

The following summary is excerpted and modified from the Conference Report (H. Rept. 106-478) submitted by the Committee on Ways and Means to the House of Representatives on November 17, 1999. Prepared by Marty Ford, Co-Chair of The CCD Social Security Task Force and Assistant Director of The Arc of the United States Governmental Affairs Office, (202)785-3388.

THE TICKET TO WORK AND WORK INCENTIVES IMPROVEMENT ACT OF 1999

SUMMARY OF SELECTED PROVISIONS

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Findings and Purposes

This section includes a number of findings related to the importance of health care for individuals with disabilities, the difficulties they often experience in obtaining proper health care coverage under current program rules, the resulting limited departures from benefit rolls due to recipients' fears of losing coverage, and the potential program savings from providing them better access to coverage if they return to work.

The purposes of the act are to provide individuals with disabilities: (1) health care and employment preparation and placement services to reduce their dependency on cash benefits; (2) Medicaid coverage (through incentives to States to allow them to purchase it) needed to maintain employment; (3) the option of maintaining Medicare coverage while working; and (4) return to work tickets allowing them access to services needed to obtain and retain employment and reduce dependence on cash benefits.

Title I. Ticket to Work and Self-Sufficiency and Related Provisions

Subtitle A--Ticket to Work and Self-Sufficiency

Section 101. Establishment of the Ticket to Work and Self-Sufficiency Program

1. Ticket System

The act creates a Ticket to Work and Self-Sufficiency program. Under the program, the Commissioner of Social Security is authorized to provide SSDI and disabled SSI beneficiaries with a `ticket' which they may use to obtain employment services, vocational rehabilitation (VR) services, and other support services (e.g., assistive technology) from an employment network (that is, provider of services) of their choice to enable them to enter the workforce.

Employment networks may include both State VR agencies and private and other public providers. Employment networks would be prohibited from seeking additional compensation from beneficiaries. The act provides State VR agencies with the option of participating in the program as an employment network or remaining in the current reimbursement system, including the option to elect either payment method on a case-by-case basis. Services provided by State VR agencies participating in the program would be governed by plans for VR services approved under Title I of the Rehabilitation Act. The Commissioner would issue regulations regarding the relationship between State VR agencies and other employment networks. It is intended that the agreements would be broad-based, rather than case-by-case agreements. The Commissioner is also required to issue regulations to address other implementation issues, including distribution of tickets to beneficiaries.

The act requires the program to be phased in at sites selected by the Commissioner beginning no later than 1 year after enactment. The program would be fully implemented as soon as practicable, but not later than 3 years after the program begins.

2. Program Managers

The Commissioner is required to contract with `program managers,' i.e., one or more organizations in the private or public sector with expertise and experience in the field of vocational rehabilitation or employment services, through a competitive bidding process, to assist the Social Security Administration to administer the program. Agreements between SSA and program managers shall include performance standards, including measures of access of beneficiaries to services. Program managers would be precluded from providing services in their own service area.

Program managers would recruit and recommend employment networks to the Commissioner, ensure adequate availability of services to beneficiaries and provide assurances to SSA that employment networks are complying with terms of their agreement. In addition, program managers would provide for changes in employment networks by beneficiaries.

3. Employment Networks

Employment networks consist of a single provider (public or private) or an association of providers which would assume responsibility for the coordination and delivery of services. Employment networks may include a one-stop delivery system established under Title I of the Workforce Investment Act of 1998. Employment networks are required to demonstrate specific expertise and experience and provide an array of services under the program. The Commissioner would select and enter into agreements with employment networks, provide periodic quality assurance reviews of employment networks, and establish a method for resolving disputes between beneficiaries and employment networks. Employment networks would meet financial reporting requirements as prescribed by the Commissioner, and prepare periodic performance reports which would be provided to beneficiaries holding a ticket and made available to the public.

Employment networks and beneficiaries would together develop an individual employment plan for each beneficiary that provides for informed choice in selecting an employment goal and specific services needed to achieve that goal. A beneficiary's written plan would take effect upon written approval by the beneficiary or beneficiary's representative.

