



December 27, 2005

The Honorable Jo Anne Barnhart
Commissioner
Social Security Administration
P.O. Box 17703
Baltimore, MD 21235-7703

Re: 20 CFR Part 411, Amendments to the Ticket to Work and Self-Sufficiency Program, Federal Register Vol. 70, No. 189, September 30, 2005

Dear Commissioner Barnhart:

The National Alliance on Mental Illness (NAMI) would like to submit the following comments on the Notice of Proposed Rulemaking on Amendments to the Ticket to Work and Self-Sufficiency Program. As the nation's largest organization representing individuals with severe mental illness and their families, NAMI is pleased to offer these comments on these important regulations. NAMI is a member organization of the Consortium for Citizens with Disabilities (CCD) Work Incentives Implementation Task Force and supports the comments included below consistent with the consensus views expressed by CCD.

Subpart B – Ticket eligibility -- CCD is pleased to see the change in eligibility for the Ticket so that those designated “medical improvement expected” will be able to obtain a Ticket before undergoing a continuing disability review (CDR). Most of these individuals would ultimately stay on the benefit rolls. This new policy recognizes the wisdom that people are more likely to retain attachment to the labor force if given the supports to do so soon after a disabling event.

Subpart F – The Ticket Program and Vocational Rehabilitation Agencies -- Through this NPRM, the Social Security Administration (SSA) has assured state agencies that they can receive cost reimbursement without assignment of a Ticket. Moreover, in proposing that an Individual Plan for Employment (IPE) activates the period of ticket use, SSA nevertheless protects a beneficiary from a CDR. However, it is unclear whether a beneficiary who achieves and sustains SGA for 9 months under an IPE will still have the full value of a Ticket for later assignment. We ask the agency to clarify that issue in the final regulations.

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Subpart H – EN Payment System -- Since we commented on the first set of Ticket regulations, our task force has been concerned over the amounts set for EN payments. We are glad to see that these new rules would increase the total potential payment under the outcome/milestone system to 90 percent of that paid under the outcome payment system. We also applaud raising the payment calculation base from 40% of the average benefit level to 67% of the average benefit level.

Other positive changes are the reduction in the timeframe for payouts to ENs serving SSDI beneficiaries from 60 months to 36 months, basing Phase II payments on gross earnings and doubling payments to ENs serving SSI beneficiaries. Coupled with the previous changes, we hope this will encourage more providers to participate in the Ticket program. We also commend SSA for recognizing the value of part time work with the payment of milestones early in a work attempt.

The opportunity for an EN to change its payment system within 12 months seems a minimal level of flexibility given that state agencies can decide on a case by case basis whether to serve a beneficiary as an EN. Moreover, the proposed rule is unclear whether existing ENs will be afforded this change option. If not given the same flexibility as VR – ALL ENs should be given the opportunity to change their payment systems annually.

Our task force does have questions about SSA's decision to add Section 411.566. This section says that an EN may use outcome or milestone payments to pay bonuses to beneficiaries. We know that this practice has already been used as an incentive to get beneficiaries to provide their pay stubs. We are not sure whether stating it as policy may lead to expectations that ENs must make these payments. Beyond that, however, is the concern we have as to how these bonus payments may affect beneficiaries' benefits. For example, such bonuses could count as unearned income under SSI and thus adversely affect these beneficiaries. We urge SSA to take such consequences into consideration when preparing the final rule.

Additional Matters for Comment

Social Security sought comments on four other issues – one ticket per period of entitlement; whether and how SSA should simplify the definition of using a ticket; whether evidence requirements for ENs to get paid are still too burdensome; and what circumstances might call for SSA to pay phase 1 and 2 milestones to an EN for beneficiaries assigning their tickets after a payment has been made to VR under cost reimbursement.

One ticket per period of entitlement – While a person may be entitled to another ticket if eligibility for cash assistance ends, our task force continues to believe that this policy fails to recognize the nature of many disabilities and the problems this policy raises when combined with other benefits rules. A beneficiary could reach the 34th month of payment to an EN and need to use expedited reentry to return to the disability rolls. He or she would have a Ticket with seriously diminished value. Or a beneficiary on SSI could be working under section 1619 [b] in order to retain access to Medicaid but be off

cash assistance. Should that person find it necessary to go back on SSI he or she will be on the same period of entitlement but not have access to another Ticket. Some beneficiaries may enter the rolls for a condition that changes over time with different consequences for those individuals. For example, someone with multiple sclerosis (MS) may be initially impaired due to fatigue. However, that individual may subsequently experience vision loss which brings in a new set of employment support needs. If that person returns to the benefit rolls under an existing entitlement due to MS, he or she would not get another Ticket to help with vision needs. We continue to believe that some provision needs to be made for individuals to obtain a second ticket under the same period of entitlement.

