Act (42 U.S.C. 1320b–19); sec. 101(b)–(e), Pub. L. 106–170, 113 Stat. 1860, 1873 (42 U.S.C. 1320b–19 note).

#### Subpart A—Introduction

##### § 411.100 Scope.

The regulations in this part 411 relate to the provisions of section 1148 of the Social Security Act which establishes the Ticket to Work and Self-Sufficiency Program (hereafter referred to as the "Ticket to Work program"). The regulations in this part are divided into ten subparts:

(a) Subpart A explains the scope of this part, explains the purpose and manner of implementation of the Ticket to Work program, and provides definitions of terms used in this part.

(b) Subpart B contains provisions relating to the ticket under the Ticket to Work program.

(c) Subpart C contains provisions relating to the suspension of continuing disability reviews for disabled beneficiaries who are considered to be using a ticket.

(d) Subpart D contains provisions relating to the use of one or more program managers to assist us in the administration of the Ticket to Work program.

(e) Subpart E contains provisions relating to employment networks in the Ticket to Work program.

(f) Subpart F contains provisions relating to State vocational rehabilitation agencies' participation in the Ticket to Work program.

(g) Subpart G contains provisions relating to individual work plans in the Ticket to Work program.

(h) Subpart H contains provisions establishing employment network payment systems.

(i) Subpart I contains provisions that establish a procedure for resolving disputes under the Ticket to Work program.

(j) Subpart J contains provisions explaining how the implementation of the Ticket to Work program affects alternate participants under the programs for payments for vocational rehabilitation services under subpart V of part 404 and subpart V of part 416 of this chapter.

##### § 411.105 What is the purpose of the Ticket to Work program?

The purpose of the Ticket to Work program is to expand the universe of service providers available to individuals who are entitled to Social Security benefits based on disability or eligible for Supplemental Security Income (SSI) benefits based on disability or blindness in obtaining the services necessary to find, enter and retain employment. Expanded employment opportunities for these individuals also will increase the likelihood that these individuals will reduce their dependency on Social Security and SSI cash benefits.

##### § 411.110 How is the Ticket to Work program implemented?

We are implementing the Ticket to Work program in graduated phases at phase-in sites around the country. We are implementing the program at sites on a wide enough scale to allow for a thorough evaluation and ensure full implementation of the program on a timely basis.

**§ 411.115 Definitions of terms used in this part.**

As used in this part:

(a) *The Act* means the Social Security Act, as amended.

(b) *Commissioner* means the Commissioner of Social Security.

(c) *I, my, you, or your* means the disabled beneficiary.

(d) *We or us* means the Social Security Administration.

(e) *Ticket to Work program or program* means the Ticket to Work and Self-Sufficiency Program under section 1148 of the Act.

(f) *Disabled beneficiary* means a title II disability beneficiary or a title XVI disability beneficiary.

(1) *Title II disability beneficiary* means an individual entitled to disability insurance benefits under section 223 or to monthly insurance benefits under section 202 of the Act based on such individual's disability as defined in section 223(d) of the Act. (See § 404.1505 of this chapter.) An individual is a title II disability beneficiary for each month for which such individual is entitled to such benefits.

(2) *Title XVI disability beneficiary* means an individual eligible for Supplemental Security Income benefits under title XVI on the basis of blindness (within the meaning of section 1614(a)(2) of the Act) (see §§ 416.981 and 416.982 of this chapter) or disability (within the meaning of section 1614(a)(3) of the Act) (see § 416.905 of this chapter). An individual is a title XVI disability beneficiary for each month for which such individual is eligible for such benefits.

(3) *Supplemental Security Income benefit under title XVI* means a cash benefit under section 1611 or 1619(a) of the Act, and does not include a State supplementary payment, administered Federally or otherwise.

(g) *Social Security disability benefits* means the benefits described in paragraph (f)(1) of this section.

(h) *Federal SSI cash benefits* means a Supplemental Security Income benefit under title XVI based on blindness or disability as described in paragraphs (f)(2) and (f)(3) of this section.

(i) *State vocational rehabilitation agency or State VR agency* means a State agency administering or supervising the administration of the State plan approved under title I of the Rehabilitation Act of 1973, as amended.

(j) *Cost reimbursement payment system* means the provisions for payment for vocational rehabilitation services under subpart V of part 404 and subpart V of part 416 of this chapter.

(k) *Employment plan* means an individual work plan under which an employment network (other than a State VR agency) provides services to a disabled beneficiary under the Ticket to Work program or an individualized plan for employment under which a State VR agency provides services. When used in subpart J of this part, "employment plan" also means a "similar document" referred to in §§ 404.2114(a)(2) and 416.2214(a)(2) of this chapter under which an alternate participant under the programs for payments for vocational rehabilitation services (described in subpart V of part 404 and subpart V of part 416 of this chapter) provides services to a disabled beneficiary under those programs.

**Subpart B—Tickets Under the Ticket to Work Program****§ 411.120 What is a ticket under the Ticket to Work program?**

A ticket under the Ticket to Work program is a document which provides evidence of the Commissioner's agreement to pay, under the rules in subpart H of this part, an employment network (EN) or a State VR agency to which a disabled beneficiary's ticket is assigned, for providing employment services, vocational rehabilitation services, and other support services to the beneficiary.

**§ 411.125 Who is eligible to receive a ticket under the Ticket to Work program?**

(a) *You will be eligible to receive a Ticket to Work in a month in which—*

(1) You are age 18 or older and have not attained age 65;

(2)(i)(A) You are a title II disability beneficiary (other than a beneficiary receiving benefit payments under § 404.316(c), § 404.337(c), § 404.352(d), or § 404.1597a of this chapter); and

(B) You are in current pay status for monthly title II cash benefits based on disability (see subpart E of part 404 of this chapter for our rules on nonpayment of title II benefits); or

(ii)(A) You are a title XVI disability beneficiary (other than a beneficiary receiving disability or blindness benefit payments under § 416.996 or § 416.1338 of this chapter);

(B) If you are an individual described in § 416.987(b)(1) of this chapter, you are eligible for benefits under title XVI based on disability under the standard for evaluating disability for adults following a redetermination of your eligibility under § 416.987 of this chapter; and

(C) Your monthly Federal cash benefits based on disability or blindness under title XVI are not suspended (see

subpart M of part 416 of this chapter for our rules on suspension of title XVI benefit payments); and

(3) Our records show that—

(i) Your case is not designated as a medical improvement expected diary review case (see §§ 404.1590 and 416.990 of this chapter for what we mean by a medical improvement expected diary review); or

(ii) Your case is designated as a medical improvement expected diary review case, and we have conducted at least one continuing disability review in your case and made a final determination or decision that your disability continues (see subpart J of part 404 or subpart N of part 416 of this chapter for when a determination or decision becomes final).

(b) You will not be eligible to receive more than one ticket during any period during which you are either—

(1) Entitled to title II benefits based on disability (see §§ 404.316(b), 404.337(b) and 404.352(b) of this chapter for when entitlement to title II disability benefits ends); or

(2) Eligible for title XVI benefits based on disability or blindness and your eligibility has not terminated (see subpart M of part 416 of this chapter for our rules on when eligibility for title XVI benefits terminates).

**§ 411.130 How will SSA distribute tickets under the Ticket to Work program?**

(a) We will distribute tickets in graduated phases at phase-in sites selected by the Commissioner, beginning in 2001, to permit a thorough evaluation of the Ticket to Work program and ensure that the most effective methods are in place for full implementation of the program. (See § 411.110.)

(b) We will distribute a ticket to you when we distribute tickets in your State, if you are eligible to receive a ticket under § 411.125.

**§ 411.135 What do I do when I receive a ticket?**

Your participation in the Ticket to Work program is voluntary. When you receive your ticket, you are free to choose when and whether to assign it (see § 411.140 for information on assigning your ticket). If you want to participate in the program, you can take your ticket to any EN you choose or to your State VR agency.

**§ 411.140 When can I assign my ticket and how?**

(a) You may assign your ticket only during a month in which you meet the requirements of § 411.125(a)(1) and (a)(2). You may assign your ticket to any EN which is serving under the program



and is willing to provide you with services, or you may assign your ticket to a State VR agency that is willing to provide you with services. You may not assign your ticket to more than one provider of services (*i.e.*, an EN or a State VR agency) at a time. However, if you have assigned your ticket to an EN or State VR agency and you are dissatisfied with the services being provided, you may retrieve your ticket under the rules in § 411.145. Also, you may reassign your ticket under the rules in § 411.150.

(b)(1) In determining which EN you want to work with, you may discuss your rehabilitation and employment plans with as many ENs in your area as you wish. You also may discuss your rehabilitation and employment plans with the State VR agency.

(2) You can obtain a list of the approved ENs in your area from the program manager (PM) we have enlisted to assist in the administration of the Ticket to Work program.

(c) Both you and the EN of your choice need to agree upon an individual work plan (IWP). If you are working with a State VR agency, both you and the State VR agency need to agree upon an individualized plan for employment (IPE). The IWP or IPE outlines the services necessary to assist you in achieving your chosen employment goal.

(d) In order to assign your ticket, you and the EN must agree to and sign an IWP, or you and the State VR agency must agree to and sign an IPE. In addition, you must be eligible to assign your ticket under the rules in paragraph (a) of this section. If these requirements are met, we will consider your ticket assigned to the EN or the State VR agency. The effective date of the assignment of your ticket will be the date on which you and the EN or State VR agency sign your employment plan. See subpart C (§ 411.160 through § 411.225) for an explanation of how assigning your ticket may affect medical reviews that we conduct to determine if you are still disabled under our rules.

(e) The EN will submit a copy of your IWP to the PM to facilitate the assignment of your ticket to that EN. If you are working with a State VR agency, your VR counselor will submit a form to the PM to facilitate the assignment of your ticket to that agency.

**§ 411.145 Once my ticket has been assigned to an EN or State VR agency, can it be taken out of assignment?**

(a) If you assigned your ticket to an EN or a State VR agency and you are dissatisfied with the services being provided, you may retrieve your ticket

from the EN or State VR agency. You must notify the PM that you wish to retrieve your ticket. The ticket will be no longer assigned to that EN or State VR agency effective with the first day of the month following the month in which you notify the PM that you wish to retrieve your ticket. You may reassign your ticket under the rules in § 411.150.