4. Payment to Employment Networks

The act authorizes payment to employment networks for outcomes and long-term results through one of two payment systems, each designed to encourage maximum participation by providers to serve beneficiaries:

- The outcome payment system would provide payment to employment networks up to 40 percent of the average monthly disability benefit for each month benefits are not paid to the beneficiary due to work, not to exceed 60 months.
- The outcome-milestone payment system is similar to the outcome payment system, except it would provide for early payment(s) based on the achievement of one or more milestones directed towards the goal of permanent employment. To ensure the cost-effectiveness of the program, the total amount payable to a service provider under the outcome-milestone payment system must be less than the total amount that would have been payable under the outcome payment system.

The Commissioner is required to periodically review both payment systems and may alter the percentages, milestones, or payment periods to ensure that employment networks have adequate incentive to assist beneficiaries in entering the workforce. In addition, the Commissioner is required to submit a report to Congress with recommendations for methods to adjust payment rates to ensure adequate incentives for the provision of services to individuals with special needs (including people who work below minimum wage, who require ongoing supports and services, who require high-cost accommodations, and who receive partial cash benefits (such as SSI).

The act requires the Commissioner to report to Congress within 3 years on the adequacy of program incentives for employment networks to provide services to 'high risk' beneficiaries.

The bill authorizes transfers from the Social Security Trust Funds to carry out these provisions for Social Security beneficiaries, and authorizes appropriations to the Social Security Administration to carry out these provisions for SSI recipients.

5. Evaluation

The Commissioner is required to provide for a series of independent evaluations to assess the cost-effectiveness and outcomes of the program. The Commissioner is required to periodically provide to the Congress a detailed report of the program's progress, success, and any modifications needed.

6. Advisory Panel

The bill establishes a Ticket to Work and Work Incentives Advisory Panel consisting of experts representing consumers, providers of services, employers, and employees, at least one-half of whom are individuals with disabilities or representatives of individuals with disabilities. The Advisory Panel is to be composed of twelve members appointed as follows:

- Four by the President, not more than two of whom may be of the same political party;
- Two by the Speaker of the House of Representatives, in consultation with the Chairman of the Committee on Ways and Means;
- Two by the Minority Leader of the House of Representatives, in consultation with ranking minority member of the Committee on Ways and Means;
- Two by the Majority Leader of the Senate, in consultation with the Chairman of the Committee on Finance; and
- Two members would be appointed by the Minority Leader of the Senate, in consultation with the ranking minority member of the Committee on Finance.

The Panel is to advise the Commissioner and report to the Congress on work incentives programs, planning, and assistance and program implementation, including such issues as the establishment of pilot sites, refinements to the program, and the design of program evaluations.

All 12 Panel members would be required to have experience or expert knowledge as a recipient, provider, employer, or employee. The terms of initial appointment would be set by the individual making the appointment, with each individual making appointments designating one-half of appointees for a term of 4 years and the other half for a term of 2 years. The Director of the Panel would be appointed by the Chairperson of the Advisory Panel.

Subtitle B--Elimination of Work Disincentives

Section 111. Work Activity Standard as a Basis for Review of an Individual's Disabled Status

The act establishes the standard that continuing disability reviews (CDRs) for long-term SSDI beneficiaries (i.e., those receiving disability benefits for at least 24 months) be limited to periodic CDRs. SSA would continue to evaluate work activity to determine whether eligibility for cash

benefits continued, but a return to work would not trigger a review of the beneficiary's impairment to determine whether it continued to be disabling. This provision is effective January 1, 2002.

Section 112. Expedited Reinstatement of Disability Benefits

The act establishes that an individual: (1) whose entitlement to SSDI benefits had been terminated on the basis of work activity following completion of an extended period of eligibility; or (2) whose eligibility for SSI benefits (including special SSI eligibility status under section 1619(b) of the Social Security Act) had been terminated following suspension of those benefits for 12 consecutive months on account of excess income resulting from work activity, may request reinstatement of those benefits without filing a new application. The individual must have become unable to continue working due to his or her medical condition and must file a reinstatement request within the 60-month period following the month of such termination.

While the Commissioner is making a determination pertaining to a reinstatement request, the individual would be eligible for provisional benefits (cash benefits and Medicare or Medicaid, as appropriate) for a period of not more than 6 months. If the Commissioner makes a favorable determination, such individual's prior entitlement to benefits would be reinstated, as would be the prior benefits of his or her dependents who continue to meet the entitlement criteria. If the Commissioner makes an unfavorable determination, provisional benefits would end, but the provisional benefits already paid would not be considered an overpayment. This provision is effective one year after enactment.

