

## **The Ticket to Work Program**

### **January 2009**

#### **Introduction**

The Ticket to Work program underwent a major overhaul in 2008. Final revised regulations were published on May 20, 2008 and became effective July 21, 2008. This unit provides an overview of the program as it now exists, in light of the amended regulations at:

<http://frwebgate5.access.gpo.gov/cgi-bin/PDFgate.cgi?WAISdocID=088882288872+0+2+0&WAIAction=retrieve>

Many of the former Ticket program rules are described below, to provide context for the importance of the new rules that replace them. For example, we summarize much of the old employment network payment structure to illustrate the importance of the changes to that structure. Readers can explore these issues in more detail by reading the discussion that accompanies publication of the final rules in the May 20, 2008 Federal Register.

#### **The First Six Years of the Ticket Program: 2002 to 2008**

The Ticket to Work and Work Incentives Improvement Act of 1999 (the Act) sought to provide Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) beneficiaries a range of new or improved work incentives and employment related services to support their movement to financial independence through work. Most observers would agree that the Act's improved work incentives - including, for example, the new expedited reinstatement provisions, and improvements to the extended Medicare and Medicaid buy-in provisions - have created a better work incentives framework that encourages more beneficiaries to work.

The Act also directed the Commissioner of Social Security to establish a Ticket to Work and Self-Sufficiency program. The purpose of the Ticket program was to expand the universe of service providers available to title II disability and SSI disability beneficiaries by awarding service providers, referenced in the Act as "employment networks" (ENs), with cash payments based on the work-related success of beneficiaries they served. The Social Security Administration (SSA) initially implemented the program in 2002 through 2004 by delivering

tickets to most title II disability beneficiaries and SSI adult disability recipients in all 50 states, the District of Columbia, and five U.S. territories. The information mailed to beneficiaries with their tickets told them they could, at their option, assign their ticket to the EN of their choosing, either a private provider or their state's vocational rehabilitation (VR) agency, in return for receiving services to support their move to self-supporting work.

On the surface, the new Ticket program as implemented from 2002 through 2004 was straightforward and appeared to create incentives for providers to sign up as ENs and serve beneficiaries with tickets. Congress did not know whether the outcome-based payments to ENs would be adequate incentive for them to serve beneficiaries. Therefore the legislation called for an independent study on the subject and that SSA revisit the payment schedule if it proved inadequate. Through experience and the *Adequacy of Incentives Study* conducted by Mathematica Policy Research in February 2004, the original schedule was proven to be inadequate, even with annual increases related to the computation. Most providers who signed up as ENs quickly realized that the outcome-based payment structure would not support their participation in the program for several reasons: payments were very limited during the early phases of rehabilitation when services tend to be more intensive and more expensive; payments did not award ENs for a beneficiary's incremental success; payments did not award ENs for early job placements in part-time jobs with lower wages; and payments for serving SSI beneficiaries were dramatically lower than those available for serving title II disability beneficiaries.

In addition, Congress and SSA believed that with many newly-enrolled ENs from the private and not-for-profit sectors, beneficiaries would truly be offered and embrace expanded alternatives for vocational rehabilitation and employment services to supplement what was available through the traditional VR system. With significant numbers of beneficiaries obtaining services from this new network of ENs, many of them would reduce or eliminate their dependence on disability benefits through work.

Unfortunately, what Congress and SSA hoped for did not happen. Despite marketing the program to over 50,000 organizations, only about 1,000 non-state ENs signed on. Beneficiaries who sought services through private ENs often found that there were no private ENs available to take their tickets and serve them. Many of the ENs that appeared on lists maintained by SSA's Program Manager (now known as the Operations Support Manager) had decided they could not afford to participate in the Ticket program and declined to serve ticket holders who called them. In many regions of the country, the only entity accepting ticket assignments was the state VR agency, an entity already mandated to provide services. Beneficiaries also found that the incentive created to encourage their participation in the program, i.e., the suspension of medical continuing disability reviews (CDRs), was based on timely progress criteria only related to work activity and earnings. Beneficiaries who sought to achieve self-supporting employment through higher education or technical/vocational training found that the timely progress criteria focused exclusively on employment and earnings milestones after the first 24 months of ticket-related services, and did not recognize education and training as a longer-term pathway to employment.

Because of these obstacles to EN and beneficiary participation in the original Ticket program, by 2005 SSA began the process of revising the regulations to make the program work better for ENs and beneficiaries alike.

## **The 2008 Amendments to the Ticket Regulations**

The final amendments to the regulations were published in the Federal Register on May 20, 2008 and became effective on July 21, 2008. These 2008 regulations amend regulations originally issued on December 28, 2001. SSA, in its introductory summary to the final regulations, explained its approach to these amendments:

*“We are revising our prior rules to improve the overall effectiveness of the program to maximize the economic self-sufficiency of beneficiaries through work opportunities. We have based these revisions on our projections of the future direction of the Ticket to Work program, our experience using the prior rules, and the recommendations made by commenters on the program.”*

The final Ticket regulations are based on Notices of Proposed Rulemaking published in the Federal Register on September 30, 2005 and August 13, 2007. With the exception of the Administrative Message on processing manual ticket issuances and assignments for beneficiaries who are expected to medically improve, as this is written, SSA had not yet published any amendments to its Program Operations Manual System (POMS) for the Ticket program. We can expect amended POMS provisions to be published in early 2009. Relevant business processes, including notices, fact sheets and pamphlets, as well as operational training material have been issued. Any questions related to the Ticket program policy may be sent to TicketProgram@ssa.gov.

SSA, in substantially revising its Ticket program regulations, maintained the overall principles that are the foundation of this program:

- that private providers will participate and serve beneficiaries in the Ticket program, even if 100 percent of funding for the program is outcome-based, if those outcome-based payments are high enough to support the various EN delivery models; and
- beneficiaries will participate in the program if: 1) the newly-enrolled ENs offer services that both complement and supplement what has been available through the traditional VR system; 2) the moratorium on medical CDRs is based on timely progress requirements that realistically track the process that beneficiaries go through to achieve self-supporting employment; and 3) safety nets, in the form of work incentives, are available to protect their health insurance benefits when a work attempt succeeds and to protect cash benefits if a work attempt fails or is interrupted.

Working within this original framework, what SSA seeks to do for ENs is to dramatically alter the outcome-based payment structure to make sure that these service providers can expect enough in reliable payments to justify their enrollment in the program and service to beneficiaries. With expanded VR and employment services now available, the expectation is that beneficiaries will participate in greater numbers and, over time, achieve earnings levels that will eliminate their dependence on disability benefits.

The new regulations have several major features that go beyond what was available in the former regulations:

- All title II disability and SSI adult disability beneficiaries who are between the ages of 18 and 64 and currently receiving cash benefits will be eligible for a ticket, including those who are classified as medical improvement expected (MINE).
- Under the new Outcome-Milestone System for EN payment, total payments are now approximately 90 percent of the payments available under the Outcome Payment System compared to 85 percent under the old regulations.
- The new Outcome-Milestone Payment System now involves three phases for payment, including: Phase 1 payments for gross earnings at the level for a trial work period (TWP) month, with the first of four milestone payments available with earnings at 50 percent of that needed for a TWP month and the second milestone payment available with TWP-level earnings in only three months in a six-month period; Phase 2 payments for gross earnings at the substantial gainful activity level (ignoring deductions for work incentives); and Phase 3 payments for gross earnings that result in ineligibility for cash benefit payments. The Phase 1 milestones in particular allow an EN to receive milestone payments for lower earnings levels which are often part of the incremental path toward self-supporting employment.
- The dollar value of the EN payment structure for serving SSI beneficiaries is dramatically better than it was under the prior rules and is nearly equivalent to the dollar value of the payment structure for serving title II disability beneficiaries.
- State VR agencies that serve a beneficiary under the cost-reimbursement system are not consuming the ticket because the ticket is not assigned to them.
- Following closure of a case by a state VR agency that serves a beneficiary under the cost-reimbursement designation, a beneficiary may now assign the ticket to a private EN to receive additional services. Both the VR agency and the private EN can be paid under this new arrangement. The VR agency will be paid under SSA's VR Reimbursement Program and the EN via its chosen EN payment system under the Ticket program.
- Timely progress requirements that ensure continued protection from a medical CDR,

have been liberalized. Beneficiaries can now meet the periodic milestones in several different ways at different review periods including, for example: by obtaining a high school or general equivalency diploma during the first year of participation; by working as little as three months at the TWP earnings level or completing as little as 60 percent of higher education or trade school credits during the first year of participation; and by combining work and education/training levels to meet periodic milestone criteria for timely progress.

- The revised regulations acknowledge the importance of higher education, technical training, and vocational training by allowing beneficiaries to meet timely progress requirements through long-term participation in those programs, thereby ensuring continued protection from a medical CDR.

## **Ticket Eligibility**

Most Beneficiaries, Ages 18 through 64, are Eligible for a Ticket. An individual who is entitled to either title II disability benefits or SSI benefits based on disability or blindness, must meet the following additional criteria to be eligible for a ticket:

- be 18 through 64 years of age; and
- if an SSI recipient, be eligible for benefits under the adult disability standard and receiving a federal cash SSI benefit.

Under the prior regulations, individuals who had an impairment classified as medical improvement expected (MIE) would not be entitled to a ticket until they had undergone at least one medical CDR and been found to have a continuing disability. That provision has been removed from the new regulations, so that individuals classified as MIE are immediately entitled to a ticket.

A person, who is not a current ticket holder, is not eligible to participate in the Ticket program if they are receiving: "section 301" payments, i.e., continued title II disability or SSI benefits following a determination of no longer disabled based on medical improvement, because they are participating in an approved VR program; continued benefits while appealing a cessation of benefits based on a finding of medical improvement; provisional cash benefits while SSA is considering a request for expedited reinstatement of disability benefits; or presumptive disability payments while awaiting a final decision on an application for benefits.

SSI beneficiaries who are 18 years old and received SSI as children will not automatically be provided a ticket upon turning age 18. However, they will qualify for a ticket later if SSA finds them disabled based on the adult standard after conducting an age 18 redetermination.

## Distribution of Tickets

A ticket provides evidence of SSA's agreement to pay an EN or state VR agency, to which a beneficiary's ticket is assigned, for providing services and supports to the beneficiary under the Ticket to Work program if certain conditions are met. The ticket is a red, white and blue document approximately 6 inches by 9 inches in size. The left side of the document includes the beneficiary's name, ticket number, claim account number, and the date SSA issued the ticket. The ticket number is 12 characters and comprises the beneficiary's own Social Security number, the letters "TW" and a number 1, 2, etc. A number 1 in the last position would signify that this is the first ticket the beneficiary has received. The right side of the ticket includes the signature of the Commissioner of SSA and language which summarizes the rights of the ticket holder.

During 2002 through 2004 the Ticket program was phased in by incrementally distributing tickets to eligible beneficiaries in all 50 states, the District of Columbia, and five U.S. territories. Since the initial phase-in period, tickets have been distributed to beneficiaries as they became eligible to participate in the program. That distribution methodology continues under the new regulations. Those beneficiaries who received tickets through an earlier, pre-July 2008 distribution, will not be issued a new ticket but will be eligible to participate in the new Ticket program with their original ticket. Those beneficiaries who did not receive tickets in the past, because they were classified "Medical Improvement Expected", received tickets starting in November 2008, or as early as July 2008 upon request.

