

Social Security Legislative Bulletin

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President Clinton Signs The Ticket To Work And Work Incentives Improvement Act Of 1999

Today the President signed into law H.R. 1180, the Ticket to Work and Work Incentives Improvement Act of 1999. The law contains the following provisions of interest to SSA:

Ticket to Work and Self-Sufficiency Program

General

- Directs the Commissioner to establish a Ticket to Work and Self-Sufficiency program (Program) which would provide SSDI and SSI disability beneficiaries with a ticket they may use to obtain vocational rehabilitation (VR) services, employment services, and other support services from an employment network of their choice.

Responsibilities of the Commissioner of Social Security

- Selects and enters into agreements with one or more organizations in the public or private sector to serve as a program manager(s) to assist the Commissioner in administering the Program.
- Terminates agreements with program manager(s) who fail to meet the performance standards specified in the agreements.
- Precludes program managers from direct participation in the delivery of services to beneficiaries or from holding a financial interest in an employment network in the service area covered by the program managers' agreement.
- Selects, and enters into agreements with, employment networks, including alternate participants who choose to act as an employment network, to provide services under the Program.
- Terminates agreements with employment networks whose performance is inadequate.
- Provides for periodic reviews of employment networks to ensure effective quality assurance in the provision of services.
- Provides for a process to resolve disputes between beneficiaries and employment networks, between program managers and employment networks, and between program managers and providers of services.

Responsibilities of the Program Manager(s)

- Performs such tasks as assigned by the Commissioner.
- Recruits and recommends, for selection by the Commissioner, employment networks which can provide services under the Program.
- Monitors employment networks under its jurisdiction to ensure that beneficiaries have adequate choices of services and reasonable access to services, e.g., case management, benefits counseling, supported employment, job training, placement, and follow-up services.
- Ensures that employment networks comply with the terms of their agreements with the Commissioner and that payment by the Commissioner to an employment network is warranted.
- Ensures beneficiaries are allowed changes in employment networks without being deemed to have rejected services under the Program.

Employment Network(s)

- Assumes responsibility for coordination and delivery of services under the Program to an individual assigning his/her ticket to work and self-sufficiency to an employment network.
- May consist of a one-stop delivery system established under the Workforce Investment Act of 1998 or either a single provider of such services or a group of providers organized to combine their resources into a single entity.
- Provides services either directly or by entering into agreements with other providers which can furnish appropriate services.
- Serves prescribed service areas and takes measures to ensure that services provided under the Program meet the requirements of individual work plans.
- Meets the financial reporting requirements prescribed by the Commissioner.
- Prepares periodic reports, on at least an annual basis, itemizing specific outcomes achieved with respect to services provided to beneficiaries.
- Develops and implements an individual work plan in partnership with each beneficiary that includes a statement of the: (1) beneficiary's vocational goal, (2) services and supports necessary to accomplish that goal, (3) terms and conditions related to the provision of those services and supports, (4) rights and remedies available to the beneficiary, and (5) beneficiary's right to modify his/her work plan if needed. The individual work plan is effective upon written approval by the beneficiary and a representative of the employment network.

Employment Network Payment Systems

- Authorizes the Commissioner to pay an employment network under either an outcome payment system or an outcome-milestone payment system. Each employment network will elect the payment system under which it will be paid.
 - Under the outcome payment system, an employment network is paid a

percentage, not to exceed 40 percent, of the national average SSDI or SSI payment for each month that a beneficiary does not receive a benefit payment due to work activity for a period not to exceed 60 months.

- The outcome-milestone payment system combines outcome payments with payments for achieving one or more milestones directed toward assisting the beneficiary in achieving permanent employment. However, the total amount of outcome-milestone payments must be less than the total amount of payments if the employment network is paid under the outcome payment system.
- Requires the Commissioner to review periodically the specifications of the payment system (percentage and total payment) to ensure that the system provides an adequate incentive for employment networks to assist beneficiaries in entering the workforce.
- Allows the Commissioner to alter the percentage or total permissible payments, as well as the number and amount of milestone payments, to allow an adequate incentive for employment networks.
- Requires the Commissioner to report within 36 months of enactment on the adequacy of the payment system as an incentive for providing services to individuals with a need for ongoing support or services, high cost accommodations, who earn a subminimum wage, or who work and receive partial benefits.

