



April 17, 2009

The Honorable John Tanner, Chairman
Subcommittee on Social Security
Committee on Ways & Means
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Almost ten years ago, the Ticket to Work and Work Incentives Improvement Act (TWWIA) was signed into law as P. L. 106-170. Its intent was to reduce barriers to work for Social Security Title II and Title XVI disability beneficiaries by offering greater choice in vocational rehabilitation and employment services providers and to assure ongoing access to affordable health care coverage and benefits planning services. The undersigned members of the Consortium for Citizens with Disabilities (CCD) believe that it is time for Congress to undertake a thorough review of this law to examine the supports it has only begun to put in place to improve the employment of Social Security disability beneficiaries. The economic imperative here is that employment outcomes for those receiving disability benefits contribute markedly to their quality of life and to our national economic well being.

Congress has focused major attention to date only on the Ticket to Work Program and its implementation. As you know, the original regulations issued for Ticket to Work were inadequate to create the multiplicity of vocational options envisioned by proponents of the law. Corrective regulations were not issued until 2005 and were not finalized until 2007. Consequently, though these new rules are vast improvements over the old ones and the Social Security Administration (SSA) has taken steps since 2008 to publicize them and implement them, it is too early to assess their effect on return to work by beneficiaries.

As important, there are several expiring or expired provisions contained within TWWIA that are critical to facilitating the participation of those on Title II and/or Title XVI in the workforce. The failure to extend these programs could undermine the long-term impact of the law in improving employment opportunities for this population of people with disabilities.

The specific provisions in question are:

Title II Demonstration Authority -- SSA's Title II demonstration authority expired in 2005. The agency's disability demonstration projects can provide important information about assisting beneficiaries to attempt or to return to work and current demonstrations have been allowed to continue. While we recognize that improvements need to be made in the way SSA uses the results of its demonstrations, without this authority, the agency is unable to pilot test other promising approaches for work incentives and related provisions.

Demonstration to Maintain Independence (DMIE) -- Section 204 of TTWWIIA authorizes demonstration projects to give private insurance coverage to working individuals whose health conditions or disabilities are not yet severe enough to qualify them for the program. The intent of DMIE was to test the efficacy of health insurance coverage in keeping individuals with disabilities in the workforce and off of the benefit rolls. Regrettably, these programs got a very late start in applications and funding. Furthermore, only a few states took advantage of the DMIE, largely because of the matching fund requirements of the program and their own precarious financial position. Still, the few DMIE pilots are producing significant results. Unfortunately, the authority for this program ended in FY 2006 and Congress rescinded the funds remaining in the program in the 2009 omnibus budget bill.

Medicaid Infrastructure Grants (MIG) – State Medicaid Agencies and their designees have built new state infrastructures and service support networks for workers and job seekers with a significant disability (namely, Social Security disability beneficiaries) in scores of states as can only happen at the state and local levels. Ongoing MIG grant funds targeted to these ends have made this possible. Congress would be well served to look closely at Medicaid Buy-In enrollment numbers for workers with a disability since 1999, as well as other data and research from CMS and Mathematica Policy Research, Inc., to assess the needed continuation of these grants beyond their termination in 2011 per the Ticket Act of 1999.

Protection and Advocacy for Beneficiaries of Social Security (PABSS) – The PABSS program was created in TTWWIIA to protect the rights of beneficiaries as they attempt to go to work. It is the responsibility of these programs to provide information and advice about obtaining vocational rehabilitation and employment services; information and referral services to beneficiaries on work incentives; advocacy or other legal services that a beneficiary needs to secure, maintain, or regain gainful employment including investigation and remedy of complaints of employment discrimination and other civil and legal rights violations ; and identify deficiencies in entities providing employment supports and services to beneficiaries. Despite this extensive set of duties and growing demand for services, the PABSS program has been funded at the same level since 1999 and its authorization expires at the end of this fiscal year.

Work Incentives Planning Assistance (WIPA) -- WIPA grants to local non-profits and other agencies fund outreach, education and benefits planning services to Social Security disability beneficiaries about work incentives and services for finding, maintaining and advancing in employment. WIPA grantees inform beneficiaries on the impact that employment will have on their disability income and medical coverage, and address many of the real fears that individuals have about going to work at the risk of losing health coverage. The authority for these grants, flat funded since their inception, will terminate at the end of fiscal year 2009 unless renewed by Congress. Because of its commitment to this program, the Social Security Administration has found administrative resources to fund current WIPA grantees for an additional six months into early 2010 beyond the current termination in law.

There are additional statutory problems with TTWWIIA that have yet to be addressed by Congress. Among these are the law's disconnect between its eligibility standard and Social Security's normal retirement age; the inability of those working past age 65 to participate in a Medicaid buy-in; and the requirement that a beneficiary wait 24 months after reinstatement to the benefit rolls before he or she can use the work incentives again.

Finally, we draw your attention to a host of other changes to Social Security law beyond TTWWIIA that could have a positive impact on beneficiaries' work efforts and that were incorporated into the 2008 CCD Statement of Principles: Social Security Disability Program Work Incentives and Related Issues (www.c-c-d.org/task_forces/social_sec/CCD-Principles-and-Recom-29-08.pdf). That document discusses over twenty recommendations including: modernizing Title XVI asset limits and earnings disregards so that work and savings are not punished; improvements in impairment related work expense (IRWE) deductions to reflect the true costs of work for people with disabilities; allowing ongoing presumptive re-entitlement for those able to work, but who have continuing disabilities; expanding work incentives for youth with disabilities; and removal of work disincentives in Medicare coverage policy.

We urge your attention to these issues and look forward to working with your committee in advancing efforts to assist people on SSDI and SSI in gaining economic independence.

ACCSES

ADA Watch and National Coalition for Disability Rights

American Association of People with Disabilities

American Association on Intellectual and Developmental Disabilities

American Association on Health and Disability

American Foundation for the Blind

American Network of Community Options and Resources

APSE

Association for University Centers on Disabilities
Autism Society of America
Bazelon Center for Mental Health Law
Brain Injury Association of America
Council of State Administrators for Vocational Rehabilitation
Disability Rights Education and Defense Fund
Easter Seals Inc.
International Association of Business, Industry and Rehabilitation
National Alliance on Mental Illness
National Association of Disability Representatives
National Association of State Directors of Developmental Disability Services
National Council on Independent Living
National Disability Rights Network
National Multiple Sclerosis Society
National Organization of Social Security Claimants' Representatives
National Rehabilitation Association
National Spinal Cord Injury Association
NISH
Paralyzed Veterans of America
The Arc of the United States
United Cerebral Palsy
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[Sent also to Rep. Sam Johnson, Ranking, Social Security Sub; Rep. Henry Waxman, Chairman, Energy and Commerce Comm.; Rep. Joe Barton, Ranking, Energy and Commerce Comm.; Sen. Edward Kennedy, Chairman, HELP Comm.; Sen. Michael Enzi, Ranking, HELP Comm.; Sen. Max Baucus, Chairman, Finance Comm.; Sen. Charles Grassley, Ranking, Finance Comm.]