Some title II disability beneficiaries and SSI recipient who received tickets in the past may have either misplaced or thrown out their original tickets. That will not be an obstacle to participation since the ticket is symbolic and an eligible beneficiary does not have to present the physical ticket to receive services. Nevertheless, SSA can re-issue a new ticket if the beneficiary requests it. Regardless of whether the beneficiary has the physical ticket, an EN should always contact the Operations Support Manager (OSM) to verify the beneficiary's status as a ticket holder.

## Eligibility for a Second Ticket

An individual is eligible for only one ticket during a period of entitlement to title II disability or SSI based on disability or blindness. However, if entitlement to title II disability or SSI ends or is terminated, and is later reinstated, a new ticket will be issued. There is no limit to the number of new tickets an individual could receive.

## **Assigning a Ticket or Otherwise Using It and Reassigning a Ticket, Inactive Status, and Extension Periods**

In general, a beneficiary can assign a ticket to an EN or state VR agency or otherwise use it with a state VR agency if the ticket is valid and the beneficiary is receiving a cash payment. To assign a ticket a beneficiary must first find an EN or state VR agency that is willing to accept it. If the

beneficiary decides to accept services from the state VR agency, the agency will decide whether it wants to be paid under the Ticket program or SSA's VR Reimbursement program. The ticket is not assigned when the VR agency chooses cost reimbursement. It is placed in a status called "In-Use SVR". The beneficiary will have the same rights and responsibilities when the ticket is assigned and when it is in In-Use SVR status. Once both parties have agreed, the beneficiary and a representative of the EN must develop and sign an Individualized Work Plan (IWP) to initiate a ticket assignment. If the beneficiary elects to work with his or her state VR agency and the VR agency agrees, at its option, to serve the beneficiary as an EN (rather than through the cost reimbursement option), then the beneficiary and representative of the state VR agency must agree to and sign an Individualized Plan for Employment (IPE). The EN will submit a copy of the signed IWP. If a state VR agency is accepting a ticket assignment it will submit a completed and signed SSA-1365 to the OSM. As an alternative, the VR agency may submit an IPE with a signed statement on it acknowledging that the beneficiary is assigning the ticket. In addition, there are new requirements that the IWP/IPE/SSA-1365 be accompanied by the beneficiary's work history for the past 18-months and information describing the services the EN or VR agency will provide by the end of the initial phase of milestone payments. The effective date of the ticket assignment will be the first day on which these requirements for ticket eligibility are met and the IWP or IPE/SSA-1365 has been signed.

*IMPORTANT NOTE: Under the original regulations a state VR agency needed a ticket assignment to receive payments through the cost reimbursement payment option. Under the revised regulations, the state VR agency will serve the beneficiary under the cost reimbursement option without a ticket assignment.*

If the state VR agency has chosen to be paid under the cost reimbursement option, none of the forms or information mentioned above applies. The OSM has worked individually with the state VR agencies to identify an efficient monthly electronic process to initial In-Use SVR status.

If a beneficiary reports to the OSM that he or she is temporarily or otherwise unable to make timely progress toward self-supporting employment, the OSM will give the beneficiary the choice of placing the ticket in inactive status or, if applicable, taking the ticket out of assignment.

### Inactive Status

A beneficiary may place his or her ticket in inactive status, at any time, by submitting a written request to the OSM. Inactive status will be effective with the first day of the month following the month of the request. A beneficiary is not considered to be making timely progress during the months of inactive status and will be subject to medical CDRs during those months. None of the months of inactive status will count toward the time limitations for making timely progress, as needed for protection from a medical CDR.

A beneficiary may reactivate a ticket by submitting a written request to the OSM. Typically, the beneficiary would then return to in-use status if the ticket is still assigned to an EN or a state VR

agency acting as an EN.

### Retrieving and Reassigning a Ticket

A beneficiary may "retrieve" a ticket or take it out of assignment at any time and for any reason. The beneficiary must notify the Operations Support Manager (i.e., MAXIMUS) in writing. The ticket will no longer be assigned to that EN or state VR agency effective with the first day of the month following the month in which the beneficiary notifies the OSM. For example, if the beneficiary notifies the OSM on February 8<sup>th</sup> that it is taking the ticket out of assignment, the ticket is no longer assigned effective March 1<sup>st</sup>. If an EN goes out of business or is no longer approved to participate as an EN in the ticket program, the OSM will take the beneficiary's ticket out of assignment. In addition, if the beneficiary's EN is no longer able to provide services, or if the state VR agency stops providing services because the beneficiary is determined to be ineligible for services, the EN or state VR agency may ask the OSM to take the beneficiary's ticket out of assignment. In the two latter situations, a notice will be sent to the beneficiary informing him or her of this decision.

A beneficiary may reassign their ticket as long as eligibility for participation in the program is maintained. For example, a beneficiary who was being served by an EN may choose to reassign the ticket to a different EN or to the state VR agency. To re-assign a ticket the beneficiary must first meet the criteria for assigning a ticket described above. If the beneficiary meets those criteria, he or she may reassign the ticket only if he or she continues to meet the ticket eligibility requirements, has an unassigned ticket, and has an EN/state VR agency that is willing to work with him or her and sign a new IWP or IPE.

### The 90-Day Extension Period

If a beneficiary's ticket was retrieved and taken out of assignment or In-Use SVR status, he or she is eligible for a 90-day extension period if the ticket is in use at the time of retrieval (i.e., the ticket was not in Inactive status and the beneficiary was making timely progress toward self-supporting employment at the time of the most recent progress review. During the 90-day extension period, the ticket will still be considered to be in use. This means that the beneficiary will not be subject to medical CDRs, as described below, during this period. The beneficiary does not have to currently be receiving cash benefit payments to assign the ticket during the 90-day extension period.

The extension period begins on the first day on which the ticket is no longer assigned and ends 90 days later or when the beneficiary assigns the ticket to a new EN or state VR agency, whichever occurs first. If the beneficiary does not reassign the ticket during the extension period, it is considered not in use at the end of the extension period and the beneficiary will once again be subject to medical CDRs. In addition, the beneficiary must be receiving cash benefits to assign the ticket after the extension period. Finally, the extension period does not count in determining whether the beneficiary is making timely progress toward his or her work goals.

## **Medical Continuing Review (CDR) Protection and Use of a Ticket**

A medical CDR is the review conducted by SSA to determine whether or not a beneficiary continues to meet SSA's disability standard. SSA will not initiate a medical CDR when the beneficiary has a ticket assigned and in use. However, this protection does not apply to work reviews SSA may conduct to determine whether or not a title II disability beneficiary is engaging in substantial gainful activity.

If a medical CDR is initiated before a beneficiary assigns his or her ticket (or begins service through a state VR agency pursuant to an IPE) , SSA will complete the medical CDR. The CDR initiation date is the date on the notice sent to the beneficiary that informs him/her that SSA is beginning to review the disability case. For CDR mailers, the system displays the initiation date as the last day of the month the notice is sent. It is important for WIPA personnel to understand that the CDR initiation date is NOT the same thing as the diared date since CDRs are rarely initiated on the exact date diared for review.

It is possible for a beneficiary to assign the ticket after a medical CDR has been initiated, pending the decision on the medical review. If the beneficiary has medically improved and is no longer entitled to disability-based benefits, if he or she has assigned the ticket, is already working with the VR agency, or has a PASS plan, he or she may file for benefit continuation under section 301. If approved, the beneficiary may continue to receive any benefits payable until he or she completes the program that qualified the beneficiary for section 301 payments.

### “Using a Ticket”

SSA defines using a ticket as a specified period of time during which the beneficiary is actively making progress according to SSA's Progress Review guidelines to become self-supporting. The EN or state VR agency monitors the beneficiary's progress, but the OSM actually decides if the beneficiary is using a ticket and making timely progress. SSA cannot initiate a medical CDR while the beneficiary is using the ticket and making timely progress

## **Progress Reviews**

Under both the old regulations and the revised regulations the beneficiary is required to meet specific criteria, as measured during progress reviews, in order to be entitled to protection from a medical CDR as the beneficiary makes progress toward self-supporting employment. This section will describe the new timely progress requirements with selected references to how they differ from the criteria in the old regulations.

**IMPORTANT NOTE:** Temporary Moratorium on Timely Progress Reviews

As this is written in late 2008, SSA has placed a moratorium on timely progress reviews

and is expected to revisit the issue in January 2009 to decide whether notification containing the new guidelines can go out to beneficiaries at that time in preparation for the reviews to start a year later. Until this moratorium is lifted, any beneficiary whose ticket is in assignment or is being served by their state VR agency under the cost reimbursement system will be protected from a medical CDR pending their next progress review.

### The Progress Review Chart

A chart is provided at the end of this unit which lists the various 12-month progress review periods and provides a description of the timely progress requirements. This chart is in a format that will be easy to use as a desk reference and is recommended for use when CWICs are counseling beneficiaries on Ticket issues.

Beneficiaries who do not meet the timely progress requirements do not lose their right to participate in the Ticket program. They only lose their right to protection from a medical CDR. In the discussion that follows, we elaborate on how the new timely progress provisions operate.

### The Work Requirement

The following rules apply to individuals who seek to meet the timely progress requirements based only on their level of earnings (or net income from self-employment) for a particular review period.

- The first two review periods, at the end of years 1 and 2, require work at the level to qualify as a trial work period (TWP) month for 3 months out of 12 and 6 months out of 12, respectively, during years 1 and 2. This is a departure from the prior regulations which only required adherence to active participation in an employment plan during the first 24-month progress review period.
- The second two review periods, at the end of years 3 and 4, require work at the current substantial gainful activity (SGA) level for 9 of 12 months in each year. In determining whether the beneficiary has achieved SGA-level work, work incentives such as impairment related work expenses or subsidies are not considered to determine if countable earnings fall below the SGA level.
- At the fifth review period, at the end of year 5, the beneficiary must have earnings or net income from self-employment at a level that precludes receipt of title II disability or federal SSI benefits for 6 out of 12 months. Work incentives will be applied to determine if this criterion is met. This same criterion will apply in the sixth and subsequent review periods.
- During the first four review periods, the rules for title II disability and SSI beneficiaries

are the same. That is, even though SSI beneficiaries will not be subject to the TWP or SGA rules, for progress review purposes their earnings will be measured against earnings levels associated with what qualifies as a TWP month or what amounts to SGA. Starting with the fifth and subsequent review periods, since earnings must be at a level that precludes title II disability payments *and* federal SSI benefits for at least six months, the amount of earnings needed to achieve this could be very different in each program.

Example: A non-blind SSDI beneficiary can lose benefits in 2009 with gross monthly earnings of more than \$980 (after accounting for work incentives). By contrast, an SSI beneficiary who is paid at the 2009 federal benefit rate of \$674 will not lose benefits until gross monthly earnings are \$1,433 or higher (after accounting for work incentives). On the other hand, an SSI recipient who receives a reduced SSI payment because of either in-kind income or unearned income other than SSDI could lose SSI at a much lower amount of earned income. For example, some SSI beneficiaries will be paid at the base rate of \$449.33 in 2009 because they receive free food and shelter (i.e., their SSI rate is reduced by one third of the federal benefit rate). In that case, the beneficiary would lose SSI when gross monthly earnings are \$984 or higher. Other SSI beneficiaries might receive greatly reduced checks because of unearned income other than SSDI or because of deemed income from a spouse. An SSI beneficiary whose payment rate is \$300 per month because of deemed income would stand to lose SSI when gross monthly income is \$665 per month or more.