State Agency Participation

- Permits a State VR agency to elect participation in the Program as an employment network with respect to each disabled beneficiary for whom it will provide services. State VR agencies participating in the Program will provide services under plans approved under title I of the Rehabilitation Act of 1973.
- Requires a written agreement between the State VR agency and the employment network before a State VR agency can accept any referral of a disabled beneficiary from an employment network assigned a ticket to work by the disabled beneficiary.
- Directs the Commissioner to prescribe regulations specifying the terms of such agreements.
- Requires the Commissioner to establish in regulations a dispute resolution mechanism when the State VR agency and the employment network fail to reach an agreement on cross-referring beneficiaries.
- Requires the Commissioner, if the amendments have not been fully implemented in a State, to determine through regulations the extent (1) to which the requirement concerning prompt referral to the State VR agency applies, and (2) of the Commissioner's authority to provide vocational rehabilitation services by agreement or contract with other public or private agencies in the State.

Continuing Disability Reviews

- Prohibits the Commissioner from initiating continuing disability reviews during the period that a beneficiary is using a ticket to work and self-sufficiency.

Financing

- Requires payments to employment networks to be made from the Federal Old-Age, Survivors and Disability Insurance (OASDI) Trust Funds in the case of SSDI beneficiaries who return to work and from appropriations made available for making SSI payments under title XVI. The costs for administrative expenses would be authorized as appropriate from amounts made available for the administration of title II and title XVI of the Social Security Act (the Act).

Regulations

- Directs the Commissioner to prescribe regulations necessary to implement the Ticket to Work and Self-Sufficiency Program not later than 1 year after the date of enactment.

Effective Date of the Program

Effective with the first month following 1 year after enactment.

Scope of Program Implementation

- Directs the Commissioner to implement the amendments in graduated phases at sites selected by the Commissioner to ensure the refinement of the Program processes prior to full implementation.
- Requires the Commissioner to fully implement the Program as soon as practicable, but not later than 3 years after the effective date.

Evaluation

- Requires the Commissioner (after consultation with the Advisory Panel, beneficiaries using Tickets, the General Accounting Office (GAO), other Federal agencies, and others with appropriate expertise) to design and conduct a series of evaluations to assess the cost-effectiveness of the Program and the work outcomes for beneficiaries receiving a ticket to work and self sufficiency under the Program. Also, requires the Commissioner to provide for independent evaluations to assess the activities carried out under the Program.

Reports

- Requires the Commissioner to report following the close of the third and fifth fiscal years and prior to the close of the seventh fiscal year ending after the effective date. Reports should be submitted to the House Committee on Ways and Means and the Senate Committee on Finance on the Commissioner's evaluation of the progress of activities, as well as the success of the Program and the Commissioner's conclusions on whether or how the Program should be modified.

Work Incentives Advisory Panel

- Establishes a Work Incentives Advisory Panel within the Social Security Administration. The Panel will be composed of 12 members--4 appointed by the President; 2 each by the Speaker and the Minority Leader of the House; and 2 each by the Majority and Minority Leaders of the Senate. At least one-half of the members shall be individuals with disabilities or representatives of individuals with a disability, with consideration given to current and former Social Security and Supplemental Security Income disability beneficiaries. Requires that members be appointed not later than 90 days after enactment.
- Requires that all 12 members represent the interests of recipients of service, providers of service, employers, and employees (two each).
- Duties include:
 - Advising the President, Congress, and the Commissioner of Social Security on issues related to work incentive programs, planning, and assistance for individuals with disabilities, including work incentive provisions under titles II, XI, XVI, XVIII, and XIX of the Act.
 - Advising the Commissioner with respect to the Ticket to Work and Self-Sufficiency Program on the following:
 - phase-in sites for implementation of the Program;
 - access of disabled beneficiaries to employment networks, payment systems, and management information systems to ensure the success of the Program;
 - the most effective designs for research and demonstration projects associated with the Program or conducted with respect to the reduction in disability insurance benefits based on earnings; and
 - development of performance measures for the employment networks. Furnishing progress reports on the Program to the Commissioner and Congress.
- Requires the Panel to submit interim reports at least annually and transmit a final report which includes a detailed statement of the findings and conclusions of the Panel and its recommendations for legislation and administrative actions, to the President and the Congress not later than 8 years after the date of enactment.
- Terminates the Panel 30 days after the date it submits its final report.
- The costs for the Panel shall be made from amounts available for the administration of title II and title XVI, and shall be allocated from those amounts as appropriate.