(b) If your EN goes out of business or is no longer approved to participate as an EN in the Ticket to Work program, the PM will take your ticket out of assignment with that EN. The ticket will be no longer assigned to that EN effective on the first day of the month following the month in which the EN goes out of business or is no longer approved to participate in the Ticket to Work program. You will be sent a notice informing you that your ticket is no longer assigned to that EN or State VR agency. In addition, if your EN or the State VR agency (in accordance with title I of the Rehabilitation Act of 1973, as amended) is no longer willing or able to provide services to you, the EN or State VR agency may ask the PM to take your ticket out of assignment with that EN or State VR agency. The ticket will be no longer assigned to that EN or State VR agency effective on the first day of the month following the month in which the EN or State VR agency makes a request to the PM that the ticket be taken out of assignment. You will be sent a notice informing you that your ticket is no longer assigned to that EN or State VR agency.

(c) For information about how taking a ticket out of assignment may affect medical reviews that we conduct to determine if you are still disabled under our rules, see §§ 411.171(d) and 411.225.

**§ 411.150 Can I reassign my ticket to a different EN or the State VR agency?**

(a) Yes. If you previously assigned your ticket and your ticket is no longer assigned (see § 411.145) or you wish to change the assignment, you may reassign your ticket. If you previously assigned your ticket to an EN, you may reassign your ticket to a different EN which is serving under the program and is willing to provide you with services, or you may reassign your ticket to the State VR agency. If you previously assigned your ticket to the State VR agency, you may reassign your ticket to an EN which is serving under the program and is willing to provide you with services.

(b) In order for you to reassign your ticket—

(1) you and the new EN must agree to and sign a new IWP or, if you wish to reassign your ticket to a State VR

agency, you and the State VR agency must agree to and sign an IPE;

(2) you must meet the requirements of § 411.125(a)(1) and (a)(2) in the month you and the new EN or State VR agency sign your employment plan; and

(3) you must tell the PM that you want to reassign your ticket.

(c) If the requirements in paragraph (b) of this section are met, we will consider your ticket reassigned to the new EN or State VR agency. The reassignment of your ticket is effective on the first day of the month following the month in which you and the new EN or State VR agency sign your employment plan.

(d) The new EN will submit a copy of your new IWP to the PM to facilitate the reassignment of your ticket to that EN. If you wish to reassign your ticket to the State VR agency, your VR counselor will submit a form to the PM to facilitate the reassignment of your ticket to that agency.

**§ 411.155 When does my ticket terminate?**

Your ticket will terminate if and when you are no longer eligible to participate in the Ticket to Work program. If your ticket terminates, you may not assign or reassign it to an EN or State VR agency. We will not pay an EN (including a State VR agency) for milestones or outcomes achieved in or after the month in which your ticket terminates (see § 411.525(c)). Your eligibility to participate in the Ticket to Work program will end, and your ticket will terminate, in the earliest of the following months:

(a) The month in which your entitlement to Social Security disability benefits ends, or the month in which your eligibility for benefits under title XVI based on disability or blindness terminates, whichever is later, for reasons other than your work activity or earnings;

(b) If you are entitled to widow's or widower's insurance benefits based on disability (see §§ 404.335 and 404.336 of this chapter), the month in which you attain age 65;

(c) If you are eligible for benefits under title XVI based on disability or blindness, the month following the month in which you attain age 65; or

(d) The month following the 60th month for which an outcome payment is made to an EN (including a State VR agency) based on that ticket under subpart H of this part.

## Subpart C—Suspension of Continuing Disability Reviews for Beneficiaries Who are Using a Ticket

### Introduction

#### § 411.160 What does this subpart do?

(a) This subpart explains our rules about continuing disability reviews for disability beneficiaries who are participating in the Ticket to Work program.

(b) Continuing disability reviews are reviews that we conduct to determine if you are still disabled under our rules (see §§ 404.1594 and 416.994 of this chapter). For the purposes of this subpart, continuing disability reviews do not include any review to determine if your disability has ended under § 404.1594(d)(5) of this chapter because you have demonstrated your ability to engage in substantial gainful activity (SGA), as defined in §§ 404.1571—404.1576 of this chapter.

#### § 411.165 How does being in the Ticket to Work program affect my continuing disability reviews?

We periodically review your case to determine if you are still disabled under our rules. (See §§ 404.1594 and 416.994 of this chapter.) However, if you are in the Ticket to Work program, we will not begin a continuing disability review during the period in which you are using a ticket. You must meet certain requirements for us to consider you to be using a ticket.

### Definition of Using a Ticket

#### § 411.170 When does the period of using a ticket begin?

The period of using a ticket begins on the effective date of the assignment of your ticket to an employment network (EN) or State VR agency under § 411.140.

*Exception:* If you have previously failed to meet the timely progress guidelines under §§ 411.180 through 411.190, the period of using a ticket will not begin until you complete the requirements for reentering in-use status. (See § 411.210.)

#### § 411.171 When does the period of using a ticket end?

The period of using a ticket ends with the earliest of the following—

(a) The 60th month for which an outcome payment is made to your EN (including a State VR agency) under subpart H of this part;

(b) If you have assigned your ticket to a State VR agency which selects the cost reimbursement payment system, the 60th month for which an outcome payment would have been made had the

State VR agency chosen to participate in the Ticket to Work program as an EN;

(c) The day before the effective date of a decision under § 411.192, § 411.195, § 411.200, or § 411.205 that you are no longer making timely progress toward self-supporting employment;

(d) The close of the 3-month period which begins with the first month in which your ticket is no longer assigned to an EN or State VR agency (see § 411.145), unless you reassign your ticket within this 3-month period (see § 411.225 for an explanation of the 3-month extension period which begins when your ticket is no longer assigned); or

(e) The month with which your entitlement to Social Security disability benefits ends or your eligibility for Federal SSI cash benefits terminates. If you are a concurrent title II and title XVI beneficiary, the period of using a ticket will end with the month with which your entitlement to Social Security disability benefits ends or your eligibility for Federal SSI cash benefits terminates, whichever is later. (See §§ 404.316(b), 404.337(b), 404.352(b) and 416.1331–416.1335 of this chapter.) Although you will no longer be considered to be using a ticket after this month, your EN may still be eligible for payments under the Ticket to Work program if your entitlement to or eligibility for disability benefits terminated due to your work activity or earnings.

#### § 411.175 What if I assign my ticket after a continuing disability review has begun?

(a) If we begin a continuing disability review before the date on which you assign a ticket, you may still assign the ticket and receive services under the Ticket to Work program. However, we will complete the continuing disability review. If in this review we determine that you are no longer disabled, in most cases you will no longer be eligible to receive benefits. However, if you assigned your ticket before we determined that you are no longer disabled, in certain circumstances you may continue to receive benefits (see §§ 404.316(c), 404.337(c), 404.352(d), and 416.1338 of this chapter). If you appeal the decision that you are no longer disabled, you may also choose to have your benefits continued pending reconsideration and/or a hearing before an administrative law judge on the cessation determination (see §§ 404.1597a and 416.996 of this chapter).

(b) The date on which we begin the continuing disability review is the date on the notice we send you that tells you

that we are beginning to review your disability case.

### Guidelines for Timely Progress Toward Self-Supporting Employment

#### § 411.180 What is timely progress toward self-supporting employment?

(a) *General.* The purpose of the Ticket to Work program is to provide you with the services and supports you need to work and reduce or eliminate your dependence on Social Security disability benefits and SSI benefits based on disability or blindness. We consider you to be making timely progress toward self-supporting employment when you show an increasing ability to work at levels which will reduce or eliminate your dependence on these benefits.

(b) *Guidelines.* We will determine whether you are making timely progress toward self-supporting employment by using the following guidelines:

(1) During the initial 24-month period after you assign your ticket, you must be actively participating in your employment plan. “Actively participating in your employment plan” means that you are engaging in activities outlined in your employment plan on a regular basis and in the approximate time frames specified in the employment plan.

(2) During your first 12-month work review period, you must work (as defined in § 411.185) for at least 3 of these 12 months. The 3 months do not need to be consecutive.

(3) During your second 12-month work review period, and in later 12-month work review periods, you must work (as defined in § 411.185) for at least 6 of these 12 months. The 6 months do not need to be consecutive.

(c) *Definitions.* As used in this subpart—

(1) The *initial 24-month period* means the 24-month period which begins with the month following the month in which you first assigned your ticket. When we count the 24 months, we will not include any month during which your ticket is not assigned to an EN or State VR agency, as described in § 411.145, or any month in which your ticket is in inactive status, as defined in § 411.220.

(2) The *12-month work review period* means the 12-month period that begins either following the end of the initial 24-month period or following the previous 12-month work review period. When we count the 12 months, we will not include any month during which your ticket is not assigned to an EN or State VR agency, as described in § 411.145.

**§ 411.185 How much do I need to earn to be considered to be working?**

For the purpose of determining if you are meeting the timely progress requirements for continued ticket use, we will consider you to be working in each month in which you have earnings at the following levels:

(a) For title II disability beneficiaries:

(1) During your first and second 12-month work review periods, we will consider you to be working in a month in which you have earnings from employment or self-employment at the SGA level for non-blind beneficiaries, as defined in §§ 404.1572 through 404.1576 of this chapter. For a month in which you are in a trial work period (see § 404.1592 of this chapter), or if you are statutorily blind as defined in § 404.1581 of this chapter, we will consider the following as fulfilling this requirement—

(i) Gross earnings from employment, before any deductions for impairment related work expenses under § 404.1576 of this chapter, that are at or above the dollar amount of the SGA level for non-blind beneficiaries in § 404.1574 of this chapter; or

(ii) Net earnings from self-employment (as defined in § 416.1110(b) of this chapter), before any deductions for impairment related work expenses under § 404.1576 of this chapter, that are at or above the dollar amount of the SGA level for non-blind beneficiaries in § 404.1574 of this chapter.

(2) During your third 12-month work review period, and during later 12-month work review periods, we will consider you to be working in a month for which Social Security disability benefits are not payable to you because of your work or earnings.

(b) For title XVI beneficiaries:

(1) During your first and second 12-month work review periods, we will consider you to be working in a month in which you have—

(i) Gross earnings from employment, before any SSI income exclusions, that

are at or above the dollar amount of the SGA level for non-blind beneficiaries in § 404.1574 of this chapter; or

(ii) Net earnings from self-employment (as defined in § 416.1110(b) of this chapter), before any SSI income exclusions, that are at or above the dollar amount of the SGA level for non-blind beneficiaries in § 404.1574 of this chapter.

*Example:* If you earn \$750 in January 2001, but exclude \$200 of this income in a Plan for Achieving Self Support (see §§ 416.1180–416.1182 of this chapter), you would still be considered to be working in that month.

(2) During your third 12-month work review period, and during any later 12-month work review periods, we will consider you to be working in a month in which you have earnings from employment or self-employment that are sufficient to preclude the payment of Federal SSI cash benefits for a month.