Subtitle C--Work Incentives Planning, Assistance, and Outreach

Section 121. Work Incentives Outreach Program

The Commissioner of Social Security is required to establish a community-based work incentives planning and assistance program for the purpose of disseminating accurate information to individuals on work incentives. Under this program, the Commissioner is required to:

- Establish a program of grants, cooperative agreements, or contracts to provide benefits planning and assistance (including protection and advocacy services) to individuals with disabilities and outreach to individuals with disabilities who are potentially eligible for work incentive programs; and
- Establish a corps of work incentive specialists located within the Social Security Administration.

The Commissioner is required to determine the qualifications of agencies eligible for grants, cooperative agreements, or contracts. Social Security Administration field offices and State Medicaid agencies are deemed ineligible. Eligible organizations may include Centers for Independent Living, protection and advocacy organizations, and client assistance programs (established in accordance with the Rehabilitation Act of 1973, as amended); State Developmental Disabilities Councils (established in accordance with the Developmental

Disabilities Assistance and Bill of Rights Act); and State welfare agencies (funded under Title IV-A of the Social Security Act).

Annual appropriations would not exceed \$23 million for fiscal years 2000-2004. The provision would be effective on enactment. The grant amount in each State would be based on the number of beneficiaries in the State, subject to certain limits.

Section 122. State Grants for Work Incentives Assistance to Disabled Beneficiaries

The Commissioner of Social Security is authorized to make grants to existing protection and advocacy programs authorized by the States under the Developmental Disabilities Assistance and Bill of Rights Act. Services would include information and advice about obtaining vocational rehabilitation, employment services, advocacy, and other services a Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI) beneficiary may need to secure or regain gainful employment, including applying for and receiving work incentives.

Appropriation would not exceed \$7 million for each of the fiscal years 2000-2004. The provision would be effective upon enactment.

Title II. Expanded Availability of Health Care Services

Section 201. Expanding State Options Under the Medicaid Program for Workers with Disabilities

The act allows States to establish one or two new optional Medicaid eligibility categories:

- States would have the option to cover individuals with disabilities (aged 16-64) who, except for earnings, would be eligible for SSI. In addition, States could establish limits on assets, resources and earned or unearned income that differ from the federal requirements.
- If States provide Medicaid coverage to individuals described above, they may also provide coverage to the following: Employed persons with disabilities whose medical condition has improved, but who continue to have a severe medically determinable impairment as defined by regulations by the Secretary of HHS.

Individuals covered under these options could 'buy in' to Medicaid coverage by paying premiums or other cost-sharing charges on a sliding-fee scale based on income. The State would be required to make premium or other cost-sharing charges the same for both these two new eligibility groups. States may require individuals with incomes above 250 percent of the federal poverty level to pay the full premium cost. In the case of individuals with incomes between 250 percent and 450 percent of the poverty level, premiums may not exceed 7.5 percent of income. States must require individuals with incomes above \$75,000 per year to pay all of the premium costs. States may choose to subsidize premium costs for such individuals, but they may not use federal matching funds to do so.

The effective date is October 1, 2000. [Some advocates believe technical corrections will be necessary prior to implementation to ensure that the provision operates as intended.]

Section 202. Extending Medicare Coverage for OASDI Disability Benefit Recipients

Social Security Disability Insurance (SSDI) beneficiaries are currently allowed to test their ability to work for at least nine months without affecting their disability or Medicare benefits. Disability payments stop when a beneficiary has monthly earnings at or above the substantial gainful activity level (\$700) after the 9-month trial work period. If the beneficiary remains disabled but continues working, Medicare can continue for an additional 39 months, for a total of 48 months of coverage. Beyond that point, the individual (if still disabled) may continue Medicare coverage by paying the premium.

Effective October 1, 2000, the act provides for continued Medicare Part A coverage for 4 ½ additional years beyond the current limit, resulting in a total limit of 7 ¾ years of Medicare continuation after the TWP. When the full Medicare Part A coverage period runs out, the individual (if still disabled) may continue Medicare coverage by paying the premium.

The General Accounting Office (GAO) must submit a report to Congress (no later than 5 years after enactment) that examines the effectiveness and cost of extending Medicare Part A coverage to working disabled persons without charging them a premium; the necessity and effectiveness of providing the continuation of Medicare coverage to disabled individuals with incomes above the Social Security taxable wage base (\$72,600); the use of a sliding-scale premium for high-income disabled individuals; the viability of an employer buy-in to Medicare in lieu of coverage under private health insurance; the interrelation between the use of continuation of Medicare coverage and private health insurance coverage; and that recommends whether the Medicare coverage extension should continue beyond the extended period provided under the bill.