Elimination of Work Disincentives

Work Activity Standard as a Basis for Review

- Prohibits the use of work activity as a basis for review for individuals who are entitled to disability insurance benefits under section 223 of the Act or monthly insurance benefits under section 202 of the Act based on disability and have received such benefits for at least 24 months.
- Allows for continuing disability reviews on a regularly scheduled basis that are not triggered by work activity, and termination of benefits if the individual has earnings that exceed the level of earning established by the Commissioner to represent substantial gainful activity (SGA).
- Effective January 1, 2002.

Expedited Reinstatement of Benefits

- Provides that individuals, whose prior entitlement to disability and health care benefits had been terminated as a result of earnings from work activity, may request reinstatement of benefits without filing a new application.
- Requires that such individuals (1) are unable to continue working on account of their medical condition and (2) file a reinstatement request during the 60-month period following the month of termination.
- Provides that, while SSA is making a determination (by applying the medical improvement review standard) on the reinstatement request, individuals are eligible for the payment of provisional benefits for a period of not more than 6 months.
- Requires that, if SSA makes a favorable determination, both the individual's prior entitlement to benefits and the prior benefits of his dependents who continue to meet the entitlement criteria would be reinstated.
- Effective on the first day of the 13th month beginning after the date of enactment.

Work Incentives Planning, Assistance, and Outreach

Work Incentives Outreach Program

- Directs the Commissioner, in consultation with the Work Incentives Advisory Panel, to establish a community-based work incentives planning and assistance program for the purpose of providing accurate information related to work incentives to disabled beneficiaries.
- Under the Program, the Commissioner is directed to:
 - establish a competitive program of grants, cooperative agreements, or contracts to provide benefits planning and assistance, including information on the availability of protection and advocacy services, to disabled beneficiaries;

- conduct directly, or through grants, cooperative agreements, or contracts, ongoing outreach efforts; and
- establish a corps of work incentive specialists within the Social Security Administration who specialize in title II and title XVI work incentives for the purpose of providing accurate information.
- Directs the Commissioner to award a grant, cooperative agreement, or contract to an entity based on a percentage of the population of disabled beneficiaries in the State where the entity is located. No entity will receive a grant, cooperative agreement, or contract for a fiscal year that is less than \$50,000 or more than \$300,000. The total amount of all grants, cooperative agreements, and contracts awarded for a fiscal year may not exceed \$23 million.
- Provides that the costs be paid from amounts made available for the administration for title II and title XVI, and that allocations be made from those amounts as appropriate.
- Authorizes \$23 million to be allocated for each of fiscal years 2000 through 2004.
- Effective upon enactment.

Protection and Advocacy

- Authorizes the Commissioner to make payments to protection and advocacy systems established in each state. Each system that receives payment is required to submit an annual report to the Commissioner and the Work Incentives Advisory Panel.
- Provides that protection and advocacy systems are paid the greater of \$100,000 or 1/3 of 1 percent of the amount available for payments for a fiscal year. Provides that payments are made from amounts available for the administration for title II and title XVI, and would be allocated from those amounts as appropriate. Any amounts allotted for payments to a protection and advocacy system would remain available until the end of the succeeding fiscal year.
- Authorizes \$7 million to be appropriated for each of fiscal years 2000 through 2004.
- Effective upon enactment.

Expanded Availability of Health Care Services

State Options under Medicaid

- Expands, for individuals who are at least 16, but less than 65, years of age, the States' options and funding for the Medicaid buy-in for workers with disabilities by permitting States to: (1) liberalize limits on resources and income, and (2) provide the opportunity for employed individuals with medically determinable impairments, as determined by the Secretary of Health and Human Services (HHS), to buy into Medicaid even though they are no longer eligible for SSDI or SSI disability benefits due to medical improvement. For purposes of the Medicaid buy-in, the States are authorized to require individuals to pay premiums, or other cost-sharing charges, set

- on a sliding scale based on income.
- Applicable with respect to medical assistance for items and services furnished on or after October 1, 2000.
- Requires GAO to report on these options not later than 3 years after enactment.

Continuation of Medicare Coverage

- Extends premium-free Medicare Part A coverage for people with disabilities who return to work for an additional 4 1/2-year period beyond the four years provided under current law for SSDI beneficiaries.
- Effective October 1, 2000.
- Requires GAO (5 years after enactment) to examine the effectiveness and cost of providing such premium-free Medicare Part A coverage and to recommend whether such coverage should be continued and to examine the viability of employer buy-in to Medicare.