(c) For concurrent title II and title XVI beneficiaries:

(1) During your first and second 12-month work review periods, we will consider you to be working in a month in which you have earnings from employment or self-employment at the SGA level for non-blind beneficiaries as defined in §§ 404.1572 through 404.1576 of this chapter. For a month in which you are in a trial work period (see § 404.1592 of this chapter), or if you are statutorily blind as defined in § 404.1581 of this chapter, we will consider the following as fulfilling this requirement—

(i) Gross earnings from employment, before any SSI income exclusions or deductions for impairment related work expenses under § 404.1576 of this chapter, that are at or above the dollar amount of the SGA level for non-blind beneficiaries in § 404.1574 of this chapter; or

(ii) Net earnings from self-employment (as defined in § 416.1110(b) of this chapter), before any SSI income exclusions or deductions for impairment related work expenses

under § 404.1576 of this chapter, that are at or above the dollar amount of the SGA level for non-blind beneficiaries in § 404.1574 of this chapter.

(2) During your third 12-month work review period, and during later 12-month work review periods, we will consider you to be working in a month in which you have earnings from employment or self-employment sufficient to preclude the payment of Social Security disability benefits and Federal SSI cash benefits for a month.

**§ 411.190 How is it determined if I am meeting the timely progress guidelines?**

(a) During the initial 24-month period of using a ticket, you must be actively participating in your employment plan, as defined in § 411.180(b)(1). Active participation in your employment plan will be presumed unless you or your EN or State VR agency tell the program manager (PM) that you are not actively participating. If you or your EN or State VR agency tell the PM that you are not actively participating in your employment plan, the PM will follow the procedures outlined in § 411.192.

(b) After the initial 24-month period, the PM will conduct reviews to determine if you are meeting the timely progress guidelines for continuing to be considered to be using a ticket.

(1) The PM will conduct a 24-month progress review at the end of the initial 24-month period. (See § 411.195.)

(2) If you successfully complete your 24-month progress review, the PM will conduct annual work reviews at the end of each 12-month work review period. (See § 411.200.)

**§ 411.191 Table summarizing the guidelines for timely progress toward self-supporting employment.**

You may use the following table to determine what you need to do to meet the guidelines for timely progress toward self-supporting employment. For more detail, refer to §§ 411.180 through 411.190.

If you—	You are in this period—	You must work—	With this level of earnings—	At the end of the period we will conduct your—
First assigned your ticket less than 24 months ago (not counting any months in which your ticket was unassigned or inactive).	Initial 24-month period	No work requirement. Must be actively participating in employment plan.	Not applicable .....	24-month progress review.
First assigned your ticket 25 to 36 months ago (not counting any months in which your ticket was unassigned or inactive).	First 12-month work review period.	3 months out of 12 ....	SGA level for non-blind beneficiaries*.	First work review.
First assigned your ticket 37 to 48 months ago (not counting any months in which your ticket was unassigned or inactive).	Second 12-month work review period.	6 months out of 12 ....	SGA level for non-blind beneficiaries*.	Second work review.

If you—	You are in this period—	You must work—	With this level of earnings—	At the end of the period we will conduct your—
First assigned your ticket 49 to 60 months ago (not counting any months in which your ticket was unassigned or inactive).	Third 12-month work review period.	6 months out of 12 ....	Earnings sufficient to preclude Social Security disability and Federal SSI cash benefits for a month.	Third work review.

In later 12-month work review periods, the work and earnings requirements are the same as in the third 12-month work review period.

\*For an explanation of how we determine if you meet this requirement if you are in a trial work period, you are blind, or you are a title XVI disability beneficiary, see § 411.185.

**§ 411.192 What if my EN, the State VR agency, or I report that I am not actively participating in my employment plan?**

(a) If you or your EN or State VR agency report to the PM that you are not actively participating in your employment plan during the initial 24-month period after you assign your ticket, the PM will give you the choice of resuming participation in your employment plan or placing your ticket in inactive status.

(b) If you choose to place the ticket in inactive status, your ticket will be placed in inactive status beginning with the first day of the month following the month in which you make your request. You are not considered to be using a ticket during months in which your ticket is in inactive status, and months in which your ticket is in inactive status do not count toward the time limitations for making timely progress toward self-supporting employment. For more information about inactive status, see § 411.220.

(c) If you choose to resume active participation in your employment plan, you will be allowed 3 months to demonstrate this active participation to the PM. During this period, you will be considered to be making timely progress toward self-supporting employment. The PM will contact your EN or State VR agency after the 3 months to determine whether you have been actively participating in your employment plan during these 3 months. If the EN or State VR agency report that you have not been actively participating in your employment plan during these 3 months, the PM will find that you are no longer making timely progress toward self-supporting employment. The PM will send a written notice of this decision to you at your last known address. The notice will explain the reasons for the decision and inform you of the right to ask us to review the decision. The decision will become effective 30 days after the date on which the PM sends the notice of the decision to you, unless you request that we review the decision under § 411.205.

**§ 411.195 How will the PM conduct my 24-month progress review?**

(a) In this review the PM will consider the following:

(1) Are you actively participating in your employment plan? By “actively participating in your employment plan,” we mean that you are engaging in activities outlined in your employment plan on a regular basis and in the approximate time frames specified in the plan.

(2) Does your employment plan have a goal of at least 3 months of work (as defined in § 411.185) during your next 12-month work review period?

(3) Given your current progress in your employment plan, can you reasonably be expected to reach this goal of at least 3 months of work (as defined in § 411.185) during your next 12-month work review period?

(b) If the answer to all three of these questions is yes, the PM will find that you are making timely progress toward self-supporting employment. We will consider you to be making timely progress toward self-supporting employment until your first annual work review.

(c) If the answer to any of these questions is no, the PM will find that you are not making timely progress toward self-supporting employment. The PM will send a written notice of the decision to you at your last known address. The notice will explain the reasons for the decision and inform you of the right to ask us to review the decision. The decision will be effective 30 days after the date on which the PM sends the notice of the decision to you, unless you request that we review the decision under § 411.205.

**§ 411.200 How will the PM conduct my annual work review?**

(a) The annual work review is a two step process:

(1) *Step one—Retrospective Review.* Did you complete the work requirements (as specified in § 411.180 and § 411.185) in the last 12-month work review period?

(i) If you have not completed the work requirements, the PM will find that you are not making timely progress toward self-supporting employment.

(ii) If you have completed the work requirements, the PM will go to step two.

(2) *Step two—Anticipated Work Level.* Do both you and your EN or State VR agency expect that you will work at the level required during the next 12-month work review period?

(i) If not, the PM will find that you are not making timely progress toward self-supporting employment.

(ii) If so, the PM will find that you are making timely progress toward self-supporting employment. We will consider you to be making timely progress toward self-supporting employment until your next annual work review.

(b) If the PM finds that you are not making timely progress toward self-supporting employment, the PM will send a written notice of the decision to you at your last known address. The notice will explain the reasons for the decision and inform you of the right to ask us to review the decision. The decision will be effective 30 days after the date on which the PM sends the notice of the decision to you, unless you request that we review the decision under § 411.205.

**§ 411.205 What if I disagree with the PM's decision about whether I am making timely progress toward self-supporting employment?**

If you disagree with the PM's decision, you may request that we review the decision. You must make the request before the 30th day after the date on which the PM sends the notice of its decision to you. We will consider you to be making timely progress toward self-supporting employment until we make a decision. We will send a written notice of our decision to you at your last known address. If we decide that you are no longer making timely progress toward self-supporting employment, our decision will be

effective on the date on which we send the notice of the decision to you.

**§ 411.210 What happens if I do not make timely progress toward self-supporting employment?**

(a) *General.* If it is determined that you are not making timely progress toward self-supporting employment, we will find that you are no longer using a ticket. If this happens, you will once again be subject to continuing disability reviews. However, you may continue participating in the Ticket to Work program. Your EN also may receive any outcome payments for which it is eligible under § 411.500 *et seq.*

(b) *Reentering In-Use Status.* If you failed to meet the timely progress guidelines for continuing to use a ticket, you may reenter in-use status. The requirements for reentering in-use status depend on how far you progressed before you failed to meet the timely progress guidelines.

(1) *If you failed to meet the timely progress guidelines during the initial 24-month period, in your 24-month progress review, or in your first annual work review.*

(i) If you failed to meet the timely progress guidelines during the initial 24-month period, in your 24-month progress review, or in your first annual work review, you may reenter in-use status by completing 3 months of work at the SGA level (as defined in § 411.185) within a rolling 12-month period. The rolling 12-month period must begin after the effective date of the decision that you failed to meet the timely progress guidelines.

(ii) When you have completed this requirement, you will be reinstated to in-use status, provided that your ticket is assigned to an EN or State VR agency.

(iii) After you are reinstated to in-use status, your next 12-month work review period will begin. During this 12-month work review period, you will be required to work at least 6 months at the SGA level (as defined in § 411.185). The PM will conduct an annual work review at the end of this 12-month work review period to determine if you have met this requirement. After this, the PM will conduct annual work reviews in the usual manner.

(2) *If you failed to meet the timely progress guidelines in your second annual work review.*

(i) If you failed to meet the timely progress guidelines in your second annual work review, you may reenter in-use status by completing 6 months of work at the SGA level (as defined in § 411.185) within a rolling 12-month period. The rolling 12-month period must begin after the effective date of the

decision that you failed to meet the timely progress guidelines.

(ii) When you have completed this requirement, you will be reinstated to in-use status, provided that your ticket is assigned to an EN or State VR agency.

(iii) After you are reinstated to in-use status, your next 12-month work review period will begin. During this 12-month work review period, you will be required to work at least 6 months with earnings at the level specified in § 411.185(a)(2), § 411.185(b)(2), or § 411.185(c)(2). The PM will conduct an annual work review at the end of this 12-month work review period to determine if you have met this requirement. After this, the PM will conduct annual reviews in the usual manner.

(3) *If you failed to meet the timely progress guidelines in any work review after your second work review.*

(i) If you failed to meet the timely progress guidelines in any work review after your second work review, you may reenter in-use status by completing 6 months of work within a rolling 12-month period with earnings in each of the 6 months at the level specified in § 411.185(a)(2), § 411.185(b)(2), or § 411.185(c)(2). The rolling 12-month period must begin after the effective date of the decision that you failed to meet the timely progress guidelines.

(ii) When you have completed this requirement, you will be reinstated to in-use status, provided that your ticket is assigned to an EN or State VR agency.