### High School Diploma or GED

Unlike the old regulations, the revised regulations recognize that obtaining a high school diploma or GED certificate can be an important step toward self-supporting employment. Accordingly, a high school diploma or GED certificate obtained in the first 12-month progress certification period counts as timely progress. If the beneficiary meets the first year timely progress criteria by obtaining a high school diploma or GED certificate, at the conclusion of the second 12-month review period, the beneficiary will next be reviewed under the year 2 review criteria for the work requirement, a degree/certification program, or a technical/trade/vocational program, as applicable.

### Degree or Certification Program

The following rules apply to individuals who seek to meet the timely progress requirements based only on their level of educational achievement for a particular review period.

- The old regulations did not specifically address higher education as a pathway toward self-supporting employment. Under the old regulations, a student enrolled in a traditional four-year bachelor program was held to the same progress review criteria as a beneficiary who was going directly into the employment market without first attending college. Assuming a ticket assignment as the student entered college, the old regulations required: 3 months of SGA-level work by the end of their third year of college; 6 months of SGA-

level work during the fourth year of college; and 6 of 12 months of work at a level that would eliminate title II disability payments or federal SSI benefits during the fifth and subsequent college years.

- The old regulations did not address certain realities facing the college student with a disability: that completion of a degree program may take longer than the standard two or four year programs of study; that the ability to complete college course requirements and the Ticket program's growing work requirements may be compromised for disability-related reasons; and that college students who succeed after graduation often opt for low paying or unpaid internships, in their field, during their college years to build a resume that will best enhance employability after graduation. The revised timely progress requirements create a separate track for degree and certification programs and address these realities.
- As laid out in the chart provided at the end of this unit, students in either a 2-year or 4-year program can meet progress requirements with 60 percent of full-time credits in year 1 and 75 percent of full-time credits in year 2. This allows the beneficiary to meet the timely progress requirements while achieving modest, but continuing levels of academic success. In year 3, the student in the 2-year program must complete that program to meet the timely progress requirements. The student in the 4-year program must complete an additional year of full-time study to meet timely progress requirements in years 3, 4 and 5, and complete the 4-year degree program by the end of year 6.
- Keep in mind that some higher education students might not assign their tickets until they have been enrolled in a 2-year or 4-year program for some time. In those cases, the beneficiary in question starts with the year 1 progress review requirements even though he or she is already nearing their degree or certification requirements.

Example: Jane is an SSDI beneficiary and is entering her third year of studies in a four-year program, seeking a degree in elementary education, when she begins receiving services from her state VR agency. The VR agency, which will serve Jane under the cost-reimbursement option, will continue to support Jane for the three additional years it is expected to take Jane to obtain her four-year degree. Since Jane's sponsorship by the state VR agency does not begin until her third year of undergraduate studies, that third year of academic progress will be measured against the criteria for the year 1 progress review (i.e., she will be required to complete 60 percent of a full-time course load for one year). Additionally, her fourth and fifth years of academic progress will be measured against the criteria for year 2 and year 3 progress reviews. So long as she continues to meet progress review requirements as she completes her fourth and fifth years of undergraduate studies, she will be protected from a medical CDR.

- What progress review criteria apply after the beneficiary obtains a two or four-year degree

and commences work? In the case of the beneficiary who obtains a two-year degree by the end of the third year review period, his or her earnings would then be measured against the work requirement for the fourth review period (requiring 9 out of 12 months of SGA-level earnings). In the case of the beneficiary who obtains a four-year degree by the end of the sixth review period, his or her earnings would then be measured against the work requirement for sixth and subsequent 12-month review periods (i.e., he or she must work in 6 out of 12 months at a level that precludes title II disability or federal SSI cash benefits). In the example directly above, if Jane obtains her four-year degree by the end of her third review period which, in her case, is her fifth year of college (remember, she did not begin receiving state VR agency services until her third year of undergraduate studies), her earnings would next be measured by the work requirements for the fourth review period (requiring 9 out of 12 months with SGA-level earnings).

### Technical, Trade or Vocational School

The following rules apply to individuals who seek to meet the timely progress requirements based only on their level of educational achievement for a particular review period.

- This timely progress category covers a range of occupations that are subject to some educational or training program before entering the field. This might include such diverse occupations as hair dresser, truck driver, real estate salesperson, day care operator, or heating and air conditioning specialist.
- The timely progress requirements under this category are identical to those that apply to individuals enrolled in two-year degree programs. Specifically, timely progress requirements are met if the individual completes 60 percent of full-time course requirements in year 1 and 75 percent of full-time course requirements in year 2. For example, if a student attends a program that is normally completed in 12 months with 10 units/credits achieved, he or she will meet the year 1 requirement with 6 units/credits achieved.

### Combining Work and Education/Training

The new regulations recognize that beneficiaries may combine work and education or training as they progress toward self-supporting employment. Under the new rules, a beneficiary will be considered to have met the requirements for an applicable progress certification period if the beneficiary completes a certain percentage of the work requirement and a certain percentage of the post-secondary education requirement. Similarly, the beneficiary can combine a certain percentage of the work requirement with a certain percentage of the vocational or training requirement. So long as the combined percentages equal 100 or more, the timely progress requirements are met.

Example: Sam is an SSDI beneficiary and is entering year 2 of a 2-year paralegal

program at a local community college. Sam is required to complete 60 credit hours to complete this program, or an average of 30 credits per year. Sam completes 18 credit hours in year 1, just enough to meet the timely progress requirements for year 1, i.e., 60 percent of full-time course load. He will need to complete 22 credit hours during year 2 in order to meet timely progress requirements (i.e., 75 percent of a full-time course load). During the first semester of year 2, Sam takes 11 credit hours, including 1 credit hour for a six-week field placement at a legal services program. The legal services program offers Sam a temporary, four-month paralegal assistant position that would pay him \$850 per month for part-time work. The job would begin January 2<sup>nd</sup> and run through April 30<sup>th</sup>. Sam would like to take the job as it could lead to permanent employment, but knows he would have to take off a semester or dramatically reduce his course load if he were to work approximately 20 hours per week. Will Sam meet the timely progress requirements if he accepts the job and does not attend classes during the second semester?

Under these facts, Sam would meet the timely progress requirements. Based on Sam's 11 credits received during the first semester, he will have met 50 percent of the degree-based requirements for year 2. Based on the projections for four months of work at \$850 per month (well over the TWP month amount for 2009), Sam will have worked 67 percent of the six TWP months needed to meet the work requirements in year 2. Since the combined percentage (117 percent) is more than 100 percent, Sam meets the timely progress requirements and will be entitled to continued protection from a medical CDR.

*A note of caution: If Sam is getting support from his state VR agency, a scholarship, and/or certain forms of financial aid, such as a Pell grant, he will want to check on the academic credit requirements for maintaining his assistance from any one of those sources. He will want to find out whether his aid or scholarship package is in any way diminished if he takes a semester off and then returns to school.*

### The Variance Tolerance Provision

These new provisions apply to beneficiaries attending an educational degree or certification program, or a vocational or technical training program. Under the variance tolerance provisions, if the beneficiary's completion of credit hours is within 10 percent of the specified goal for the applicable 12-month review period, he or she will be found to have met the timely progress requirement. Similarly, if the beneficiary has combined work with education or training during the review period in question, SSA will consider the beneficiary to have met the applicable progress review requirement if the sum of the percentages given for education/training credits and work earnings is within 10 percent of the goal.

Example: Let's go back to Sam from the example immediately above. Assume that instead of obtaining 11 credit hours during his first semester of year 2, he obtained 6 credit hours that semester (or 27 percent of the 22 credits required to meet the year 2 timely progress requirements). Also assume that Sam takes the job that pays him \$850

gross per month for four months and works instead of taking classes during the second semester. That would be four of the six months (or 67 percent) needed to meet the timely progress requirements. Since the total combined percentages of work and credits from the 2-year degree program, 94 percent, is within 10 percent of the combined total of 100 percent needed to meet the timely progress requirements, Sam will be found to meet those requirements under the variance tolerance provisions. He will not be subject to a medical CDR.

### Beneficiaries Served by State VR Agencies

Under the new regulations, when a beneficiary is served by a state VR agency under the cost reimbursement system, their ticket is not assigned to the state VR agency. As mentioned above, it is in a status called In-Use SVR. While the VR case is open, the beneficiary will have protection from a CDR under the same rules that apply with an assigned ticket. In-Use SVR status begins on the effective date of the IPE or the first day that a ticket would otherwise have been assignable if services were provided by a private EN or the state VR agency acting as an EN. All of the progress review criteria discussed above will apply when state VR agencies serve beneficiaries under either the cost reimbursement system or as an EN.

For a beneficiary who continues to meet the timely progress requirements, he or she will have 90 days following the date the VR agency closes their VR case to assign the ticket to a private EN. During this 90-day period, the beneficiary will continue to meet the timely progress requirements. If he or she does not assign their ticket to an EN during this period, the period of using a ticket will end and he or she will be subject to a medical CDR.

### Appealing Timely Progress Review Decisions

If a beneficiary disagrees with a decision made at the conclusion of a timely progress review, the beneficiary can request a review of the decision made before the 30<sup>th</sup> day after the date on which the Operations Support Manager sends the notice of the decision. SSA will consider the beneficiary to be making timely progress until a decision is rendered. SSA will send a written notice of their decision to the beneficiary at his or her last known address. If SSA decides that the beneficiary is no longer making timely progress, their decision will be effective on the date on which they send the notice of the decision to the beneficiary.

### When “Using a Ticket” Ends

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

- The date before the effective date of a decision that the beneficiary is no longer meeting timely progress requirements; or
- If the beneficiary’s ticket was assigned but is no longer assigned to an EN or state VR

agency acting as an EN, the last day of the 90-day extension period if the beneficiary fails to reassign his or her ticket within the extension period; or

- If the beneficiary’s ticket was in VR cost reimbursement status, the 90<sup>th</sup> day following the date the state VR agency closes the beneficiary’s case if the beneficiary fails to assign his or her ticket within that period; or
- The last day of the month before the month in which the ticket terminates as a result of one of the events listed under the “Ticket Termination” section immediately below.

### Ticket Termination

A beneficiary’s ticket will terminate if and when they are no longer eligible to participate in the Ticket to Work program. If a ticket is terminated a beneficiary will no longer be able to assign it and an EN or state VR agency will not receive milestone or outcome payments achieved in or after the month in which the ticket is terminated. A beneficiary’s eligibility to participate in the Ticket to Work program will end and the ticket will terminate in the earliest of the following months:

- The month in which entitlement to title II disability benefits based on disability ends for reasons other than work activity or earnings, or the month in which eligibility for SSI benefits based on disability or blindness terminates for reasons other than work activity or earnings, whichever is later;
- If the beneficiary is entitled to widow’s or widower’s insurance benefits based on disability, the month in which the beneficiary attains full retirement age;
- If the beneficiary is eligible for SSI benefits based on disability or blindness, the month following the month in which he or she turns age 65; or
- The month after the month in which the beneficiary’s outcome payment period ends.
- The month in which the beneficiary dies.