Responsibilities of the Secretary of Health and Human Services

- Directs the Secretary of HHS to:
 - provide grants to establish State infrastructures to support working individuals with disabilities; and
 - create a demonstration of a Medicaid buy-in for people whose disabilities have not yet gotten severe enough to cause them to stop work and file for benefits.
- Effective October 1, 2000.

Election by Disabled Beneficiaries to Suspend Medigap Insurance

- Allows workers with disabilities who have Medicare coverage and a Medigap policy to suspend the premiums and benefits of the Medigap policy if they have employer-sponsored coverage.
- Applicable with respect to requests made after the date of enactment.

Demonstration Projects and Studies

Disability Insurance Program Demonstration Project Authority

- Authorizes section 505 of the Social Security Disability Amendments of 1980 (Authority for Demonstration Projects) for a 5-year period.
- Directs the Commissioner to conduct demonstrations related to sliding scale benefit offsets

- using variations in the amounts of the offset as a proportion of earned income.
- Permits presumptively eligible applicants to participate in demonstration projects.
- Directs the Commissioner to submit:
 - (1) interim reports on or before June 9 of each year on the progress of the demonstration projects, and
 - (2) a final report not later than 90 days after the termination of any experiment or demonstration project carried out under this provision.
- Requires GAO to study and recommend as to whether the authority should be permanent.
- Effective upon enactment.

Reduction in Disability Benefits Based on Earnings

- Directs the Commissioner to conduct demonstration projects to evaluate the effects of a \$1 for \$2 withholding of SSDI payments for earnings over a level specified by the Commissioner.
- Provides that the demonstration projects should determine:
 - the effects, if any, of induced entry and reduced exit;
 - the extent, if any, to which the project being tested is affected by whether it is being conducted in a locality within an area under the administration of the Ticket Program; and,
 - the savings to the Trust Funds and other Federal programs as a result of the project.
- Requires the Commissioner to determine the annual cost, the reasons for the return to work of beneficiaries who participate in the project, and the employment outcomes of beneficiaries who return to work as a result of participation in the project.
- Permits the Commissioner to evaluate the merits of the trial work period and the period of extended eligibility as part of the projects.
- Authorizes the Commissioner to waive compliance with the title II benefit provisions and the Secretary of HHS to waive compliance with the benefit requirements of title XVIII, insofar as is necessary for a thorough evaluation of the alternative methods under consideration.
- Requires the Commissioner to submit a written report to the House Committee on Ways and Means and the Senate Committee on Finance 90 days prior to the start of a project. Also, requires the Commissioner to submit periodic reports not later than 2 years after the date of enactment, and annually thereafter, on the progress of the project(s) and a final report on all demonstration projects to the Congressional committees not later than 1 year after their completion.

Funding

- Provides that expenditures for the demonstration projects be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivor's Insurance Trust Fund as determined appropriate by the Commissioner of Social Security, and

from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund as determined by the Secretary of Health and Human Services, to the extent provided in advance in appropriation Acts.

Effective upon enactment.

Reports and Studies

- Requires GAO to study:
 - the extent to which existing tax credits and other employer incentives under current law encourage employers to hire and retain individuals with disabilities. A report is due to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than 3 years after the date of enactment of this Act;
 - the coordination of SSDI and SSI programs as they relate to individuals who are eligible for benefits under both programs, or whose eligibility changes from one program to the other. The study should focus on the effectiveness of work incentives and medical coverage for these individuals. A report is due to the congressional committees not later than 3 years after the date of enactment; and
 - the SGA levels applicable to disabled beneficiaries; whether the levels serve as a disincentive for those returning to work, the merits of increasing SGA levels, and the rationale for not indexing the levels to inflation. A report is due to the congressional committees not later than 2 years after the date of enactment of this Act.
- Directs the Commissioner to report to the House Ways and Means Committee and the Senate Finance Committee, not later than 90 days after enactment, on all income disregards applicable to beneficiaries under SSDI and SSI programs. The report should specify the most recent statutory or regulatory change in each disregard; estimate the current value of any disregard if the disregard had been indexed for inflation; and recommend any further changes.
- Effective upon enactment.