Section 203. Grants to Develop and Establish State Infrastructures to Support Working Individuals with Disabilities

The bill requires the Secretary of HHS to award grants to States to design, establish and operate infrastructures that provide items and services to support working individuals with disabilities, and to conduct outreach campaigns to inform them about the infrastructures. States would be eligible for these grants only if they provide personal assistance services through Medicaid to assist individuals with disabilities to remain employed (that is, earn at least the Federal minimum wage and work at least 40 hours per month, or engage in work that meets criteria for work hours, wages, or other measures established by the State and approved by the Secretary of HHS).

Personal assistance services refers to a range of services provided by one or more persons to assist individuals with disabilities to perform daily activities on and off the job. These services would be designed to increase individuals' control in life.

The Secretary of HHS is required to develop a formula for the award of infrastructure grants. The formula must provide special consideration to States that extend Medicaid coverage to

persons who cease to be eligible for SSDI and SSI because of an improvement in their medical condition, but who still have a severe medically determinable impairment and are employed.

States that do not choose to take up the optional Medicaid eligibility category permitting expansion to individuals with disabilities with incomes up to 250 percent of poverty would be subject to a maximum grant award established by a methodology developed by the Secretary consistent with the limit applied to states that do take up the option. For those states who do take up the option, the maximum will be 10 percent of the federal and state Medicaid expenditures for such individuals. These provisions would be effective October 1, 2000, with funding of: FY2001, \$20 million; FY2002, \$25 million; FY2003, \$30 million; FY2004, \$35 million; FY2005, \$40 million; and FY2006-11, the amount of appropriations for the preceding fiscal year plus the percent increase in the CPI for All Urban Consumers for the preceding fiscal year.

While election of the Medicaid buy-in option is not a condition of eligibility for infrastructure grants under this section, the conference report urges the Secretary to award such grants with preference for states exercising the buy-in option. Such grants may be used to help finance other State programs facilitating a return to work by disabled individuals, thereby supplementing the Medicaid buy-in benefit as well as other work incentives provided by the act.

States would be required to submit an annual report to the Secretary on the use of grant funds. In addition, the report must indicate the percent increase in the number of SSDI and SSI beneficiaries who return to work.

The Secretary of HHS, in consultation with the Ticket to Work and Work Incentives Advisory Panel established by the bill, is required to make a recommendation by October 1, 2010, to the Committee on Commerce in the House and the Committee on Finance in the Senate regarding whether the grant program should be continued after FY 2011.

Section 204. Demonstration of Coverage under the Medicaid Program of Workers with Potentially Severe Disabilities

The Secretary of HHS is required to approve applications from States to establish demonstration programs that would provide medical assistance equal to that provided under Medicaid for disabled persons age 16-64 who are 'workers with a potentially severe disability.' These are individuals who meet a State's definition of physical or mental impairment, who are employed, and who are reasonably expected to meet SSI's definition of blindness or disability if they did not receive Medicaid services. States' definitions of workers with potentially severe disabilities can include individuals with a potentially severe disability that can be traced to congenital birth defects as well as diseases or injuries developed or incurred through illness or accident in childhood or adulthood.

The Secretary is required to approve demonstration programs if the State meets the following requirements:

- The State has elected to provide Medicaid coverage to individuals with disabilities whose income does not exceed 250 percent of the Federal poverty level and who would be eligible for SSI, except for their earnings;
- Federal funds are used to supplement the level of State funds used for workers with potentially severe disabilities at the time the demonstration is approved; and
- The State conducts an independent evaluation of the demonstration program.

The act allows the Secretary to approve demonstration programs that operate on a sub-State basis.

For purposes of the demonstration, individuals would be considered to be employed if they earn at least the Federal minimum wage and work at least 40 hours per month, or are engaged in work that meets threshold criteria for work hours, wages, or other measures as defined by the demonstration project and approved by the Secretary.

Unexpended funds from previous years may be spent in subsequent years. The Secretary is required to allocate funds to States based on their applications and the availability of funds. Funds awarded to States would equal their Federal medical assistance percentage (FMAP) of expenditures for medical assistance to workers with a potentially severe disability.