### **MAXIMUS: The Operations Support Manager**

MAXIMUS, Inc. of McLean, Virginia serves as SSA’s Operations Support Manager (OSM) and Ticket Program Data Operations Center Manager (TPDOCM). It was formerly known as the Ticket Program Manager. As OSM and TPDOCM it is responsible for:

- Establishing and maintaining a toll-free telephone call center (1-866-968-7842 or 1-866-833-2967, a TDD line for individuals with hearing and speech impairments) and electronic mail response capability to answer beneficiary questions and make referrals, as appropriate;

- Administering and supporting the ticket assignment process;
- Administering and supporting the Employment Network payment process; and
- Insuring the continuity and seamless operations of the Ticket program for the key Ticket program participants, i.e., title II disability beneficiaries and SSI recipients, ENs, and state VR agencies.

## **CESSI: The Program Manager for Recruitment and Outreach**

Cherry Engineering Support Services, Inc. (CESSI) serves as SSA's Ticket to Work Program Manager for Recruitment and Outreach (PMRO). As the PMRO, CESSI has implemented a nationwide strategy to recruit ENs to serve beneficiaries under the Ticket program. The PMRO is involved with numerous activities, including recruitment events and participation at conferences, to recruit new ENs and encourage idle ENs to actively participate in the Ticket program.

The PMRO is also involved in developing outreach to beneficiaries through a series of events called Work Incentives Seminars (WISE). The WISE events are delivered through the Work Incentives Planning and Assistance (WIPA) projects, targeting beneficiaries in all or part of their service-delivery area. The PMRO assists WIPA projects in the planning and delivery of WISE events by: providing a model curriculum with PowerPoint slides; preparing a WISE event flyer; mailing the flyer to 1,000 or more beneficiaries from their region; setting up registration through a toll-free number and a dedicated website; and providing extensive technical assistance support for running the event. The purpose of WISE events is twofold: to provide beneficiaries with general information about the work incentives and the Ticket program; and to provide them with access to local providers that are available to support their work preparation efforts.

CESSI can be contacted by phone (703-448-6155 or 703-448-1108, a TDD line for individuals with hearing and speech impairments) or email (info@cessi.net).

## **Employment Networks (ENs)**

An EN is any qualified entity that has entered into an agreement with the SSA to function as an EN under the Ticket to Work program. To serve as an EN an entity must meet and maintain compliance with both general and specific selection criteria. An EN will serve a beneficiary, who has assigned his or her ticket to the EN, pursuant to a written Individual Work Plan (IWP).

### EN Qualifications

General criteria include: having systems in place to protect the confidentiality of personal information about beneficiaries seeking or receiving services; being both physically and programmatically accessible; not discriminating in the provision of services based on a beneficiary's age, gender, race, color, creed, or national origin; having adequate resources to perform the activities required under the agreement with SSA or the ability to obtain them; and, implementing accounting procedures and control operations necessary to carry out the Ticket program.

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

- using staff who are qualified under applicable certification, licensing or registration standards that apply to their profession including certification or accreditation by national accrediting or certifying organizations;
- using staff that are otherwise qualified based on education or experience, such as by using staff with experience or a college degree in a field related to the services the EN wants to provide such as vocational counseling, human relations, teaching, or psychology;
- taking reasonable steps to assure that if any medical and related health services are provided, such medical and health-related services are provided 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; and
- Any 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.

The amended regulations provide that One-Stop Delivery Systems, established under Title I of the Workforce Investment Act, and American Indian VR programs, established under section 121 of part C of Title I of the Rehabilitation Act, are presumptively eligible to serve as ENs without separately responding to the request for proposals as other entities are required to do. However, these two entities must enter into an agreement with SSA to serve as an EN under the Ticket program and must maintain compliance with the rules that apply to ENs.

### EN Responsibilities

The EN assumes responsibility for the coordination and delivery of employment services, VR services, or other support services to beneficiaries who have assigned their ticket to that EN. An EN may consist of either a single provider of such services or a group of providers organized to combine their resources into a single entity. An EN provides services either directly or by entering into agreements with other providers, which can furnish appropriate services and serve

prescribed service areas and take measures to ensure that services provided under the Ticket program meet the requirements of individual work plans (IWPs). An EN must develop and implement IWPs in partnership with each beneficiary they agree to serve 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 goal. Each IWP must meet the requirements detailed in the section below.

Finally, the EN must report to the Operations Support Manager or OSM (i.e., MAXIMUS) each time it accepts a ticket for assignment; submit a copy of each signed IWP to the OSM; submit to the OSM copies of amendments to a beneficiary's IWP; submit to the OSM a copy of any agreement the EN has established with a state VR agency; submit information to assist the OSM conducting the reviews necessary to assess a beneficiary's timely progress; report to the OSM the specific outcomes achieved with respect to specific services the EN provided or secured on behalf of the beneficiary; provide a copy of its most recent annual report on outcomes to each beneficiary considering assigning a ticket to it; meet all financial reporting requirements; collect and record such data as SSA requires; and, adhere to all requirements specified in the agreement with SSA.

SSA will periodically evaluate an EN's performance to ensure effective quality assurance in the provision of services by ENs. SSA will solicit and consider the views of the individuals the EN serves and the PM monitoring the EN. ENs must make the results of these periodic reviews available to beneficiaries to assist them in choosing among available ENs.

## **State Vocational Rehabilitation Agencies**

Under the prior regulations, every state VR agency was required to participate in the Ticket to Work program if it wished to receive payments from SSA for serving beneficiaries who are issued a ticket. This was true whether the state VR agency served beneficiaries under the traditional cost reimbursement system or, at its option, as an EN. Under the amended regulations, no ticket assignment is needed for a VR agency to serve a beneficiary under the cost reimbursement system. However, a ticket must be assigned if the VR agency opts to serve the beneficiary as an EN. A state VR agency will, in all cases, provide services pursuant to the requirements of Title I of the Rehabilitation Act, with all services delivered pursuant to a written individualized plan of employment (IPE).

A state VR agency selects its service delivery option, cost reimbursement or EN, on a case-by-case basis. When the state agency serves a beneficiary with a ticket as an EN, the agency will use the EN payment system it has elected for this purpose, either the outcome or outcome-milestone payment system. 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 does not have a ticket, the State VR agency may seek payment only under the cost reimbursement payment system.

An EN may refer a beneficiary it is serving to a state VR agency for services if the state agency and EN have an agreement that specifies the conditions under which services will be provided by the state agency. This agreement must be in writing and signed by both parties prior to the EN referring any beneficiary to the state agency for services.The Individualized Work Plan (IWP)

An IWP is a required written document signed by an EN and a beneficiary, or a representative of a beneficiary. It is developed and implemented in partnership when a beneficiary and EN have come to a mutual understanding to work together to pursue the beneficiary's employment goal. The IWP outlines the specific employment services, vocational services, and other support services that the EN and beneficiary have determined are necessary to achieve the stated employment goal. The beneficiary and EN share responsibility for determining the employment goal and the specific services needed to achieve it.

The Ticket legislation provides a representative list of services available through the Ticket program. It includes "case management, work incentives planning, supported employment, career planning, career plan development, vocational assessment, job training, placement, follow-up services, and such other services as may be specified by [SSA] under the Program." Although the law and regulations authorize a fairly open-ended array of potential services, there are no criteria or test governing what services a beneficiary will get with a ticket. Since the program is voluntary, there is no mandate for an EN (other than a state VR agency) to provide any specific service or serve any specific beneficiary, except as established by the IWP.

For individuals served in the Ticket program by a state VR agency, services must be provided through the traditional Individual Plan of Employment (IPE). In contrast to the private EN, the state VR agency is required to serve all eligible individuals (subject to any limitations imposed in many states to serve only the most severely disabled under an Order of Selection) and, in general, provide any and all services as necessary to achieve a work goal.

The EN is responsible for ensuring that, at a minimum, the written IWP includes statements as to the following:

- the vocational goal including, as appropriate, goals for earnings and job advancement;
- the services and supports necessary for the beneficiary to accomplish that goal, including a breakout of the services that will be provided during the initial job acquisition phase from those provided during ongoing support phases;
- any terms and conditions related to the provision of these services and supports;
- a statement that the EN may not request or receive any compensation for the costs of services and supports from the beneficiary;

- a statement of the conditions under which an EN may amend the IWP or terminate the relationship;
- the beneficiary's rights under the Ticket program, including the right to retrieve a ticket at any time if the beneficiary is dissatisfied with the services being provided by the EN;
- the remedies available to the beneficiary, including information on the availability of advocacy services and assistance in resolving disputes through the state Protection and Advocacy system;
- the beneficiary's right to privacy and confidentiality regarding personal information, including information about the beneficiary's disability;
- the beneficiary's right to seek amendments to the IWP;
- 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;
- the beneficiary's earnings history for the 18-month period immediately before the ticket assignment; and
- acknowledgement that the EN has informed the beneficiary of the annual progress reviews and the progress review guidelines.

## **Employment Network Payment Systems**

Since its inception, the underlying premise of the Ticket to Work program has been based on paying ENs when the EN's services lead to satisfactory employment (or self-employment) outcomes of the title II disability or SSI beneficiary. Under the prior regulations, nearly all EN payments had to be based on work activity that results in the beneficiary's loss of title II disability benefits and/or federal SSI benefits based on disability or blindness. The exception was four milestone payments, all tied to SGA-level work, available under the outcome milestone payment system.

As already explained in the earlier discussion above, the revised EN payment structure makes a number of changes to provide adequate incentive to potential ENs. As we explain the new payment structure, we will point out where that structure departs most significantly from the prior rules governing EN payments.

Under the prior rules, ENs received much more substantial payments for serving title II disability beneficiaries than for serving SSI beneficiaries. For example, under the prior rules the total value of the four SSI beneficiary milestones was less than 60 percent of the total value of the four title II disability beneficiary milestones. This has changed dramatically. Under the amended

regulations, the total value of all milestones for serving the SSI beneficiary is 98 percent of the value of all milestones for serving the title II disability beneficiary. In fact, the combined potential payments for serving SSI beneficiaries under either of the two payment systems are nearly identical to the combined potential payments for serving title II disability beneficiaries.

### Election of an EN Payment System

The prior rules continue to be in effect here. ENs may elect to be paid under one of two payments systems: the Outcome Payment System or the Outcome-Milestone Payment System. The schedule of payments under these two payment systems differs.

An EN elects one of the two payment systems when it enters into an agreement with SSA to serve as an EN. After first electing a payment system, the EN can then make one change in its chosen system during each calendar year thereafter. The prior regulations allowed one change in the elected payment system during the first 12 months after becoming an EN and an opportunity to change at least once every 18 months thereafter.

### The Payment Calculation Base

Each calendar year SSA bases the payments for both EN payment systems, described below, on something called the Payment Calculation Base (PCB). One of two PCBs is used, depending on whether the individual served is an SSDI or SSI beneficiary. For title II disability beneficiaries (including concurrent SSDI/SSI beneficiaries), the PCB is the average monthly disability insurance benefit payable during the preceding calendar year to all disabled beneficiaries. For SSI beneficiaries (who are not concurrently title II disability beneficiaries), the PCB is the average monthly federal SSI payment based on disability payable during the preceding calendar year to all beneficiaries who: i) are have attained age 18 but not age 65; ii) are not concurrent beneficiaries; and iii) are in current pay status for the month in which the payment is made. For a listing of the current and past PCB amounts, refer to SSA's website at [http://www.ssa.gov/work/paymentsystem.html#outcome\\_milestone\\_rates](http://www.ssa.gov/work/paymentsystem.html#outcome_milestone_rates)

## **The Outcome Payment System**

The Outcome Payment System is the easier of the two EN payment systems to understand since all payments are based on the same formula. Total payments under this option are potentially about 10 percent higher than under the Outcome-Milestone Payment System. However, the trade off for the EN is that payments are only available for months when the beneficiary is not eligible for title II disability and/or no federal SSI payment based on earnings. An EN is most likely to opt for the Outcome Payment System if it serves primarily beneficiaries with high levels of earning capacity. For example, an EN that serves only beneficiaries who are college students might opt for this payment system.