(iii) After you are reinstated to in-use status, your next 12-month work review period will begin. During this 12-month work review period, you will be required to work at least 6 months with earnings at the level specified in § 411.185(a)(2), § 411.185(b)(2), or § 411.185(c)(2). The PM will conduct an annual work review at the end of this 12-month work review period to determine if you have met this requirement. After this, the PM will conduct annual work reviews in the usual manner.

**Exceptions to the Timely Progress Guidelines**

**§ 411.220 What if I am temporarily unable to participate in my employment plan?**

(a) *General.* (1) If you are temporarily unable to participate in your employment plan during the initial 24-month period of using a ticket, you may choose to place your ticket in inactive status.

(2) Months in which your ticket is in inactive status do not count toward the time limitations for making timely progress toward self-supporting employment.

(3) Your ticket is not considered to be in use during periods in which it is in inactive status. Therefore you will once again be subject to continuing disability reviews.

(4) You may not place your ticket in inactive status after the initial 24-month period of using a ticket.

(b) *How to place your ticket in inactive status.* (1) To place a ticket in inactive status, you must submit a written request to the PM asking that your ticket be placed in inactive status. The request must include a statement from your EN or State VR agency that you will not be participating in your plan or receiving services from them during the period of inactive status.

(2) The period of inactive status begins on the first day of the first month after the PM receives your request.

(c) *How to reactivate your ticket.* (1) If your ticket is still assigned to an EN or State VR agency, you may reactivate your ticket and return to in-use status at any time by submitting a written request to the PM.

(2) Your ticket will be reactivated beginning with the first day of the month following the month in which the PM receives your request.

(d) *If the PM is told that you are not actively participating in your employment plan.* If the PM is told that you are not actively participating in your employment plan, the PM will give you the choice of resuming active participation in your employment plan or placing your ticket in inactive status. See § 411.192.

**§ 411.225 What if my ticket is no longer assigned to an EN or State VR agency?**

(a) If your ticket was once assigned to an EN or State VR agency and is no longer assigned, you are eligible for an extension period of up to 3 months to reassign your ticket. You are eligible for an extension period if your ticket is no longer assigned because—

(1) You retrieved your ticket because you were dissatisfied with the services being provided (see § 411.145(a)); or

(2) Your EN went out of business or is no longer approved to participate as an EN in the Ticket to Work program, or your EN or State VR agency is no longer willing or able to provide you with services for any other reason (see § 411.145(b)).

(b) During the extension period, the ticket will still be considered to be in use. This means that you will not be subject to continuing disability reviews during this period.

(c) Time spent in the extension period will not count toward the time limitations for the timely progress guidelines.

(d) The extension period—

(1) begins on the first day on which the ticket is no longer assigned (see § 411.145); and

(2) ends 3 months after it begins or when you assign your ticket to a new EN or State VR agency, whichever is sooner.

(e) If you do not assign your ticket by the end of the extension period, the ticket will no longer be in use and you will once again be subject to continuing disability reviews.

#### **Subpart D—Use of One or More Program Managers to Assist in Administration of the Ticket to Work Program**

##### **§ 411.230 What is a PM?**

A program manager (PM) is an organization in the private or public sector that has entered into an agreement to assist us in administering the Ticket to Work program. We will use a competitive bidding process to select one or more PMs.

##### **§ 411.235 What qualifications are required of a PM?**

A PM must have expertise and experience in the field of vocational rehabilitation or employment services.

##### **§ 411.240 What limitations are placed on a PM?**

A PM is prohibited from directly participating in the delivery of employment services, vocational rehabilitation services, or other support services to beneficiaries with tickets in the PM's designated service delivery area. A PM is also prohibited from holding a financial interest in an employment network (EN) or service provider that provides services under the Ticket to Work program in the PM's designated service delivery area.

##### **§ 411.245 What are a PM's responsibilities under the Ticket to Work program?**

A PM will assist us in administering the Ticket to Work program by conducting the following activities:

(a) *Recruiting, recommending, and monitoring ENs.* A PM must recruit and recommend for selection by us public and private entities to function as ENs under the program. A PM is also responsible for monitoring the ENs operating in its service delivery area. Such monitoring must be done to the extent necessary and appropriate to ensure that adequate choices of services are made available to beneficiaries with tickets. A PM may not limit the number of public or private entities being recommended to function as ENs.

(b) *Facilitating access by beneficiaries to ENs.* A PM must assist beneficiaries with tickets in accessing ENs.

(1) A PM must establish and maintain lists of the ENs available to beneficiaries with tickets in its service delivery area and make these lists generally available to the public.

(2) A PM must ensure that all information provided to beneficiaries with tickets about ENs is in accessible formats. For purposes of this section, accessible format means by media that is appropriate to a particular beneficiary's medical impairment(s).

(3) A PM must take necessary measures to ensure that sufficient ENs are available and that each beneficiary under the Ticket to Work program has reasonable access to employment services, vocational rehabilitation services, and other support services. The PM shall ensure that services such as the following are available in each service area, including rural areas: case management, work incentives planning, supported employment, career planning, career plan development, vocational assessment, job training, placement, follow-up services, and other services that we may require in an agreement with a PM.

(4) A PM must ensure that each beneficiary with a ticket is allowed to change ENs. When a change in the EN occurs, the PM must reassign the ticket based on the choice of the beneficiary.

(c) *Facilitating payments to ENs.* A PM must facilitate payments to the ENs in its service delivery area. Subpart H explains the EN payment systems and the PM's role in administering these systems.

(1) A PM must maintain documentation and provide regular assurances to us that payments to an EN are warranted. The PM shall ensure that an EN is complying with the terms of its agreement and applicable regulations.

(2) Upon the request of an EN, the PM shall make a determination of the allocation of the outcome or outcome-milestone payments due to an EN based on the services provided by the EN.

(d) *Administrative requirements.* A PM will perform such administrative tasks as are required to assist us in administering and implementing the Ticket to Work program. Administrative tasks required for the implementation of the Program may include, but are not limited to:

(1) Reviewing individual work plans (IWPs) submitted by ENs for ticket assignment. These reviews will be conducted to ensure that the IWPs meet the requirements of § 411.465.

(2) Reviewing amendments to IWPs to ensure that the amendments meet the requirements in § 411.465.

(3) Ensuring that ENs only refer an individual to a State VR agency for services pursuant to an agreement regarding the conditions under which such services will be provided.

(4) Resolving a dispute between an EN and a State VR agency with respect to agreements regarding the conditions under which services will be provided when an individual is referred by an EN to a State VR agency for services.

#### **Evaluation of Program Manager Performance**

##### **§ 411.250 How will SSA evaluate a PM?**

(a) We will periodically conduct a formal evaluation of the PM. The evaluation will include, but not be limited to, an assessment examining the following areas:

- (1) Quality of services;
- (2) Cost control;
- (3) Timeliness of performance;
- (4) Business relations; and (5) customer satisfaction.

(b) Our Project Officer will perform the evaluation. The PM will have an opportunity to comment on the evaluation, and then the Contracting Officer will determine the PM's final rating.

(c) These performance evaluations will be made part of our database on contractor past performance to which any Federal agency may have access.

(d) Failure to comply with the standards used in the evaluation may result in early termination of our agreement with the PM.

#### **Subpart E—Employment Networks**

##### **§ 411.300 What is an EN?**

An employment network (EN) is any qualified entity that has entered into an agreement with us to function as an EN under the Ticket to Work program and assume responsibility for the coordination and delivery of employment services, vocational rehabilitation services, and other support services to beneficiaries who have assigned their tickets to that EN.

##### **§ 411.305 Who is eligible to be an EN?**

Any qualified agency or instrumentality of a State (or political subdivision thereof) or a private entity that assumes responsibility for the coordination and delivery of services under the Ticket to Work program to disabled beneficiaries is eligible to be an EN. A single entity or an association of or consortium of entities combining their resources is eligible to be an EN. The entity may provide these services

directly or by entering into an agreement with other organizations or individuals to provide the appropriate services or other assistance that a beneficiary with a ticket may need to find and maintain employment that reduces dependency on disability benefits. ENs may include, but are not limited to:

(a) Any public or private entity that can provide directly, or arrange for other organizations or entities to provide, employment services, vocational rehabilitation services, or other support services.

(b) State agencies administering or supervising the administration of the State plan approved under title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*) may choose, on a case-by-case basis, to be paid as an EN under the payment systems described in subpart H of this part. For the rules on State VR agencies' participation in the Ticket to Work program, see subpart F of this part.

(c) One-stop delivery systems established under subtitle B of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2841 *et seq.*).

(d) Alternate participants currently operating under the authority of section 222(d)(2) of the Social Security Act.

(e) Organizations administering Vocational Rehabilitation Services Projects for American Indians with Disabilities authorized under section 121 of part C of title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 750 *et seq.*).

(f) Public or private schools that provide VR or employment services, conduct job training programs, or make services or programs available that can assist students with disabilities in acquiring specific job skills that lead to employment. This includes transition programs that can help students acquire work skills.

(g) Employers that offer job training or other support services or assistance to help individuals with disabilities obtain and retain employment or arrange for individuals with disabilities to receive relevant services or assistance.

**§ 411.310 How does an entity apply to be an EN and who will determine whether an entity qualifies as an EN?**

(a) An entity applies by responding to our Request for Proposal (RFP), which will be published in the *Commerce Business Daily* or online through the Federal government's electronic posting system. Since recruitment of ENs will be an ongoing process, the RFP will be open and continuous. The entity must respond in a format prescribed in the RFP announcement. In its response, the

entity must assure SSA that it is qualified to provide employment services, vocational rehabilitation services, and other support services to disabled beneficiaries, either directly or through arrangements with other entities. For example, the entity must assure that it is licensed, certified, accredited, or registered to provide these services or is able to arrange for other entities to provide these services.

(b) The PM will solicit service providers and other qualified entities to respond to the RFP on an ongoing basis. The PM will conduct a preliminary review of responses to the RFP from applicants located in the PM's service delivery area and make recommendations to the Commissioner regarding selection. The Commissioner will decide which applicants will be approved to serve as ENs under the program.

**§ 411.315 What are the minimum qualifications necessary to be an EN?**

To serve as an EN under the Ticket to Work program, an entity must meet and maintain compliance with both general selection criteria and specific selection criteria.

(a) The general criteria include:

(1) Having systems in place to protect the confidentiality of personal information about beneficiaries seeking or receiving services;

(2) Being accessible, both physically and programmatically, to beneficiaries seeking or receiving services;

(3) Not discriminating in the provision of services based on a beneficiary's age, gender, race, color, creed, or national origin;

(4) Having adequate resources to perform the activities required under the agreement with us or the ability to obtain them;

(5) Complying with the terms and conditions in the agreement with us, including delivering or coordinating the delivery of employment services, vocational rehabilitation services, and other support services; and

(6) Implementing accounting procedures and control operations necessary to carry out the Ticket to Work program.