The Secretary of HHS is required to make a recommendation by October 1, 2004, to the Committee on Commerce in the House and the Committee on Finance in the Senate regarding whether the grant program should be continued after FY2006.

The act requires States with an approved demonstration to submit an annual report to the Secretary, including data on the total number of persons served by the project, and the number of each population who are 'workers with a potentially severe disability.' The aggregate amount of payments to States for administrative expenses related to annual reports may not exceed \$2 million.

The act authorizes the demonstration at \$250 million over 6 years. These provisions would be effective October 1, 2000. No payments could be made after FY 2009.

Section 205. Election by Disabled Beneficiaries to Suspend Medigap Insurance when Covered under a Group Health Plan

The act requires Medigap supplemental insurance plans to provide that benefits and premiums of such plans be suspended at the policyholder's request if the policyholder is entitled to Medicare Part A benefits as a disabled individual and is covered under a group health plan (offered by an employer with 20 or more employees). If suspension occurs and the policyholder loses coverage under the group health plan, the Medigap policy is required to be automatically reinstated (as of the date of loss of group coverage) if the policyholder provides notice of the loss of such coverage within 90 days of the date of losing group coverage.

Title III. Demonstration Projects and Studies

Section 301. Extension of Disability Insurance Program Demonstration Project Authority

The Commissioner of Social Security has authority to conduct certain demonstration projects. The Commissioner may initiate experiments and demonstration projects to test ways to encourage Social Security Disability Insurance (SSDI) beneficiaries to return to work, and may waive compliance with certain benefit requirements in connection with these projects. This demonstration authority expired on June 9, 1996.

Effective as of the date of enactment, the act extends the demonstration authority for 5 years, and includes authority for demonstration projects involving applicants as well as beneficiaries.

Section 302. Demonstration Projects Providing for Reductions in Disability Insurance Benefits Based on Earnings

The act requires the Commissioner of Social Security to conduct a demonstration project under which payments to Social Security disability insurance (SSDI) beneficiaries would be reduced \$1 for every \$2 of beneficiary earnings. This demonstration will examine allowing a gradual reduction in cash benefits as income rises. This is particularly beneficial to low income workers for whom the loss of cash benefit support is as much of a barrier to work as the loss of health coverage. The Commissioner would be required to annually report to the Congress on the progress of this demonstration project.

Section 303. Studies and Reports

1 GAO Report of Existing Disability-Related Employment Incentives.

The act would direct the General Accounting Office (GAO) to assess the value of existing tax credits and disability-related employment initiatives under the Americans with Disabilities Act and other Federal laws. The report is to be submitted within 3 years to the Senate Committee on Finance and the House Committee on Ways & Means.

2. GAO Report of Existing Coordination of the DI and SSI Programs as They Relate to Individuals Entering or Leaving Concurrent Entitlement

The act would direct the General Accounting Office (GAO) to evaluate the coordination under current law of work incentives for individuals eligible for both Social Security disability insurance (SSDI) and Supplemental Security Income (SSI). The report is to be submitted within 3 years to the Senate Committee on Finance and the House Committee on Ways & Means.

3. GAO Report on the Impact of the Substantial Gainful Activity Limit on Return to Work.

The act would direct the General Accounting Office (GAO) to examine substantial gainful activity limit as a disincentive for return to work. The report is to be submitted within 2 years to the Senate Committee on Finance and the House Committee on Ways & Means.

4. Report on Disregards Under the DI and SSI Programs.

The act would direct the Commissioner of Social Security to identify all income disregards under the Social Security disability insurance (SSDI) and Supplemental Security Income (SSI) programs; to specify the most recent statutory or regulatory change in each disregard; the current value of any disregard if the disregard had been indexed for inflation; recommend any further changes; and to report certain additional information and recommendations on disregards related to grants, scholarships, or fellowships used in attending any educational institution. The report is to be submitted within 90 days to the Senate Committee on Finance and the House Committee on Ways & Means.

5. GAO Report on SSA's Demonstration Authority

The act would direct GAO to assess the Social Security Administration's (SSA) efforts to conduct disability demonstrations and to make a recommendation as to whether SSA's disability demonstration authority should be made permanent. The report is to be submitted within 5 years to the Senate Committee on Finance and the House Committee on Ways and Means.