Under the prior rules, SSA could pay the EN for up to 60 outcome payment months that a beneficiary attains during his or her outcome payment period. Under the old and new rules, a beneficiary attains an outcome payment month when no title II disability payments or disability-based federal cash SSI payments are payable because of work or earnings. An EN can be paid for an outcome month only if it is attained after a beneficiary has assigned his or her ticket to the EN and before the individual's ticket terminates. Payments under the old Outcome Payment System was equal to 40 percent of the Payment Calculation Base for title II disability or SSI respectively, for the calendar year in which the outcome payment month occurred, rounded to the nearest whole dollar.

The new outcome payment rules make two significant changes that should encourage more EN participation: when an EN serves title II disability or concurrent title II/SSI beneficiaries, they allow for larger payments over a shorter period, i.e with payments spread out over 36 months rather than 60 months; and when an EN serves SSI beneficiaries, the new rules provide for much higher payments that are nearly equal to the payments for serving title II disability beneficiaries. Charts showing the outcome payment schedules are provided at the end of this unit.

When ENs serve title II disability beneficiaries or concurrent beneficiaries they can receive up to 36 payments based on 67 percent of the PCB for title II disability. An outcome payment would be available for each month when no monthly cash payment would be due for either title II disability (based on performance of SGA) or, in the case of concurrent beneficiaries, SSI (because of earnings). The outcome payments need not be for consecutive months of non-benefit status. For a listing of annual monthly outcome payment amounts, refer to SSA's website at: [http://www.ssa.gov/work/paymentsystem.html#outcome\\_milestone\\_rates](http://www.ssa.gov/work/paymentsystem.html#outcome_milestone_rates)

The 36-month payment period is a dramatic change compared to the prior regulations which used a 60-month outcome payment period with a payment formula based on 40 percent of the PCB for SSDI. While the total payments available to the EN are nearly identical under the old and new rules, the new payment system allows an EN to potentially receive payments within a three-year rather than five-year period.

#### Beneficiaries Who Receive SSI Only.

When ENs serve beneficiaries who receive only SSI, they can receive up to 60 payments based on 67 percent of the SSI Payment Calculation Base. An outcome payment would be available for each month when no federal SSI payment would be due based on the beneficiary's earnings. The outcome payments need not be for consecutive months, allowing the beneficiary's earnings to go up and down. As noted in the discussion of timely progress requirements above, the amount of earnings necessary for an SSI payment to be reduced to zero could vary greatly depending on such factors as receipt of in-kind support and maintenance, receipt of unearned income other than SSDI, or the availability of deemed income from a spouse.

Many SSI beneficiaries become concurrently eligible for title II disability benefits after assigning

their ticket. If eligibility for title II disability occurs before SSA processes any payments, the payments will continue to be based on the title II payment rate. If eligibility for title II disability benefits occurs after SSA processes any payments, the payments will continue to be based on the SSI payment formula. In other words, once SSA makes a payment at one program rate, they will continue to make payments on the ticket at that program rate throughout the life of the ticket, even if the beneficiary becomes concurrently entitled.

## **The Outcome-Milestone Payment System**

The changes in the EN payment structure are most dramatic in the Outcome-Milestone Payment System. This payment system now allows the EN to receive larger milestone payments based on lower levels of earnings, and receive them much earlier in the rehabilitation process. An EN is most likely to select the Outcome-Milestone option, rather than the Outcome Payment option, if it serves primarily beneficiaries who have a lower ceiling of expected earnings.

This revised payment structure recognizes two important realities: that for many beneficiaries the path to self-supporting employment is an incremental one, which may be interrupted periodically, with short-term success appropriately equated with more modest earnings levels; and that higher milestone payments are needed during the earlier stages of rehabilitation when services are often both more intensive and more expensive.

Under the new rules, payments to ENs are available in three distinct stages: Phase I milestone payments, Phase 2 milestone payments, and outcome payments. In addition to payments being available earlier and for more modest earnings during Phase 1, the potential for total payments is higher as well. Under the old rules, total potential payments would be 85 percent of total potential payments under the Outcome Payment System. Under the new rules, total potential payments are now 90 percent of the total under the Outcome Payment System.

*NOTE: Two charts summarizing the payment systems are provided at the end of this unit under the “Conducting Independent Resources” section.*

### Phase 1 Milestone Payments

The old Ticket rules provided for four milestone payments, with each tied to SGA-level earnings. After achieving those four milestones, outcome payments were the only other payments available and required a zero benefit payment status based on earnings. The new Phase I payments payable to an EN are the same for all beneficiaries – regardless of which type(s) of disability benefits are received. Each of four milestones is the same and is based on 120 percent of the PCB for title II disability benefits. Each of the four milestone payments is based on gross earnings measured against the level for a trial work period (TWP) month:

- Milestone 1 requires one month of gross earnings at or above 50 percent of the level

- needed for a TWP month;
- Milestone 2 requires three months of gross earnings within a six-month period at or above the level needed for a TWP month;
- Milestone 3 requires six months of gross earnings within a 12-month period at or above the level needed for a TWP month; and
- Milestone 4 requires nine months of gross earnings within an 18-month period at or above the level needed for a TWP month. Additionally, the EN must have substantially completed the services agreed to in the IWP or IPE to achieve this milestone.

Earnings used to meet the first, second, and third Phase 1 milestones may be counted in determining if a later Phase 1 milestone is met, provided the earlier milestone fell within the relevant time period for meeting the later milestone.

Example: Erica is an SSI beneficiary who assigned her ticket to an EN in January 2008. In September 2008, the EN arranges for Erica to be placed in a private school as a teacher's aide, earning \$800 per month in a part-time position. Erica remains in that position through the end of November and earns \$800 gross in September, October, and November.

In January 2009, the EN arranges for an unpaid internship at a nursing home in which the nursing home staff agrees to provide intensive supervision and coaching in exchange for Erica's free services. Erica continues in this unpaid position through the end of June. In July 2009, the nursing home agrees to hire Erica in a paid position where she will earn \$1,000 gross per month. She continues working through the remainder of 2009, earning \$1,000 per month gross between July and December.

Will the EN be able to collect any Phase 1 milestone payments for Erica's success?

The EN can collect for each of the four milestones as Erica's earnings meet the criteria for all four as follows:

- Milestone 1: This was met when Erica earned \$800 in September 2008 exceeding required earnings of half the amount needed for one TWP month.
- Milestone 2: This was met when Erica earned \$800 for October and November 2008 (more than the \$670 required for a TWP month in 2008). As allowed under the rules, the earnings from September were again used to meet the three months out of six months requirement for TWP-level earnings.
- Milestone 3: This is met when Erica works three more months, in July, August, and September 2009 and earns \$1,000 gross per month (more than the amount

required for a TWP month). As allowed under the rules, we can count September, October, and November 2008 again, allowing Erica to achieve 6 months of TWP-level work in a 12-month period.

- Milestone 4: This is met when Erica works three more months in October, November, and December 2009 at TWP-level earnings levels. As allowed under the rules, we can once again count previous months of TWP-level earnings. In this case, we may count any of 9 TWP-level earnings months within an 18-month period ending December 2009. (We will assume the EN has substantially completed the services agreed to in the IWP.)

Significant work activity prior to the ticket assignment: All work and earnings counted toward reaching the four Phase 1 milestones must occur after the ticket is assigned. Significant work activity prior to ticket assignment will limit the availability of Phase 1 milestone payments:

- Milestone Payment 1 is not available if the beneficiary has worked above the TWP level in the calendar month prior to the ticket assignment.
- Milestone Payment 2 is not available if the beneficiary has worked above the TWP level in three of six months prior to the ticket assignment.
- Milestone Payment 3 is not available if the beneficiary has worked above the TWP level in 6 of 12 months prior to the ticket assignment.
- Milestone Payment 4 is not available if the beneficiary has worked above the TWP level in 9 of 18 months prior to the ticket assignment.

#### Phase 2 Milestone Payments.

SSA can pay the EN for up to 11 Phase 2 milestones achieved by the title II disability or concurrent beneficiary, and for up to 18 milestones achieved by the SSI beneficiary. A Phase 2 milestone is met for each month in which the beneficiary has gross earnings (or net earnings from self employment) that are more than the SGA level (without accounting for work incentives).

For title II disability and concurrent beneficiaries, the Phase 2 payment is based on 36 percent of the SSDI Payment Calculation Base. For SSI beneficiaries, the Phase 2 payment is based on 36 percent of the SSI PCB. For a listing of all past and current PCB amounts as well as maximum payment amounts, refer to SSA's website at:

[http://www.ssa.gov/work/paymentsystem.html#outcome\\_milestone\\_rates](http://www.ssa.gov/work/paymentsystem.html#outcome_milestone_rates)

## Reconciliation Payments

Reconciliation payments are sometimes available to an EN who has elected to serve beneficiaries under the Outcome-Milestone Payment System. These payments will be available if a beneficiary's outcome payment period begins before all Phase 1 and Phase 2 milestones have been attained. The reconciliation payment will equal the total amount of the milestone payments that were available when the ticket was first assigned, but that were not paid before the outcome period began. The reconciliation payment will be based on the Payment Calculation Base for the calendar year in which the first month of the beneficiary's outcome period occurs. The payment will be made when the EN has qualified for 12 outcome payments.

Example: Cole received concurrent SSDI and SSI benefits when he assigned his ticket to an EN in 2007. In August 2008 he began a full-time job making above TWP-level earnings. He earned enough in August 2008 to enable his EN to qualify for Phase 1 milestone1, but not enough to eliminate his eligibility for SSDI and federal SSI benefits. His earnings remain at the level for September 2008. Starting in October 2008, Cole earns enough to eliminate all eligibility for SSDI and federal SSI benefits. He continues to earn at that level throughout the remainder of 2008 and throughout all of 2009. For this entire 15-month time period his earnings make him ineligible for both SSDI and federal SSI payments. Will the EN be eligible for a reconciliation payment? When? How much will the payment be?

In this case, Cole moved directly into the outcome payment period in October 2008 after attaining only one Phase 1 milestones. This leaves three Phase 1 milestone payments and 11 Phase 2 milestone payments available for a reconciliation payment. Since Cole moved into the outcome payment period in 2008, we use the 2008 SSDI Payment Calculation Base to determine the dollar amount of the individual milestone payments that comprise the reconciliation payment. The total reconciliation payment will be \$7414, which includes two Phase 1 payments (3 x \$1,177) and 11 Phase 2 payments (11 x \$353). This reconciliation payment will be available to the EN in October 2009 after Cole's work has made the EN eligible for 12 outcome payments.

## EN Payments in Transition Cases

A "Transition Case" is a case where a ticket has been assigned and milestone or outcome payments had been paid or are payable as of June 30, 2008. SSA will only accept payment requests for payments attained June 30 or earlier until March 31, 2009 or until SSA makes payments under one of the new EN payment systems. Determining the payments available or potentially available in a transition case will follow the criteria described below.

Where EN Attained Some or All Milestone Payments, But No Outcome Payments Under Old Rules

The prior rules allowed for up to four milestone payments. Under the transition rules, the four milestones available under the prior rules are equated with the new Phase 1 milestones. If, as of June 30, 2008, the beneficiary had achieved one, two, or three of the available milestones under the old rules, he or she would pick up with the next milestone available under the Phase 1 milestone provisions of the new rules.