Technical Amendments

Drug Addicts and Alcoholics (DA&A)

- Amends the Contract with America Advancement Act of 1996 (P.L. 104-121) to clarify SSA's authority to make SSDI medical redeterminations after January 1, 1997. (A similar SSI provision was included in the Balanced Budget Act of 1997, P.L. 105-33.)
- Expands the applicability of the provisions in P.L. 104-121, which authorizes the Commissioner to determine if a representative payee would be in the best interest of a disabled beneficiary who is incapable and has a DA&A condition, and whether such individual should be referred to a State agency for substance abuse treatment

services.

- Effective as if included in the enactment of section 105 of the Contract with America Advancement Act of 1996 (P.L. 104-121).

Treatment of Prisoners

- Extends the incentive payment provisions now in effect for SSI prisoners to OASDI, and would authorize the Commissioner to provide, on a reimbursable basis, this reported information to any agency administering a Federal or federally assisted cash, food, or medical assistance program for purpose of determining program eligibility.
Applicable to individuals whose period of confinement in an institution begins on or after the first day of the fourth month beginning after the month of enactment.
- Eliminates the OASDI requirement that confinement stem from a crime punishable by imprisonment for more than 1 year. Benefits would be suspended for any month during which the person was confined because of a crime or finding of not guilty by reason of insanity except that no monthly benefit would be suspended for any month falling within a period of confinement that lasts for less than 30 days.
Applicable to individuals whose period of confinement in an institution begins on or after the first day of the fourth month beginning after the month of enactment.
- Provides that an institution does not get two incentive payments when the reported prisoner is a concurrent OASDI/SSI beneficiary--the programs would split the cost of the payment.
Effective as if included in enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193).
- Prohibits the payment of monthly benefits to any title II beneficiary who upon completion of a prison term remains confined by court order to a public institution based on a finding that the individual is a sexually dangerous person or a sexual predator.
- Effective with respect to benefits for months ending after the date of enactment.

Revocation by Members of the Clergy of Exemption from Social Security Coverage

- Creates a 2-year window to allow members of the clergy who applied for and received an exemption from Social Security coverage to revoke the exemption.
- The application for revocation must be filed before the due date for the income tax return for the applicant's second taxable year beginning after 12/31/99.
- The revocation is effective, at the applicant's option, beginning with either the first or second taxable year beginning after 12/31/99.

Cooperative Research or Demonstration Projects Under Title II and Title XVI

- Clarifies the Commissioner's authority to make grants and payments under cooperative research or demonstration projects in advance or by way of reimbursement to carry out demonstration projects and cooperative research not only for title XVI, but also title II under section 1110(a) of the Social Security Act.
- Effective as if included in the enactment of the Social Security Independence and Program Improvement Act of 1994 (P.L. 103-296).

Authorization for State to Permit Annual Wage Reports

- Authorizes States to permit employers to submit wage reports of domestic workers to the State on an annual rather than quarterly basis for purposes of the income and eligibility verification system for the TANF, Medicaid, food stamp and unemployment compensation programs.
- Applicable to wage reports required to be submitted on or after the date of enactment.

Assessment on Attorneys who Receive their Fees Via the Social Security Administration

- Allows the Commissioner to charge an assessment, not to exceed 6.3 percent, to recover the costs for determining, and certifying (processing, withholding, and distributing) fees to attorneys.
- Eliminates the requirement that the Commissioner may not certify an attorney fee before the end of the 15-day waiting period.
- Requires GAO to study the costs of administering the attorney fee provisions, the feasibility of a fixed fee for services to an attorney, and make recommendations to improve or modify the attorney fee payment process. A report would be due to the congressional committees not later than one year after the date of enactment.
- Applicable in the case of any attorney with respect to whom a fee for services is required to be certified for payments from a claimant's past-due payments after the later of December 31, 1999 or the last day of the first month beginning after the month of enactment.

Extension of Authority of State Medicaid Fraud Control Units

- Extends the authority of State Medicaid fraud control units to investigate and prosecute fraud in other Federal health care programs.
- Effective upon enactment.

Schedule for SSI Supplementation Payments

- Effective for months after September 2009, requires a State that has entered into an agreement with the Commissioner for Federal administration of State supplementary payments to remit the payments and fees required of them no later than the business day preceding the SSI payment date. (With respect to State supplementary payments paid for the month which is the last month of the State's fiscal year, the fifth business day following the SSI payment date.)
- Authorizes the Commissioner to charge a penalty equal to 5 percent of the payment and fees if the remittance is received after the required date.
- Also provides that under extraordinary circumstances affecting the State's ability to make payment, the Commissioner may make the State supplementary payments on a reimbursable basis.