(b) The specific criteria that an entity must meet to qualify as an EN include:

(1)(i) Using staff who are qualified under applicable certification, licensing, or registration standards that apply to their profession; or

(ii) Using staff that are otherwise qualified based on education or experience, such as by using staff with a college degree in a related field such as vocational counseling, human relations, teaching, or psychology; and

(2) Providing medical and related health services under the formal supervision of persons licensed to prescribe or supervise the provision of these services in the State in which the services are performed.

(c) An entity must have applicable certificates, licenses, or other credentials if such documentation is required by State law to provide VR services, employment services or other support services in the State.

(d) We will not use the following as an EN:

(1) Any entity that has had its license, accreditation, certification, or registration suspended or revoked for reasons concerning professional competence or conduct or financial integrity;

(2) Any entity that has surrendered a license, accreditation, certification, or registration with a disciplinary proceeding pending; or

(3) Any entity that is precluded from Federal procurement or non-procurement programs.

**§ 411.320 What are an EN's responsibilities as a participant in the Ticket to Work program?**

An EN must—

(a) Enter into an agreement with us.

(b) Serve a prescribed service area. The EN must designate the geographic area in which it will provide services. This will be designated in the EN's agreement with us.

(c) Provide services directly, or enter into agreements with other entities to provide employment services, vocational rehabilitation services, or other support services to beneficiaries with tickets.

(d) Ensure that employment services, vocational rehabilitation services, and other support services provided under the Ticket to Work program are provided under appropriate individual work plans (IWP).

(e) Elect a payment system at the time of signing an agreement with us (see § 411.505).

(f) Develop and implement each IWP in partnership with each beneficiary receiving services in a manner that affords the beneficiary the opportunity to exercise informed choice in selecting an employment goal and specific services needed to achieve that employment goal. Each IWP must meet the requirements described in § 411.465.

**§ 411.321 Under what conditions will SSA terminate an agreement with an EN due to inadequate performance?**

We will terminate our agreement with an EN if it does not comply with the requirements under §§ 411.320 and

411.325 and the conditions in the agreement between SSA and the EN, including minimum performance standards relating to beneficiaries achieving self-supporting employment and leaving the benefit rolls.

**§ 411.325 What reporting requirements are placed on an EN as a participant in the Ticket to Work program?**

An EN must:

- (a) Report to the PM each time it accepts a ticket for assignment.
- (b) Submit a copy of each signed IWP to the PM.
- (c) Submit to the PM copies of amendments to a beneficiary's IWP.
- (d) Submit to the PM a copy of any agreement the EN has established with a State VR agency regarding the conditions under which the State VR agency will provide services to beneficiaries who are referred by the EN under the Ticket to Work program.
- (e) Report to the PM the specific outcomes achieved with respect to specific services the EN provided or secured on behalf of beneficiaries whose tickets it accepted for assignment. Such reports shall conform to a national model prescribed by us and shall be submitted to the PM at least annually.
- (f) Provide a copy of its most recent annual report on outcomes to each beneficiary attempting to assign a ticket to it and assure that a copy of its most recent report is available to the public while ensuring that personal information on beneficiaries is kept confidential.
- (g) Meet our financial reporting requirements. These requirements will be described in the agreements between ENs and the Commissioner, and will include, 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, including the amount that was spent on beneficiaries who return to work and those who do not return to work.
- (h) Collect and record such data as we shall require, in a form prescribed by us.
- (i) Adhere to all requirements specified in the agreement with the Commissioner and all regulatory requirements in part 411 of chapter III of 20 CFR.

**§ 411.330 How will SSA evaluate an EN's performance?**

- (a) We will periodically review the results of the work of each EN to ensure effective quality assurance in the provision of services by ENs.
- (b) In conducting such a review, we will solicit and consider the views of

the consumers the EN serves and the PM which monitors the EN.

(c) ENs must make the results of these periodic reviews available to disabled beneficiaries to assist them in choosing among available ENs.

**Subpart F—State Vocational Rehabilitation Agencies' Participation in the Ticket to Work Program**

**§ 411.350 Must a State VR agency participate in the Ticket to Work program?**

Yes. Each State agency administering or supervising the administration of the State plan approved under title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*), must participate in the Ticket to Work program if it wishes to receive payments from SSA for serving disabled beneficiaries.

**§ 411.355 What payment options does a State VR agency have under the Ticket to Work program?**

(a) The Ticket to Work program provides different payment options that are available to a State VR agency for providing services to disabled beneficiaries. A State VR agency participates in the program in one of two ways when providing services to a particular disabled beneficiary under the program. On a case-by-case basis, the State VR agency may participate either—

- (1) As an employment network (EN); or
- (2) Under the cost reimbursement payment system (see subpart V of part 404 and subpart V of part 416 of this chapter).

(b) When the State VR agency serves a beneficiary with a ticket as an EN, the State VR agency will be paid according to the payment system it has elected for this purpose, either the outcome payment system or the outcome-milestone payment system (described in § 411.500).

(c) The State VR agency must use its elected EN payment system whenever it functions as an EN. The State VR agency will have periodic opportunities to change the payment system it uses when serving as an EN. When serving a beneficiary who was not issued a ticket, the State VR agency may seek payment only under the cost reimbursement payment system.

(d) The State VR agency may not change the payment system selected for a specific beneficiary once the ticket has been assigned and the payment system has been chosen, even if the State VR agency elects a new EN payment system at a later date.

**§ 411.360 How does a State VR agency become an EN?**

(a) As the Ticket to Work program is implemented in States, we will notify the State VR agency in writing about payment systems available under the program. The letter will ask the State VR agency to choose a payment system to use when it chooses to function as an EN.

(b) When serving beneficiaries holding tickets, the State VR agency may choose, on a case-by-case basis, to seek payment under its elected EN payment system or under the cost reimbursement payment system.

**§ 411.365 How does a State VR agency notify SSA about its choice of a payment system for use when functioning as an EN?**

(a) The State VR agency must respond in writing to our letter regarding implementation of the Ticket to Work program and tell us which EN payment system it will use when it chooses to function as an EN for any beneficiary who has a ticket.

(b) The Governor or the Governor's designated representative must sign the letter. The letter must reach SSA by the deadline in our letter.

**§ 411.370 Does a State VR agency ever have to function as an EN?**

No. A State VR agency may choose on a case-by-case basis whether it will function as an EN when serving a beneficiary with a ticket. It may continue to serve all beneficiaries with tickets under the cost reimbursement payment system. However, even if the State VR agency is not serving as an EN, it still must tell the program manager (PM) whenever a beneficiary with a ticket is accepted for services to ensure that the beneficiary's ticket is assigned to that agency.

**§ 411.375 Does a State VR agency continue to provide services under the requirements of the State plan approved under title I of the Rehabilitation Act of 1973, as amended, when functioning as an EN?**

Yes. The State VR agency must continue to provide services under the requirements of the State plan approved under title I of the Rehabilitation Act of 1973, as amended, even when functioning as an EN.

**Ticket Status**

**§ 411.380 How does a State VR agency determine whether a person seeking services has a ticket?**

Once the State VR agency determines that a person seeking VR services is a disabled beneficiary, the State VR agency must contact the PM to verify the beneficiary's ticket status to see if—



(a) The beneficiary has a ticket which is available for assignment (see § 411.140); or

(b) The beneficiary has a ticket that has already been assigned to an EN.

**§ 411.385 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 § 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. (See § 411.165 *et seq.* for a description of how assigning a ticket may affect continuing disability reviews.) The State VR agency must submit the following information to the PM to ensure the assignment of the beneficiary's ticket to the State VR agency and the recording of the payment system selected for that beneficiary:

(1) A statement that the beneficiary has decided to assign his ticket to the State VR agency and that an IPE has been agreed to and signed by both the beneficiary and a representative of the State VR agency;

(2) A statement of the vocational goal outlined in the beneficiary's IPE; and

(3) A statement of the State VR agency's selection of the system (either cost reimbursement or the previously elected EN payment system) under which the State VR agency will seek payment for providing services to the beneficiary.

(b) This information must be submitted to the PM in a format prescribed by us and must include the signatures of both the beneficiary, or a representative of the beneficiary, and the State VR agency representative working with the beneficiary.

**§ 411.390 What does a State VR agency do if a beneficiary to whom it is already providing services has a ticket that is available for assignment?**

If, upon implementation of the Ticket to Work program in a State, a beneficiary who is receiving services from the State VR agency under an existing IPE has a ticket available for assignment and decides to assign the ticket to the State VR agency, the State VR agency must submit the information required in § 411.385 to the PM to ensure the assignment of that beneficiary's ticket to the State VR agency. Since the services for that beneficiary were initiated under an IPE

prior to implementation of the Ticket to Work program, the State VR agency may only seek payment under the cost reimbursement payment system (see subpart V of part 404 and subpart V of part 416 of this chapter).

**§ 411.395 Is a State VR agency required to provide periodic reports?**

(a) A State VR agency will be required to prepare periodic reports on the specific outcomes achieved with respect to the specific services the State VR agency provided to or secured for disabled beneficiaries whose tickets it accepted for assignment. These reports must be submitted to the PM at least annually.

(b) The State VR agency must also submit information to assist the PM conducting the reviews necessary to assess a beneficiary's timely progress towards self-supporting employment to determine if a beneficiary is using a ticket for purposes of suspending continuing disability reviews (see §§ 411.165–411.200).

**Referrals by Employment Networks to State VR Agencies**

**§ 411.400 Can an EN to which a beneficiary's ticket is assigned refer the beneficiary to a State VR agency for services?**

Yes. An EN may refer a beneficiary it is serving under the Ticket to Work program to a State VR agency for services. However, a referral can be made only if the State VR agency and the EN have an agreement that specifies the conditions under which services will be provided by the State VR agency. This agreement must be in writing and signed by the State VR agency and the EN prior to the EN referring any beneficiary to the State VR agency for services.

**Agreements Between Employment Networks and State VR Agencies**

**§ 411.405 When does an agreement between an EN and the State VR agency have to be in place?**

Each EN must have an agreement with the State VR agency prior to referring a beneficiary it is serving under the Ticket to Work program to the State VR agency for specific services.

**§ 411.410 Does each referral from an EN to a State VR agency require its own agreement?**

No. The agreements between ENs and State VR agencies should be broad-based and apply to all beneficiaries who may be referred by the EN to the State VR agency for services.