Example: Carla is an SSI beneficiary and assigned her ticket to an EN under the old rules. As of June 30, 2008, she achieved two of the milestones under the old rules. During both July and August 2008 she works and earns enough to achieve Phase 1 milestones 3 and 4 under the new rules.

Under the transition rules, the EN will receive two milestone payments under the old payment structure. The EN will also receive two additional payments under the new rules for Phase 1 milestone payments. Importantly, the EN will be eligible for the additional payments at lower levels of earnings (see discussion above). Additional milestone payments will now be available under the new Phase 2 criteria under the new rules while the beneficiary is still receiving cash payments. As in the past, outcome payments are available once the beneficiary's work and earnings cause cash benefits to cease.

If, as of June 30, 2008, the beneficiary has achieved earnings sufficient for the EN to receive a payment under Milestone 4 under the old rules, the next payment will be available when the beneficiary meets the criteria for Phase 2, milestone 1 or outcome payment # 1, as appropriate.

Example: Donald is an SSDI beneficiary who assigned his ticket to an EN under the old rules. The EN has opted for the Outcome Milestone Payment System. As of June 30, 2008, Donald has achieved all four milestones under the old rules. In doing so, Donald used up nine TWP months and his three-month grace period, having performed SGA immediately following the end of the TWP. Since Donald is now in his extended period of eligibility (EPE), he will not receive an SSDI payment in any month when his gross monthly earnings are more than the current SGA level (after accounting for work incentives).

Donald next works in September and October 2008 and has gross earnings of \$975 each month, i.e., above the \$940 SGA level for 2008. However, Donald has \$50 each month in impairment related work expenses, meaning his countable earnings of \$925 (\$975 - 50) are below the SGA level and he will be eligible for an SSDI payment in each of those two months. What payments, if any, are available to the EN in this case?

The EN will be eligible for the first 2 of 11 Phase 2 milestones under the SSDI criteria. This is because Donald had gross earnings at the SGA level during each of the two months in question. In this case, EN payments are available even though Donald remains in payment status. The new rules allow Phase 2 milestone payments for work at the SGA level *without accounting for work incentives*.

What if Donald did not have any impairment related work expenses during the two months in question? In that case, a cash benefit payment would not have been payable to Donald for either month. This would have made the EN eligible for the first two of 36 SSDI outcome payments. Since Donald's work pattern resulted in skipping the Phase 2 milestone payments, the EN will be potentially eligible for the missed Phase 2 payments as one reconciliation payment after 12 outcome payments are made.

#### Where EN Was Entitled to One or More Outcome Payments Under the Old Rules

If the EN was eligible for at least one outcome payment, under either EN payment system, the maximum number of outcome payments available to an EN under transition rules will be computed as follows:

- First, SSA will compute the total dollar amount already paid or payable with respect to a ticket (Old Regulation Payments or ORP), including all outcome and milestone payments.
- Second, SSA will determine the total value of the ticket under the new rules (Total Ticket Value or TTV), using the payment amounts based on the 2008 Payment Calculation Base for title II disability or SSI as appropriate. The TTV will be calculated based on the appropriate outcome payment amount for either an title II disability or SSI beneficiary under the EN's elected payment system .Third, SSA will subtract the amount already paid or payable from the total value of the ticket under the new rules to determine the total

amount still payable on the ticket under the new regulations. (New Regulation Dollars Payable or NR\$).

- Fourth, SSA will divide the New Regulation Dollars Payable by the applicable title II disability or SSI outcome payment amount for 2008 to determine the number of outcome payments available (rounding up or down as appropriate). In no case can this number exceed 60.

Example: Monica is an SSI recipient who assigned her ticket to an EN in early 2006. After completing a four-year degree in May 2007, the EN assisted Monica in finding suitable full-time work. She started work in a full-time position in January 2008 at a salary of \$30,000 per year or \$2,500 gross per month. Monica continued at this job at this level of salary throughout 2008. Please assume that Monica was not eligible for a federal SSI payment for the entire year, January through December 2008 because of her earnings.

Because the EN had chosen the outcome payment system under the old rules, the EN was eligible for six outcome payments for the months January through June 2008, based on the SSI outcome payment amount of \$225 per month. Total payments under the old rules equal \$1,350. What is the maximum number of outcome payments under the new rules? To determine the potential number of outcome payments available to the EN, we first subtract the total dollar amount of the Old Regulation Payments from the Total Ticket Value to determine the remaining New Regulation Dollars Payable (\$22,620 TTV - \$1,350 ORP = \$21,270 NR\$). We then divide the NR\$ by the SSI outcome payment amount to determine the number of outcome payments available ( $\$21,270 / \$377 = 56$ ). Based on the computation, fifty-six additional outcome payments could be made. However, the maximum total outcome payments that can be made on a ticket are sixty. Monica's EN has already attained 6 outcome payments, so the EN may receive up to fifty-four additional outcome payments.

## **An EN May Use Outcome or Milestone Payments to Make Payments to a Beneficiary**

The prior regulations were silent on this issue. However, SSA did allow ENs to use outcome or milestone payments to make payments to a beneficiary. For example, one EN has, historically, paid beneficiaries a percentage of the outcome or milestone payments received by the EN, so that beneficiaries may use the money as work support payments to purchase items or services needed to reach their work goals. The revised regulations clarify that those types of payments are specifically authorized.

## **Payments to State VR Agencies**

A state VR agency participates in the Ticket program in one of two ways: as an EN, or under the longstanding cost reimbursement payment system that is spelled out in the title II disability and SSI regulations. The state VR agency, on a beneficiary-by-beneficiary basis, may choose whether it will serve a beneficiary as an EN or under the cost reimbursement program. The choice of payment systems is generally made when the state VR agency first notifies the Operations Support Manager of its decision to serve the beneficiary. If the beneficiary was already a consumer of the state VR agency prior to receiving a ticket, the agency notifies the OSM of its payment system election at the time the beneficiary decides to assign the ticket to the state VR agency.

For those beneficiaries it serves under the EN payment system, the state VR agency has the same option as other ENs to elect either the Outcome Payment System or the Outcome-Milestone Payment System. When the VR agency elects to serve an individual beneficiary as an EN, it will be bound by the EN payment system it elected. Like other ENs, the state VR agency will periodically have opportunities to change the payment system it uses when serving as an EN.

Under the prior regulations, the state VR agency could only participate in the cost reimbursement option if a beneficiary's ticket was assigned to the agency. This has changed under the new regulations, as there is no assignment of a ticket when the VR agency serves a beneficiary under this option. When the cost reimbursement option is used, the state VR agency is paid by SSA for all of its qualified rehabilitation expenses with respect to a particular beneficiary. The total payment to the agency under this traditional reimbursement system may, on a case-by-case basis, be more or less than what it would receive for the same beneficiary using one of the EN payment systems.

## **Limitations on Payments to Employment Networks**

SSA will pay an EN only for milestones or outcomes achieved after the beneficiary's ticket was assigned to the EN and before the ticket terminates.

If the EN offers some services beyond those they make available under the Ticket program, the EN must be clear in its advertising of this and must list in the IWP the services it will provide under the Ticket program.

Beneficiaries may attain the required level of work for some, but not all of the available outcome or milestone payment months. Can the EN keep the milestone and outcome payments attained in such a case? The answer is yes. Under the prior regulations the EN was required to pay money back to SSA when SSA made a retroactive decision affecting the beneficiary's program benefit entitlement that caused a past EN payment to be incorrect.

Each milestone or outcome payment to an EN will be paid based on whether the criteria for that payment are met. So, for example, an EN that serves a title II disability or concurrent beneficiary who exhausts his or her trial work period, works for 27 months at the SGA level immediately following the trial work period, and then has to quit working, will not achieve all 36 outcome months. In the example, the person would have probably achieved 24 outcome months following the nine-month trial work period and a three-month grace period with continued benefits. In that case, even though the beneficiary can return to SSDI payment status since he or she stopped performing SGA and is within the 36-month extended period of eligibility, the EN can keep the 24 outcome payments due as the result of the 24 months in which the beneficiary was not eligible for an SSDI payment.

There will be some cases in which two or more ENs qualify for payment on the same ticket. This may occur because the beneficiary assigned the ticket to more than one EN at different times and now more than one EN is claiming that their services contributed to the achievement of a milestone or outcome. When that happens, payment will still be limited based on the payment formulas discussed above (i.e., the total payments are not increased because more than one EN is involved) and the milestone or outcome payments will have to be split up. The Operations Support Manager must make an "allocation" recommendation with regard to what percentage of a particular payment will go to each EN. If the beneficiary is served by two ENs that have each selected a different payment option, the OSM must recommend a payment allocation and each EN's payment will be based on the payment option in effect for each EN when the ticket was assigned to each.

This splitting of payments could involve an EN and a state VR agency that serves the beneficiary as an EN. In that case the allocation of payments would be made as described above. However, if the state VR agency is paid by SSA under the cost reimbursement system, under the prior regulations such a payment would have precluded any later payment to an EN, or state VR agency serving the beneficiary as an EN, under either the Outcome Payment or Outcome-Milestone Payment Systems. That has changed under the new regulations as described immediately below.

#### New Payment Rules for Sequential Service by State VR Agency and Private EN

The amended regulations allow for payment to an EN under an EN payment system and payment to a state VR agency under the VR cost reimbursement option with respect to the same ticket in certain circumstances. This is called Partnership Plus. This is a departure from the prior regulations that precluded payment to an EN if SSA had made a payment to a state VR agency under the cost reimbursement system. SSA believes that these changes will greatly expand beneficiary choice of service providers and enable beneficiaries to take advantage of a combination of services from both a state VR agency and an EN.

Example: Maria is an SSI beneficiary who is spinal cord injured, uses a wheelchair, and has never assigned her ticket. She currently receives SSI benefits at the 2009 federal

benefit rate of \$674. Her state VR agency has provided services to Maria, pursuant to an IPE, to obtain a four-year degree that will enable her to work in the computer-assisted drafting field. As part of its sponsorship, the state VR agency has funded: college tuition and books; adaptive computer equipment; special transportation to attend college classes; and a ramp at her residence to allow her to leave the home to attend college. The VR agency has opted to serve Maria under the cost reimbursement system.

After obtaining her four-year degree, Maria finds a part-time job working as an assistant to a computer assisted draftsman. In this job she will be paid \$1,200 per month with no clear indication that a higher paying job as a computer assisted draftsman will be available any time soon. The state VR agency closes Maria's case following 90 days of successful employment as is the practice authorized by Title I of the Rehabilitation Act. Maria now seeks the services of Seeds to Success, a private EN. Assuming that Maria is able to assign her ticket, Seeds to Success indicates it can provide the following services: job placement services to help her find a better paying job in her field; computer-related training and on-site job coaching services to assist Maria with integrating her adaptive computer software and adapted keyboard with the updated computer assisted drafting programs she can be expected to use; and other technical assistance she will need to ensure that she retains any new job she obtains. If Maria's ticket is accepted for assignment, Seeds to Success will serve her under the Outcome Milestone payment system.

Can Seeds to Success serve Maria under the Ticket program after the state VR agency closes her case? What payments can the VR agency expect to receive through the cost reimbursement system? What additional payments can Seeds to Success expect to receive if Maria makes enough to leave the SSI rolls?