Using a ticket and timely progress measures -- Since our task force first commented on the initial Ticket regulations, we have been troubled by the timely progress requirements. The current system does not really recognize the episodic nature of many disabilities, fails to give credit to those who can work earlier in their use of the Ticket or who may work at increasing levels of income or hours but take longer to reach SGA. The NPRM indicates that SSA is considering modifying the timely progress rules for full-time students. Our task force would prefer that timely progress be defined by the work plan created between the provider and beneficiary or the IPE established between VR and the client.

EN payment evidence – SSA has already made significant progress in alleviating much of the paperwork and bureaucracy of the payment system. Still, many ENs report considerable time and resources spent in having to track a beneficiary's earnings. Our task force continues to believe that Social Security should pay the EN as long as the beneficiary is not back on the benefit rolls. Since much of the information requested from ENs is information SSA needs for its beneficiary records, the agency could work with IRS, state unemployment compensation offices, and other earnings reporting systems to get the earnings and non-earnings data it needs when it has not been able to obtain this from beneficiaries. Most ENs with whom our task force has consulted are satisfied with carrying the risk of overpayment to them under such a scenario. ENs report that the time they spend obtaining earnings information is as costly, and often more costly, than providing direct services.

Payment of Phase 1 and 2 milestones to an EN after payment is made to VR under cost reimbursement -- We agree with the statement in the NPRM that paying both phases could assist those who lose their jobs and need further reemployment help. Yet, there could also be circumstances in which a state agency spent considerable funds for one time assistance – such as vehicle modification or assistive technology – that enables a client to work for 9 months at SGA. At that point, VR could get cost reimbursement. If the beneficiary lost his or her job soon thereafter and sought help from an EN, then that might be a reason to pay only the phase II payments.

Payment System Transition

Another area of concern for our task force is the manner in which ENs will transition from the current payment system to the proposed new system. How this change will

occur is not addressed in the NPRM. Our primary concern is that ENs now active in the Ticket to Work program should not be financially penalized. This could happen in a number of ways. For instance, if an EN is in its third year of outcome payments, and SSA decides to pay only three years of outcome payments, the total payments would then be reduced by approximately \$6,600 (24 x \$275) for SSDI depending on what the EN milestone payments were.

Similarly, consideration needs to be given to an attractive and equitable means of transitioning from one payment system to the next for ENs with beneficiaries working under the current milestone payment system. Because of the differences in the milestone requirements and the payment amounts, especially for SSI beneficiaries, ENs operating under the current Ticket regulations could find themselves at a disadvantage. This could be ameliorated by providing transitioning ENs with a lump sum payment for the difference.

Ticket Eligibility for Beneficiaries Who Are Ages 16 and 17

Our task force finds two competing and meritorious visions in the issue of whether young people with disabilities should have access to a Ticket before they turn 18. It is true that the Ticket to Work Program is voluntary and many young people with disabilities – particularly the 40 percent of youth with disabilities who do not have an Individualized Education Plan (IPE) -- are eager for the opportunities represented by Ticket to Work. The ability to obtain a Ticket at age 16 or 17 may represent the chance for a young person to achieve self-sufficiency and independence at an early age rather than languishing on the disability rolls.

At the same time, many young people with disabilities and their families may not realize they may be sacrificing more substantial benefits if their work record breaks the connection with their parents' work record. This is particularly true for those who would obtain status as a Childhood Disability Beneficiary/Disabled Adult Child after a parent's death or retirement many decades after their disabling event. Perhaps SSA's current approach in evaluating young beneficiaries' transition into adulthood through a series of demonstration projects represents the most reasonable compromise.

Conclusion

NAMI appreciates changes that have been proposed to broaden beneficiary eligibility for the Ticket program and to enhance financial incentives for providers to participate as ENs. NAMI is cautiously optimistic that these steps may reinvigorate interest in Ticket to Work and other elements of TWWIA. At the same time, we are concerned that the modest marketing of this program coupled with the confusion and impediments that attended the initial roll out of Ticket may have discouraged many beneficiaries from participating. Moreover, given that so many providers and current ENs do not find the Ticket program to be workable or attractive, it is vitally important that the few active ENs have a positive experience transitioning from one system to the next.

NAMI would urge SSA to undertake aggressive outreach about Ticket to Work to beneficiaries, employers and providers once the rules are finalized. Beneficiaries and providers are waiting for the success stories. If beneficiaries are unaware of the changes to Ticket and providers hear reports from ENs that SSA has short changed them in the process of “improving” the system, then all these changes will be for naught.

Thank you for your attention in this important matter. NAMI looks forward to working with SSA and our CCD coalition partners to ensure that TWWIA reaches its full potential to help people with disabilities integrate into the American workforce.

Sincerely,

Andrew Sperling
Director of Legislative Advocacy