**§ 411.415 Who will verify the establishment of agreements between ENs and State VR agencies?**

The PM will verify the establishment of these agreements. Each EN is required to submit a copy of the agreement it has established with the State VR agency to the PM.

**§ 411.420 What information should be included in an agreement between an EN and a State VR agency?**

The agreement between an EN and a State VR agency should state the conditions under which the State VR agency will provide services to a beneficiary when the beneficiary is referred by the EN to the State VR agency for services. Examples of this information include—

(a) Procedures for making referrals and sharing information that will assist in providing services;

(b) A description of the financial responsibilities of each party to the agreement;

(c) The terms and procedures under which the EN will pay the State VR agency for providing services; and

(d) Procedures for resolving disputes under the agreement.

**§ 411.425 What should a State VR agency do if it gets an attempted referral from an EN and no agreement has been established between the EN and the State VR agency?**

The State VR agency should contact the EN to discuss the need to establish an agreement. If the State VR agency and the EN are not able to negotiate acceptable terms for an agreement, the State VR agency should notify the PM that an attempted referral has been made without an agreement.

**§ 411.430 What should the PM do when it is informed that an EN has attempted to make a referral to a State VR agency without an agreement being in place?**

The PM will contact the EN to explain that a referral cannot be made to the State VR agency unless an agreement has been established that sets out the conditions under which services will be provided when a beneficiary's ticket is assigned to the EN and the EN is referring the beneficiary to the State VR agency for specific services.

**Resolving Disputes Arising Under Agreements Between Employment Networks and State VR Agencies**

**§ 411.435 How will disputes arising under the agreements between ENs and State VR agencies be resolved?**

Disputes arising under agreements between ENs and State VR agencies should be resolved using the following steps:

(a) When procedures for resolving disputes are spelled out in the

agreement between the EN and the State VR agency, those procedures should be used.

(b) If procedures for resolving disputes are not included in the agreement between the EN and the State VR agency and procedures for resolving disputes under contracts and interagency agreements are provided for in State law or administrative procedures, the State procedures should be used to resolve disputes under agreements between ENs and State VR agencies.

(c) If procedures for resolving disputes are not spelled out in the agreement or in State law or administrative procedures, the EN or the State VR agency may request that the PM recommend a resolution to the dispute.

(1) The request must be in writing and include—

- (i) A copy of the agreement;
- (ii) Information on the issue(s) in dispute; and
- (iii) Information on the position of both the EN and the State VR agency regarding the dispute.

(2) The PM has 20 calendar days after receiving a written request to recommend a resolution to the dispute. If either the EN or the State VR agency does not agree with the PM's recommended resolution to the dispute, the EN or the State VR agency has 30 calendar days after receiving the PM's recommendation to request a decision by us on the matter in dispute.

### Subpart G—Requirements for Individual Work Plans

#### § 411.450 What is an IWP?

An IWP is a required written document signed by an EN and a beneficiary, or a representative of a beneficiary, with a ticket. It is developed and implemented in partnership when a beneficiary and an EN have come to a mutual understanding to work together to pursue the beneficiary's employment goal under the Ticket to Work program.

#### § 411.455 What is the purpose of an IWP?

The purpose of an IWP is to outline the specific employment services, vocational rehabilitation services and other support services that the EN and beneficiary have determined are necessary to achieve the beneficiary's stated employment goal. An IWP provides written documentation for both the EN and beneficiary. Both parties should develop and implement the IWP in partnership. The EN will develop and implement the plan in a manner that gives the beneficiary the

opportunity to exercise informed choice in selecting an employment goal. Specific services needed to achieve the designated employment goal are discussed and agreed to by both parties.

#### § 411.460 Who is responsible for determining what information is contained in the IWP?

The beneficiary and the EN share the responsibility for determining the employment goal and the specific services needed to achieve that employment goal. The EN will present information and options in a way that affords the beneficiary the opportunity to exercise informed choice in selecting an employment goal and specific services needed to achieve that employment goal.

#### § 411.465 What are the minimum requirements for an IWP?

- (a) An IWP must include at least—
  - (1) A statement of the vocational goal developed with the beneficiary, including, as appropriate, goals for earnings and job advancement;
  - (2) A statement of the services and supports necessary for the beneficiary to accomplish that goal;
  - (3) A statement of any terms and conditions related to the provision of these services and supports;
  - (4) A statement that the EN may not request or receive any compensation for the costs of services and supports from the beneficiary;
  - (5) A statement of the conditions under which an EN may amend the IWP or terminate the relationship;
  - (6) A statement of the beneficiary's rights under the Ticket to Work program, including the right to retrieve the ticket at any time if the beneficiary is dissatisfied with the services being provided by the EN;
  - (7) A statement of the remedies available to the beneficiary, including information on the availability of advocacy services and assistance in resolving disputes through the State P&A System;
  - (8) A statement of the beneficiary's rights to privacy and confidentiality regarding personal information, including information about the beneficiary's disability;
  - (9) A statement of the beneficiary's right to seek to amend the IWP (the IWP can be amended if both the beneficiary and the EN agree to the change); and
  - (10) A statement of the beneficiary's right to have a copy of the IWP made available to the beneficiary, including in an accessible format chosen by the beneficiary.
- (b) The EN will be responsible for ensuring that each IWP contains this information.

#### § 411.470 When does an IWP become effective?

(a) An IWP becomes effective if the following conditions are met—

- (1) It has been signed by the beneficiary or the beneficiary's representative, and by a representative of the EN; and
- (2) The PM verifies that the beneficiary has a ticket that is eligible for assignment and records the beneficiary's decision to assign his or her ticket.

(b) If the conditions in paragraph (a) of this section are met, the IWP becomes effective on the date it was signed by both parties.

### Subpart H—Employment Network Payment Systems

#### § 411.500 Definitions of terms used in this part.

(a) *Payment Calculation Base* means for any calendar year—

(1) In connection with a title II disability beneficiary (including a concurrent title II/title XVI disability beneficiary), the average monthly disability insurance benefit payable under section 223 of the Act for months during the preceding calendar year to all beneficiaries who are in current pay status for the month for which the benefit is payable; and

(2) In connection with a title XVI disability beneficiary (who is not concurrently a title II disability beneficiary), the average monthly payment of Supplemental Security Income (SSI) benefits based on disability payable under title XVI (excluding State supplementation) for months during the preceding calendar year to all beneficiaries who—

- (i) Have attained age 18 but have not attained age 65;
- (ii) Are not concurrent title II/title XVI beneficiaries; and
- (iii) Are in current pay status for the month for which the payment is made.

(b) *Outcome Payment Period* means a period of 60 months, not necessarily consecutive, for which Social Security disability benefits and Federal SSI cash benefits are not payable to the individual because of the performance of substantial gainful activity (SGA) or by reason of earnings from work. This period begins with the first month, ending after the date on which the ticket was first assigned, for which such benefits are not payable due to SGA or earnings. This period ends with the 60th month, consecutive or otherwise, ending after such date, for which such benefits are not payable due to SGA or earnings.

(c) *Outcome Payment System* is a system providing a schedule of

payments to an employment network (EN) for each month, up to a total of 60 months, during the outcome payment period. The maximum number of outcome payment months for each ticket is sixty.

(d) *Outcome-Milestone Payment System* is a system providing a schedule of payments to an EN that includes, in addition to payments during the outcome payment period, payment for completion by a beneficiary of up to two milestones directed toward the goal of permanent employment. Milestones occur prior to the beginning of the outcome payment period. Milestone payments consist of payments in addition to any payments made during the outcome payment period. The total payments under the outcome-milestone payment system, with respect to each beneficiary who assigns a ticket to the EN, must be less than, on a net present value basis, the total payments that would be payable to the EN under the outcome payment system.

#### **§ 411.505 How is an EN paid by SSA?**

An EN can elect either of two payment systems. These systems are the outcome payment system and the outcome-milestone payment system. The EN will elect a payment system at the time the EN enters into an agreement with SSA. (For State VR agencies, see § 411.365). The EN may periodically change its elected payment system as described in § 411.515.

#### **§ 411.510 How is the State VR agency paid under the Ticket to Work program?**

(a) The State VR agency's payment choices are described in § 411.355.

(b) The State VR agency's decision to serve the beneficiary must be communicated to the program manager (PM). At the same time, the State VR agency must notify the PM of its selected payment system for that beneficiary.

(c) For each beneficiary who is already a client of the State VR agency prior to receiving a ticket, the State VR agency will notify the PM of the payment system election for each such beneficiary at the time the ticket is assigned to the State VR agency.

#### **§ 411.515 Can the EN change its elected payment system?**

(a) Yes. Any change in the elected EN payment system will apply to beneficiaries who assign their ticket to the EN after the EN's change in election becomes effective. A change in the EN's election will become effective with the month following the month in which the EN notifies us of the change. For beneficiaries who already assigned their

ticket to the EN under the EN's earlier elected payment system, the EN's earlier elected payment system will continue to apply.

(b) During the 12 months following the month the EN first elects a payment system, the EN can choose to make one change in its elected payment system at any time.

(c) After an EN (or a State VR agency) first elects a payment system, as part of signing the EN agreement with us (for State VR agencies, see § 411.365), the EN (or State VR agency) will have the opportunity to change from its existing elected payment system during times announced by us. We will offer the opportunity for ENs (and State VR agencies) to make a change in their elected payment system at least every 18 months following January 2001.

#### **§ 411.520 How are beneficiaries whose ticket is assigned to an EN affected by an EN's change in elected payment system?**

A change in an EN's elected payment system has no effect upon the beneficiaries who have assigned their ticket to an EN.

#### **§ 411.525 How are the EN payments calculated under each of the two EN payment systems?**

(a) For payments for outcome payment months, both EN payment systems use the payment calculation base as defined in § 411.500(a)(1) or (a)(2), as appropriate. This base uses the preceding calendar year's national average disability benefit payment information to compute the values for payments made to ENs for outcome payment months during the next calendar year.

(1)(i) Under the outcome payment system, we can pay up to 60 monthly payments to the EN. For each month for which Social Security disability benefits and Federal SSI cash benefits are not payable to the individual because of work or earnings, the EN is eligible for a monthly outcome payment. Payment for an outcome payment month under the outcome payment system is equal to a fixed percentage of the payment calculation base for the calendar year in which such month occurs. This percentage is 40 percent.