In this example, both the state VR agency (under the cost reimbursement system) and Seeds for Success (under the EN Outcome Milestone payment system) can receive payments for Maria's success if she achieves certain earnings levels. The facts say that Maria is earning \$1,200 per month. Since this is more than the SGA level for 2009 (\$980 per month), the VR agency can be paid under the cost reimbursement system if Maria attains this level of earnings for 9 consecutive months. In that case, the state VR agency would be reimbursed according to SSA's rules for certain direct and indirect expenses.

Seeds for Success, as an EN, can receive some milestone payments if Maria continues working at the present rate and additional outcome payments if her earnings increase so that she is no longer eligible for an SSI payment. Under the new rules, since Maria had achieved an employment outcome before the VR agency closed its case, through 90 days of successful employment, any milestone payments to Seeds for Success must begin with the Phase II milestones. Here is what is potentially available to them as a private EN:

- Up to 18 Phase 2 milestone payments if Maria continues to have gross earnings above

the SGA level. Based on 2008 SSI Payment Calculation Base, this would be up to \$3,654 (\$203 x 18).

- If Maria earns enough to reduce her federal SSI payment level to \$0 (in her case this would occur at gross earnings of \$1,433 per month in 2009), Seeds of Success can collect an outcome payment for each month this is true, for up to 60 non-consecutive months. Using 2008 outcome payment figures, this would be up to \$12,180 (\$203 x 60).

In this case, the state VR agency and the private EN should be able to team up, sequentially, to provide an array of funding and supports to help Maria complete college, find her first job, and then find and retain a better paying second job. Under this scenario, if this college graduate earns as little as \$1,500 to \$1,600 per month over the next five years, Seeds for Success can receive more than \$15,000 in combined payments under the Ticket program.

## **Dispute Resolution**

The Ticket program offers a dispute resolution system for three types of disputes: those between beneficiaries and state VR agencies acting as ENs; those between beneficiaries and ENs that are not state VR agencies; and those between ENs that are not State VR agencies and the Operations Support Manager; and those arising under agreements between ENs and state VR agencies.

### Disputes Between Beneficiaries and State VR Agencies

When a state VR agency serves a beneficiary, the agency is required to comply with all of the provisions under Title I of the Rehabilitation Act of 1973 and its implementing regulations. One of those requirements is the opportunity to resolve disputes through formal mediation services or an impartial hearing process.

Any individual who is seeking or receiving VR agency services, who is dissatisfied with a determination made by personnel of the agency, has the right to a timely review of that determination. Each state VR agency must develop and implement procedures to ensure that an individual may request a timely review, which must include the right to mediation and an administrative hearing before an impartial hearing officer. The VR agency must notify individuals, in writing, of their right to mediation, an impartial hearing, and the availability of the Client Assistance Program (CAP) to assist them with disputes. This notice must be provided at the following times: at the time the individual applies for VR services; at the time the individual is assigned to a category in the state's order of selection, if the state VR agency has established an order of selection; at the time the Individualized Plan for Employment (IPE) is developed; and upon the reduction, suspension, or cessation of VR services. At an impartial hearing, the individual has the right to be represented by an attorney or other advocate. Both the individual

and the agency can present evidence and cross examine witnesses. The hearing decision is final and must be implemented, unless appealed and overturned.

The 1998 amendments to the Rehabilitation Act provide that a state VR agency may establish a procedure for a second level of administrative review. The review officer must be the chief official of the designated state VR agency or an official from the office of the Governor. If the state does establish a second level of administrative review, either party may appeal within 20 days of the hearing officer's decision. The review officer cannot overturn a hearing decision unless, based on clear and convincing evidence, the decision is "clearly erroneous" based on an approved state VR Plan, federal law, federal VR regulations, or state regulations or policies that are consistent with federal regulations. The 1998 amendments also add the right for either party (i.e., the consumer or the VR agency) to appeal a final administrative decision to federal court (or to state court if your state provides for court review of administrative decisions).

The administrative hearing required to be offered by state VR agencies is very similar to the hearing available to SSI and title II disability beneficiaries who are dissatisfied with decisions by SSA affecting their benefits. Unlike the very informal dispute resolution procedures governing ENs that are not state VR agencies, described below, the VR agency hearing provides an extensive opportunity to present live testimony and cross examine adverse witnesses. The hearing officer is then required to render a written decision, which must determine if the services in dispute are mandated under the very intricate provisions of Title I and its implementing regulations.

### Disputes Between Beneficiaries and ENs

For disputes between beneficiaries and ENs that are not state VR agencies, the Ticket program offers a three-step dispute resolution process:

1. The beneficiary can file a complaint through the EN's internal grievance procedures.
2. If the EN's internal grievance procedures do not result in an agreeable resolution, either the beneficiary or the EN may seek a resolution from the OSM.
3. If either the beneficiary or the EN is dissatisfied with the resolution proposed by the OSM, either party may request a decision by SSA.

All ENs that are not state VR agencies must establish written grievance procedures that a beneficiary can use as a first recourse to seek a resolution to a dispute under the Ticket program. The EN must give each beneficiary seeking services a copy of its internal grievance procedures and inform him or her of the right to refer a dispute to the OSM for review, and then to SSA for a decision. The EN is also required to inform each beneficiary of the availability of assistance from the State Protection and Advocacy system.

At a minimum, the EN is required to inform each beneficiary seeking services under the Ticket program of the procedures for resolving disputes when:

- the EN and the beneficiary complete and sign the IWP;
- services in the beneficiary's IWP are reduced, suspended or terminated; and
- a dispute arises related to the services spelled out in the beneficiary's IWP or to the beneficiary's participation in the program.

When the EN's grievance procedures do not result in a satisfactory resolution, either the beneficiary or the EN may ask the OSM to review a disputed issue. The regulations do not spell out any time limit for requesting this review, but do require the OSM to contact the EN to submit all relevant information within 10 working days. The information to be submitted should include:

- a description of the disputed issue(s);
- a summary of the beneficiary's position, prepared by the beneficiary or a representative of the beneficiary, related to each disputed issue;
- a summary of the EN's position related to each disputed issue; and
- 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.

The OSM has 20 working days to develop a "written recommendation," that should explain the reasoning for the "proposed resolution." Upon receiving the OSM's recommendation, either the beneficiary or the EN may request, in writing, a review by SSA. That request for review must be received by the OSM within 15 working days of the receipt of the OSM's recommendation. The OSM has 10 more working days to refer this request to SSA. The request for SSA review must include: a copy of the beneficiary's IWP; information and evidence related to the disputed issue(s); and the OSM's conclusion(s) and recommendation(s). SSA's decision in response to this request is final. No further appeal within SSA is available.

### Representation of Beneficiaries in Ticket Disputes

If a beneficiary is using either the appeals system for resolving disputes with state VR agencies, pursuant to Title I of the Rehabilitation Act, or using the more informal procedures for resolving disputes with ENs, pursuant to the final Ticket regulations, the beneficiary can be represented by an attorney, advocate, or any other person. The two advocacy programs, available in every state and territory to assist beneficiaries with these disputes, are the Client Assistance Program (CAP) and the Protection and Advocacy for Beneficiaries of Social Security (PABSS) program. The CAP was created in the mid 1980s, largely to assist individuals with disabilities in connection with state VR agency disputes, and may also be available to assist with EN disputes. The PABSS was created as part of the Ticket to Work and Work Incentives Improvement Act of 1999

and is available to assist beneficiaries with EN disputes, including disputes with state VR agencies serving as ENs. Some state Protection and Advocacy agencies will provide services under both the CAP and PABSS programs.

### Disputes Between ENs and Operations Support Manager

For disputes between ENs that are not state VR agencies and the OSM, that do not involve an EN's payment request, there is a two-step dispute resolution process

1. The EN can seek a resolution through the OSM's internal grievance procedures; and
2. If the OSM's internal grievance procedures do not result in a mutually agreeable solution, the OSM must refer the dispute to SSA for a decision.

Whenever there is no mutually agreeable solution to the EN's dispute, the OSM has 20 working days to refer the dispute to SSA with all the relevant information. The information should include:

1. A description of the disputed issue(s);
2. A summary of the EN's and the OSM's position related to each disputed issue; and
3. A description of any solutions proposed by the EN and OSM when the EN sought resolution through the OSM's grievance procedures, including the reasons each party rejected each proposed solution.

SSA's decision in response to this dispute is final. No further appeal within SSA is available and the regulations do not provide for any court appeal.

### **Role of WIPA Projects and CWICs in working with Employment Networks**

The previous sections of this unit have dealt with the technical aspects of the Ticket to Work program. This section focuses on how WIPA projects fit into implementation of this program – particularly considering the recent regulatory changes that have been made. The WIPA projects have an important role to play in supporting the efforts of ENs. CWICs need to work in close partnership with ENs to overcome potential barriers to employment related to the SSA disability benefits or other federal, state or local benefits. CWICs have an obligation under the new Ticket Program to support ENs in the following ways:

1. CWICs should work collaboratively with ENs to conduct joint outreach to SSA disability beneficiaries in their catchment area.

For the new Ticket Program to be successful, SSA disability beneficiaries need to be aware of and understand the unique opportunities available through the program. To be most effective,

outreach activities need to include the local SSA Field Office, local Employment Networks, and the WIPA project. Each of these key players provides a critical piece of the service array that will lead to self-supporting employment for beneficiaries.

CWICs can collaborate with community partners in outreach efforts by participating in periodic Work Incentive Seminar Events (WISE), but also by making certain that information about local ENs is disseminated every time outreach activities are performed. CWICs must understand that it is not enough to inform beneficiaries about WIPA services alone, or to simply talk about how paid work affects disability benefits – the entire service array under the ticket to work program needs to be described.

2. CWICs should be knowledgeable about the ENs serving the WIPA project catchment area and help ENs understand and utilize WIPA services.

Being knowledgeable about ENs goes far beyond just maintaining a list of these agencies to hand out to beneficiaries - although that certainly is a start! In addition, CWICs need to know which ENs are currently accepting tickets, what services the various ENs provide, what the participant eligibility requirements are, and be aware of any restrictions on services or eligibility. Keeping abreast of local ENs requires that CWICs make regular contact with ENs and ask for updates. This is an ongoing effort!

CWICs also must move beyond simply providing beneficiaries with basic information about ENs. Under the WIPA program, CWICs are required to help beneficiaries choose an appropriate service provider for Ticket assignment and make direct referrals to ENs. In order to fulfill this role, CWICs must be able to match beneficiaries with available ENs based on individual employment goals and service preferences. A general familiarity with the local ENs will not be sufficient to perform this role. CWICs will need to have in-depth knowledge of how these providers operate, the services they provide, and eligibility procedures and criteria.

Finally, it is imperative that CWICs provide specific information to ENs about WIPA services. This includes:

- The overall mission and goals of the WIPA program;
- Eligibility requirements for WIPA services;
- Characteristics of a high priority WIPA referral;
- Services provided by WIPA projects;
- How services are delivered to eligible beneficiaries, and
- How to make a referral for WIPA services.

CWICs are responsible for helping ENs understand how WIPA services fit into the larger picture of the Ticket Program and how these services can help ENs be more effective in helping beneficiaries obtain and maintain paid employment. A great deal of education must be provided to new ENs to help staff members understand how WIPA services can be utilized to promote

employment and decrease dependency on SSA disability benefits.

3. CWICs should assist ENs to understand and use Benefits Summary & Analysis reports and Work Incentive Plans when working with beneficiaries to plan and deliver employment services and supports.

CWICs have an obligation to provide high quality individualized work incentives planning, counseling and assistance to beneficiaries with Tickets assigned to local ENs. As a matter of fact, beneficiaries with Tickets in assignment and in use constitute a very high priority for WIPA services! As a part of this, CWICs need to help ENs understand how paid employment or self-employment affects a beneficiary's SSA disability benefits, Medicaid/Medicare, and all other applicable federal, state and local benefit programs. This includes helping ENs to understand when and how specific work incentives are applied to the SSA disability benefit programs to help beneficiaries achieve employment goals. The best way to accomplish this task is by sharing the information CWICs gather about an individual's benefits as well as the reports they develop summarizing advice about work incentives and next steps. This information would include:

- *Benefits Planning Queries (BPQY)* – These are reports generated by SSA that verify benefits received and work incentives used. These reports also indicate what SSA has on file for reported wages or earnings from self-employment.
- *Benefits Summary & Analysis Reports (BS&A)* – These reports are developed by CWICs that summarize the various public benefits an individual receives and describes how an individual's employment goal would affect the various benefits. These reports also offer specific advice about the use of various work incentives as well as advice about how to resolve barriers to employment associated with disability benefits.
- *Work Incentive Plans (WIP)* – These documents contain measurable action steps related to disability benefits to be accomplished by the beneficiary, the CWIC, and/or other responsible parties. Each action step has a designated individual identified as being responsible for completing the step and indicates dates by which the steps should be accomplished. The WIP holds everyone accountable for accomplishing the benefits-related tasks necessary for achieving the beneficiary's employment goal.

The CWIC can use these documents to help ENs gain an understanding of how specific work incentives apply to the beneficiaries they are working with. It is important that CWICs review these documents with EN staff so that questions can be answered and key work incentive provisions applicable to a specific beneficiary clarified. Of course, before any documents or reports can be shared with EN staff members, CWICs must obtain a signed release of information from the beneficiary. No information is to be shared with anyone without the express written approval of the individual or their legal guardian!

CWICs are *not* required to provide training, technical assistance or other information on EN payment mechanisms under the Ticket Program. ENs with questions about how services are paid for under the Ticket Program should be referred to Maximus. CWICs are also not required to provide intensive training or technical assistance to ENs on SSA benefits and work incentives, except as part of working collaboratively to serve specific beneficiaries who have assigned tickets assigned and in use.

4. CWICs should be knowledgeable about the Ticket Program provisions and how the Ticket Program functions as an important work incentive for beneficiaries.

CWICs can also support the efforts of ENs by providing complete and accurate information to beneficiaries on topics such as placing Tickets in assignment, re-assigning Tickets, moving a Ticket in or out of inactive status, or understanding the medical CDR protections. In addition, CWICs can help beneficiaries understand the employment and/or educational requirements for the various progress certification periods related to having the Ticket be “in use”. CWICs should work collaboratively with ENs to support beneficiaries in their efforts to meet the various requirements necessary to keep the Ticket in use.

Another important function CWICs perform is working collaboratively with ENs to resolve problems beneficiaries experience while using a Ticket, such as a medical CDR which was initiated after a Ticket was assigned and in use, or an incorrect determination during a progress certification review. CWICs are uniquely positioned to assist with these activities due to their relationships with local SSA Field Offices and their knowledge of how the Ticket functions as a work incentive for disability beneficiaries. CWICs need to make certain that ENs are aware of the support they can provide in solving Ticket-related problems a beneficiary may experience

WIPA projects have a critically important role to play in helping beneficiaries realize their employment goals. However, they do not provide all of the services necessary to achieve these ends. Only by working in tandem with ENs that provide the actual vocational rehabilitation, career preparation and employment services will CWICs achieve the most positive employment outcomes for the beneficiaries they serve.

## **Role of WIPA Projects and CWICs in working with Beneficiaries on Ticket Issues**

CWICs have a critically important role in helping beneficiaries understand and utilize the Ticket to Work as part of a holistic strategy for achieving employment and enhancing self-sufficiency. The Ticket to Work is a powerful work incentive for certain individuals, and when applied may make the difference between remaining unemployed or successfully attaining a satisfying career.

CWICs have myriad responsibilities to beneficiaries when related to the Ticket to Work. These obligations include:

1. Screening all beneficiaries who request WIPA services to identify those individuals who would most benefit from ticket assignment and who would make strong candidates for ticket assignment.
2. Explaining in clear and understandable terms how the Ticket to Work program functions and what benefits individuals receive from using their ticket.
3. Encouraging beneficiaries who are strong ticket candidates and who would benefit from the Ticket to Work program consider ticket assignment.
4. Counseling beneficiaries on ticket assignment by providing information about available ENs and helping the beneficiaries select an EN which best matches the individual's service or support needs and preferences.
5. Having "firewall" procedures in place which prevent a conflict of interest when WIPA services are provided by an agency that also serves as an Employment Network. CWICs should inform beneficiaries of these firewall procedures when providing assistance with selecting an EN for ticket assignment.
6. Counseling beneficiaries on what constitutes "timely progress" for each 12-month review period in the ticket program. This will vary depending on the amount and type of employment preparation needed to achieve the desired occupational goal. Some beneficiaries will start with a goal of attaining a GED, while other may move directly into paid employment. Still others will pursue various types of post-secondary education or training. The CWIC will have to have a solid understanding of the planned route for achieving employment and will need to counsel on the timely progress requirements applicable to individual beneficiaries.
7. Coordinating with ENs to insure that work incentives are properly applied, work CDRs are conducted in a timely fashion and cash benefits are adjusted or ceased appropriately. This is important because cash payment status will affect payments available to the EN. CWICs need to work collaboratively with the EN, the beneficiary, and SSA to make sure that countable earnings are correctly applied and that cash payments are ceased when they should be.
8. Assisting with making ticket assignment changes such as placing the ticket in inactive status, un-assigning a ticket, or re-assigning a ticket.
9. Helping resolve any problems encountered with assigning or using a ticket. Potential ticket problems would include eligible individuals who failed to receive a ticket, individuals whose ticket is not showing as being assigned, and individuals who don't receive correct determinations of timely progress during annual reviews.

A great deal more information will be provided in Module 6 on how to provide high Quality WIPA services to eligible beneficiaries. Advisement on use of the Ticket to Work is an important part of service provision. CWICs must remember that the Ticket is one of many work incentives available to beneficiaries of the SSA disability programs. Like all work incentives, it is designed to meet the needs of certain beneficiaries, but is not intended to be applicable to every individual nor to resolve every barrier to employment a beneficiary may encounter.

## **Conducting Independent Research:**

Federal Regulations on Ticket to Work Program

[http://www.socialsecurity.gov/OP\\_Home/cfr20/411/411-0000.htm](http://www.socialsecurity.gov/OP_Home/cfr20/411/411-0000.htm)

New Ticket to Work Regulations

<http://edocket.access.gpo.gov/2008/E8-10879.htm>

Overview of the new Ticket to Work Regulations and a side-by side comparison of the new ticket regulations and the previous ticket regulations

<http://www.socialsecurity.gov/work/newregs.html>

Ticket to Work FAQs

<http://www.socialsecurity.gov/work/faqs.html>

Ticket to Work Website

<http://www.yourtickettowork.com/>

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### Timely Progress for Ticket Users Quick Reference Chart

12-Month Review Period	High School Diploma/GED	Technical, Trade or Vocational Program	Degree/Certification Program	Work Requirement
1 <sup>st</sup>	Obtained high school diploma or GED certificate.	Completed 60% of full time course load for 1 academic year.	Completed 60% of full time course load for 1 academic year.	3 out of 12 months with gross earnings at TWP level or above.
2 <sup>nd</sup>		Completed 75% of full time course load for 1 academic year.	Completed 75% of full time course load for 1 academic year.	6 out of 12 months with gross earnings at TWP level or above.
3 <sup>rd</sup>		Completed the technical, trade or vocational program.	Completed a 2-year program, or for a 4-year program, completed an additional academic year of full time study.	9 out of 12 months with gross earnings at non-blind SGA level or above.
4 <sup>th</sup>			For a 4-year program, completed an additional academic year of full time study.	9 out of 12 months with gross earnings at non-blind SGA level or above.
5 <sup>th</sup>			For a 4-year program, completed an additional academic year of full time study or completed the 4-year degree program.	6 out of 12 months with earnings that preclude cash payments from either SSI or the title II disability benefit programs.
6 <sup>th</sup>			Completed the 4-year degree program.	Work requirements are the same for the 5 <sup>th</sup> and all subsequent 12-month review periods.

**Note:** In lieu of fully meeting the guidelines for one category of progress, SSA considers a beneficiary to have met the requirements of a 12-month period when the percentage of the educational or vocational training requirement completed and the percentage of the work requirement completed adds up to 100% or more.

In addition, SSA affords ticket users a “variance tolerance” to provide a margin of flexibility in determining when timely progress is being made. SSA considers the beneficiary to be making timely progress when the completed course hours or course requirements are within 10% of the specified goal.

Chart I.--New Outcome-Milestone Payment Table

[2008 figures for illustration only]

Payment type	Beneficiary earnings	Title II amount of payment	Title XVI amount of payment
Phase 1 (120% of Title II PCB)			
Milestone 1.....	\$335/mo. \$670/mo. x 3 mo. work in a 6-month period.	\$1,177.....	\$1,177
Milestone 2.....	.....	\$1,177.....	\$1,177
Milestone 3.....	\$670/mo. x 6 mo. work in a 12-month period.	\$1,177.....	\$1,177
Milestone 4.....	\$670/mo. x 9 mo. work in an 18-month period.	\$1,177.....	\$1,177
Total Phase 1 milestones.....	.....	\$4,708.....	\$4,708
Phase 2 (36% of PCB).....			
Title II milestones 1-11.....	Gross Earnings>SGA.	\$353 x 11 ` \$3,883	.....
Title XVI milestones 1-18.....	.....	.....	\$203 x 18 ` \$3,654
Total Phase 1 + 2.....	.....	\$8,591.....	\$8,362
Outcome payments (36% of PCB)			
Title II ` 1-36.....	monthly cash benefit not payable due to SGA.	\$353 x 36 ` \$12,708	.....
Title XVI ` 1-60.....	Sufficient earnings for federal cash benefits `0`.	.....	203 x 60 ` \$12,180
Total milestone and outcome payments.	.....	\$21,299.....	\$20,542

[from Federal Register, 73 FR 29328]

Chart II.--New Outcome Payment System Table--Title II and Concurrent

[2008 figures for illustration only]

Payment type	Beneficiary earnings	Title II amount of monthly payment	Title II total payments
Outcome payments 1-36 (67% of PCB).....	Monthly cash benefit not payable due to SGA.	\$657.00	\$23,652

Chart III.--New Outcome Payment System Table--Title XVI Only

[2008 figures for illustration only]

Payment type	Beneficiary earnings	Title XVI amount of monthly payment	Title XVI total payments
Outcome payments 1-60 (67% of PCB).....	Earnings sufficient to ``0'' out Federal SSI cash benefits.	\$377.00	\$22,620

Note: Outcome payment (outcome payment system) ` 67% of PCB.  
 Individual payments are rounded to the nearest dollar amount.  
 2008 non-blind SGA level ` \$940.  
 2008 Blind SGA ` \$1570.  
 2008 TWP service amount ` \$670.

[from Federal Register, 73 FR 29328]