(ii) If a disabled beneficiary's entitlement to Social Security disability benefits ends (see §§ 404.316(b), 404.337(b) and 404.352(b) of this chapter) or eligibility for SSI benefits based on disability or blindness terminates (see § 416.1335 of this chapter) because of the performance of SGA or by reason of earnings from work activity, we will consider any month after the month in which such

entitlement ends or eligibility terminates to be a month for which Social Security disability benefits and Federal SSI cash benefits are not payable to the individual because of work or earnings if—

(A) The individual has gross earnings from employment (or net earnings from self-employment as defined in § 416.1110(b) of this chapter) in that month that are at or above the SGA dollar amount in § 404.1574(b)(2) of this chapter (or in § 404.1584(d) of this chapter for an individual who is statutorily blind); and

(B) The individual is not entitled to any monthly benefits under title II or eligible for any benefits under title XVI for that month.

(2) Under the outcome-milestone payment system, we can pay the EN for up to two milestones achieved by a beneficiary who has assigned his or her ticket to the EN. In addition to the milestone payments, monthly outcome payments can be paid to the EN during the outcome payment period.

(b) Under the outcome-milestone payment system, the EN's total payments for a beneficiary will be less than, on a net present value basis, the total payments if the EN were paid under the outcome payment system. Under the outcome-milestone payment system, the EN's total potential payment is about 85 percent of the total that would have been potentially payable under the outcome payment system for the same beneficiary.

(c) We will pay an EN to whom the individual has assigned a ticket only for milestones or outcomes achieved in months prior to the month in which the ticket terminates (see § 411.155). We will not pay a milestone or outcome payment to an EN based on an individual's work activity or earnings in or after the month in which the ticket terminates.

#### **§ 411.530 How will the outcome period payments be reduced when paid under the outcome-milestone payment system?**

Under the outcome-milestone payment system, the outcome payment for each of the first 12 outcome payment months is reduced by an amount equal to 1/12th of the milestone payments already made based on a ticket.

#### **§ 411.535 What are the milestones for which an EN can be paid?**

(a) Under the outcome-milestone payment system, there are two milestones for which the EN can be paid. Both milestones occur after the beneficiary starts to work. The earnings levels for both milestones are the dollar amounts we use when we consider if

work activity is SGA. We will use the dollar amounts in § 404.1574(b)(2) of this chapter for beneficiaries who are not statutorily blind, and we will use the dollar amounts in § 404.1584(d) of this chapter for beneficiaries who are statutorily blind. We will use these dollar amounts in order to measure if the beneficiary's earnings level meets the milestone objective.

(1) The first milestone is met when the beneficiary has worked for 3 calendar months within a 12-month period and has gross earnings from employment (or net earnings from self-employment as defined in § 416.1110(b) of this chapter) at the SGA dollar amount or above for each of the 3 months.

(2) The second milestone is met when the beneficiary has worked for 7 calendar months within a 12-month period and has gross earnings from employment (or net earnings from self-employment as defined in § 416.1110(b) of this chapter) at the SGA dollar amount or above for each of the 7 months. Any of the 3 months used to meet the first milestone can be included in the 7 months used to meet the second milestone.

(b) An EN can be paid for a milestone only if the milestone is met after a beneficiary has assigned his or her ticket to the EN. A milestone is met when the 3rd month is attained for milestone one, and when the 7th month is attained for milestone two as described under paragraph (a) of this section.

**§ 411.540 What are the payment amounts for each of the milestones?**

(a) The payment for the first milestone is equal to 68 percent of the payment calculation base for the calendar year in which the month of attainment of the milestone occurs. The payment approximates the average value of two monthly outcome payments under the outcome-milestone payment system.

(b) The payment for the second milestone is equal to 136 percent of the payment calculation base for the calendar year in which the month of attainment of the milestone occurs. The payment approximates the average value of four monthly outcome payments under the outcome-milestone payment system.

(c) The month of attainment of the first milestone is the 3rd month, within a 12-month period, in which the individual has the required earnings as described in § 411.535.

(d) The month of attainment of the second milestone is the 7th month, within a 12-month period, in which the individual has the required earnings as described in § 411.535.

**§ 411.545 What are the payment amounts for outcome payment months under the outcome-milestone payment system?**

The amount of each monthly outcome payment under the outcome-milestone payment system is as follows—

(a) Beginning with the 1st outcome payment month and ending with the 12th outcome payment month, the payment for an outcome payment month is equal to 30 percent of the payment calculation base for the calendar year in which the month occurs, reduced by an amount equal to  $\frac{1}{2}$  of the total of the milestone payments made with respect to a ticket.

(b) Beginning with the 13th outcome payment month and ending with the 24th outcome payment month, the payment for an outcome payment month is equal to 32 percent of the payment calculation base for the calendar year in which the month occurs.

(c) Beginning with the 25th outcome payment month and ending with the 36th outcome payment month, the payment for an outcome payment month is equal to 34 percent of the payment calculation base for the calendar year in which the month occurs.

(d) Beginning with the 37th outcome payment month and ending with the 48th outcome payment month, the payment for an outcome payment month is equal to 36 percent of the payment calculation base for the calendar year in which the month occurs.

(e) Beginning with the 49th outcome payment month and ending with the 60th outcome payment month, the payment for an outcome payment month is equal to 38 percent of the payment calculation base for the calendar year in which the month occurs.

**§ 411.550 What are the payment amounts for outcome payment months under the outcome payment system?**

Under the outcome payment system, the payment for an outcome payment month is equal to 40 percent of the payment calculation base for the calendar year in which the month occurs.

**§ 411.555 Can the EN keep the milestone and outcome payments even if the beneficiary does not achieve all 60 outcome months?**

Yes. The EN can keep each milestone and outcome payment for which the EN is eligible, subject to adjustment under § 411.560.

**§ 411.560 Is it possible to pay a milestone or outcome payment to more than one EN?**

Yes. It is possible for more than one EN to receive payment based on the same milestone or outcome. If the beneficiary has assigned the ticket to more than one EN at different times, and more than one EN requests payment for the same milestone or outcome payment under its elected payment system, the PM will make a determination of the allocation of payment to each EN. The PM will make this determination based upon the services provided by each EN.

**§ 411.565 What happens if two or more ENs qualify for payment on the same ticket but have elected a different EN payment system?**

We will pay each EN according to its elected EN payment system in effect at the time the beneficiary assigned the ticket to the EN.

**§ 411.570 Can an EN request payment from the beneficiary who assigned a ticket to the EN?**

No. Section 1148(b)(4) of the Act prohibits an EN from requesting or receiving compensation from the beneficiary for the services of the EN.

**§ 411.575 How does the EN request payment for milestones or outcome payment months achieved by a beneficiary who assigned a ticket to the EN?**

The EN will send its request for payment, evidence of the beneficiary's work or earnings and other information to the PM.

(a) *Milestone payments.* (1) We will pay the EN for milestones only if the elected EN payment system at the time the beneficiary assigned a ticket to the EN.

(2) The EN must request payment for each milestone achieved by a beneficiary who has assigned a ticket to the EN. The request must include evidence that the milestone was achieved, and other information as we may require, to evaluate the EN's request. We do not have to stop monthly benefit payments to the beneficiary before we can pay the EN for milestones achieved by the beneficiary.

(b) *Outcome payments.* (1) We will pay an EN an outcome payment for a month if—

(i)(A) Social Security disability benefits and Federal SSI cash benefits are not payable to the individual for that month due to work or earnings; or

(B) The requirements of § 411.525(a)(1)(ii) are met in a case where the beneficiary's entitlement to Social Security disability benefits has ended or eligibility for SSI benefits based on disability or blindness has

terminated because of work activity or earnings; and

(ii) We have not already paid for 60 outcome months on the same ticket.

(2) The EN must submit a request for payment for an outcome payment month in order to begin receiving outcome payments for a ticket assigned to the EN by a beneficiary. The request for payment must include proof of the beneficiary's work or earnings that is sufficient for us to determine that we can stop the beneficiary's monthly Federal cash benefit payments due to work or earnings. For a payment for a month after the month in which the beneficiary's entitlement to Social Security disability benefits ends or eligibility for SSI benefits based on disability or blindness terminates due to work activity or earnings, the EN must submit proof that the individual has gross earnings from employment or net earnings from self-employment in that month that are at or above the applicable SGA dollar amount as described in § 411.525(a)(1)(ii). For an individual who is self-employed, evidence of his or her work activity or earnings should be obtained from the individual. For an individual who is an employee, evidence of his or her work activity or earnings is best obtained from the employer or the employer's designated payroll preparer.

(3) Before we stop a beneficiary's monthly benefit(s) payment because of work or earnings, we review his or her work effort. A request accompanied by a Work Activity Report (form SSA-821) can expedite processing the payment request. The Work Activity Report is a form that the beneficiary completes.

(4) While an EN does not need to submit separate requests to continue payments for each outcome month, an EN must continue to submit evidence that the beneficiary's level of work or earnings is sufficient to preclude payment of monthly Social Security disability and Federal SSI cash benefits. For cases described in § 411.525(a)(1)(ii), the EN must continue to submit proof of the individual's gross earnings from employment or net earnings from self-employment (see paragraph (b)(2) of this section). An EN cannot receive an outcome payment for any month for which a Social Security disability benefit or a Federal SSI cash benefit is payable to the beneficiary.

(5) ENs can submit the evidence of work or earnings to the PM on a monthly basis or an EN can submit 2 months worth of evidence every other month.

**§ 411.580 Can an EN receive payments for milestones or outcome payment months that occur before the beneficiary assigns a ticket to the EN?**

No. An EN may be paid only for milestones or outcome payment months that are achieved after the ticket is assigned to the EN.

**§ 411.585 Can a State VR agency and an EN both receive payment for serving the same beneficiary?**

Yes. It is possible if the State VR agency serves the beneficiary as an EN. In this case, both the EN and the State VR agency may be eligible for payment based on the same ticket.

(a) If a State VR agency is paid by us under the cost reimbursement payment system with respect to a ticket, such payment precludes any subsequent payment by us based on the same ticket to an EN or to a State VR agency serving as an EN under either the outcome payment system or the outcome-milestone payment system.

(b) If an EN or a State VR agency serving a beneficiary as an EN is paid by us under one of the EN payment systems with respect to a ticket, such payment precludes subsequent payment to a State VR agency under the cost reimbursement payment system based on the same ticket.

**§ 411.590 What can an EN do if the EN disagrees with our decision on a payment request?**

(a) If an EN other than a State VR agency has a payment dispute with us, the dispute shall be resolved under the dispute resolution procedures contained in the EN's agreement with us.

(b) If a State VR agency serving a beneficiary as an EN has a dispute with us regarding payment under an EN payment system, the State VR agency may, within 60 days of receiving notice of our decision, request reconsideration in writing. The State VR agency should send the request for reconsideration to the PM. The PM will forward to us the request for reconsideration and a recommendation. We will notify the State VR agency of our reconsidered decision in writing.

(c) An EN cannot appeal determinations we make which affect a beneficiary's right to benefits. Only the beneficiary or his or her representative can appeal these determinations. (See §§ 404.900 through 404.999 and 416.1400 through 416.1499 of this chapter.)

(d) If an appeal by a beneficiary regarding entitlement or eligibility for disability benefits results in a revised determination, our revised determination could affect the EN's payment or result in an adjustment to

payments already made to the EN. While the EN cannot appeal our determination about a beneficiary's right to benefits, the EN may furnish any evidence the EN has which may support a change in our determination on the beneficiary's appeal.

**§ 411.595 What oversight procedures are planned for the EN payment systems?**

We use audits, reviews, studies and observation of daily activities to identify areas for improvement. Internal reviews of our systems security controls are regularly performed. These reviews provide an overall assurance that our business processes are functioning as intended. The reviews also ensure that our management controls and financial management systems comply with the standards established by the Federal Managers' Financial Integrity Act and the Federal Financial Management Improvement Act. These reviews operate in accordance with the Office of Management and Budget Circulars A-123, A-127 and Appendix III to A-130. Additionally, our Executive Internal Control Committee meets periodically and provides further oversight of program and management control issues.

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

(a) Yes. We will periodically review the system of payments and their programmatic results to determine if they provide an adequate incentive for ENs to assist beneficiaries to enter the work force, while providing for appropriate economies.

(b) We will specifically review the limitation on monthly outcome payments as a percentage of the payment calculation base, the difference in total payments between the outcome-milestone payment system and the outcome payment system, the length of the outcome payment period, and the number and amount of milestone payments, as well as the benefit savings and numbers of beneficiaries going to work. We will consider altering the payment system conditions based upon the information gathered and our determination that an alteration would better provide for the incentives and economies described above.

## Subpart I—Ticket to Work Program Dispute Resolution

### Disputes Between Beneficiaries and Employment Networks

#### § 411.600 Is there a process for resolving disputes between beneficiaries and ENs?

Yes. After an IWP is signed, a process is available which will assure each party a full, fair and timely review of a disputed matter. This process has three steps.

(a) The beneficiary can seek a solution through the EN's internal grievance procedures.

(b) If the EN's internal grievance procedures do not result in an agreeable solution, either the beneficiary or the EN may seek a resolution from the PM.

(c) If either the beneficiary or the EN is dissatisfied with the resolution proposed by the PM, either party may request a decision from us.

#### § 411.605 What are the responsibilities of the EN regarding the dispute resolution process?

The EN must:

(a) Have grievance procedures that a beneficiary can use to seek a resolution to a dispute under the Ticket to Work program;

(b) Give each beneficiary seeking services a copy of its internal grievance procedures;

(c) Inform each beneficiary seeking services of the right to refer a dispute first to the PM for review, and then to us for a decision; and

(d) Inform each beneficiary of the availability of assistance from the State P&A system.

#### § 411.610 When should a beneficiary receive information on the procedures for resolving disputes?

Each EN must inform each beneficiary seeking services under the Ticket to Work program of the procedures for resolving disputes when—

(a) The EN and the beneficiary complete and sign the IWP;

(b) Services in the beneficiary's IWP are reduced, suspended or terminated; and

(c) A dispute arises related to the services spelled out in the beneficiary's IWP or to the beneficiary's participation in the program.

#### § 411.615 How will a disputed issue be referred to the PM?

The beneficiary or the EN may ask the PM to review a disputed issue. The PM will contact the EN to submit all relevant information within 10 working days. The information should include:

(a) A description of the disputed issue(s);

(b) A summary of the beneficiary's position, prepared by the beneficiary or a representative of the beneficiary, related to each disputed issue;

(c) A summary of the EN's position related to each disputed issue; and

(d) A description of any solutions proposed by the EN when the beneficiary sought resolution through the EN's grievance procedures, including the reasons the beneficiary rejected each proposed solution.

#### § 411.620 How long does the PM have to recommend a resolution to the dispute?

The PM has 20 working days to provide a written recommendation. The recommendation should explain the reasoning for the proposed resolution.

#### § 411.625 Can the beneficiary or the EN request a review of the PM's recommendation?

(a) Yes. After receiving the PM's recommendation, either the beneficiary or the EN may request a review by us. The request must be in writing and received by the PM within 15 working days of the receipt of the PM's recommendation for resolving the dispute.

(b) The PM has 10 working days to refer the request for a review to us. The request for a review must include:

(1) A copy of the beneficiary's IWP;

(2) Information on the disputed issue(s);

(3) Any relevant evidence; and

(4) The PM's conclusion(s) and recommendation(s).

#### § 411.630 Is SSA's decision final?

Yes. Our decision is final. If either the beneficiary or the EN is unwilling to accept our decision, either has the right to terminate its relationship with the other.

#### § 411.635 Can a beneficiary be represented in the dispute resolution process under the Ticket to Work program?

Yes. Both the beneficiary and the EN may use an attorney or other individual of their choice to represent them at any step in the dispute resolution process. The P&A system in each State and U.S. Territory is available to provide assistance and advocacy services to beneficiaries seeking or receiving services under the Ticket to Work program, including assistance in resolving issues at any stage in the dispute resolution process.

### Disputes Between Beneficiaries and State VR Agencies

#### § 411.640 Do the dispute resolution procedures of the Rehabilitation Act of 1973, as amended, apply to beneficiaries seeking services from the State VR agency?

Yes. The procedures in the Rehabilitation Act of 1973, as amended, apply to any beneficiary who has assigned a ticket to a State VR agency. The Rehabilitation Act requires the State VR agency to provide each person seeking or receiving services with a description of the services available through the Client Assistance Program authorized under section 112 of the Rehabilitation Act of 1973, as amended. It also provides the opportunity to resolve disputes using formal mediation services or the impartial hearing process in section 102(c) of the Rehabilitation Act of 1973, as amended.

### Disputes Between Employment Networks and Program Managers

#### § 411.650 Is there a process for resolving disputes between ENs and PMs, other than disputes on a payment request?

Yes. Under the agreement to assist us in administering the Ticket to Work program, a PM is required to have procedures to resolve disputes with ENs that do not involve an EN's payment request. (See § 411.590 for the process for resolving disputes on EN payment requests.) This process must ensure that:

(a) The EN can seek a solution through the PM's internal grievance procedures.

(b) If the PM's internal grievance procedures do not result in a mutually agreeable solution, the PM shall refer the dispute to us for a decision.

#### § 411.655 How will the PM refer the dispute to us?

The PM has 20 working days from the failure to come to a mutually agreeable solution with an EN to refer the dispute to us with all relevant information. The information should include:

(a) A description of the disputed issue(s);

(b) A summary of the EN's and PM's position related to each disputed issue; and

(c) A description of any solutions proposed by the EN and PM when the EN sought resolution through the PM's grievance procedures, including the reasons each party rejected each proposed solution.

#### § 411.660 Is SSA's decision final?

Yes. Our decision is final.

**Subpart J—The Ticket to Work Program and Alternate Participants Under the Programs for Payments for Vocational Rehabilitation Services**

**§ 411.700 What is an alternate participant?**

An alternate participant is any public or private agency (other than a participating State VR agency described in §§ 404.2104 and 416.2204 of this chapter), organization, institution, or individual with whom the Commissioner has entered into an agreement or contract to provide VR services to disabled beneficiaries under the programs described in subpart V of part 404 and subpart V of part 416 of this chapter. In this subpart J, we refer to these programs as the programs for payments for VR services.

**§ 411.705 Can an alternate participant become an EN?**

In any State where the Ticket to Work program is implemented, each alternate participant whose service area is in that State will be asked to choose if it wants to participate in the program as an EN.

**§ 411.710 How will an alternate participant choose to participate as an EN in the Ticket to Work program?**

(a) When the Ticket to Work program is implemented in a State, each alternate participant whose service area is in that State will be notified of its right to choose to participate as an EN in the program in that State. The notification to the alternate participant will provide instructions on how to become an EN and the requirements that an EN must meet to participate in the Ticket to Work program.

(b) An alternate participant who chooses to become an EN must meet the requirements to be an EN, including—

(1) Enter into an agreement with SSA to participate as an EN under the Ticket to Work program (see § 411.320);

(2) Agree to serve a prescribed service area (see § 411.320);

(3) Agree to the EN reporting requirements (see § 411.325); and

(4) Elect a payment option under one of the two EN payment systems (see § 411.505).

**§ 411.715 If an alternate participant becomes an EN, will beneficiaries for whom an employment plan was signed prior to implementation be covered under the Ticket to Work program payment provisions?**

No. When an alternate participant becomes an EN in a State in which the Ticket to Work program is implemented, those beneficiaries for whom an employment plan was signed prior to the date of implementation of the program in the State, will continue to be covered for a limited time under the programs for payments for VR services (see § 411.730).

**§ 411.720 If an alternate participant chooses not to become an EN, can it continue to function under the programs for payments for VR services?**

Once the Ticket to Work program has been implemented in a State, the alternate participant programs for payments for VR services begin to be phased-out in that State. We will not pay any alternate participant under these programs for any services that are provided under an employment plan that is signed on or after the date of implementation of the Ticket to Work program in that State. If an employment plan was signed before that date, we will pay the alternate participant, under the programs for payments for VR services, for services provided prior to January 1, 2004 if all other requirements for payment under these programs are met. We will not pay an alternate

participant under these programs for any services provided on or after January 1, 2004.

**§ 411.725 If an alternate participant becomes an EN and it has signed employment plans, both as an alternate participant and an EN, how will SSA pay for services provided under each employment plan?**

We will continue to abide by the programs for payments for VR services in cases where services are provided to a beneficiary under an employment plan signed prior to the date of implementation of the Ticket to Work program in the State. However, we will not pay an alternate participant under these programs for services provided on or after January 1, 2004. For those employment plans signed by a beneficiary and the EN after implementation of the program in the State, the EN's elected EN payment system under the Ticket to Work program applies.

**§ 411.730 What happens if an alternate participant signed an employment plan with a beneficiary before Ticket to Work program implementation in the State and the required period of substantial gainful activity is not completed by January 1, 2004?**

The beneficiary does not have to complete the 9-month continuous period of substantial gainful activity (SGA) prior to January 1, 2004, in order for the costs of the services to be payable under the programs for payments for VR services. The 9-month SGA period can be completed after January 1, 2004. However, SSA will not pay an alternate participant under these programs for the costs of any services provided after December 31, 2003.

[FR Doc. 00-32924 Filed 12-27-00; 8:45 am]

BILLING CODE 4191-02-P