



**CONSORTIUM FOR CITIZENS  
WITH DISABILITIES**

Office of Regulations  
Social Security Administration  
137 Altmeyer Bldg.  
6401 Security Blvd  
Baltimore, MD 21235

Re: Docket No. SSA-2009-0040

On behalf of the Consortium for Citizens with Disabilities (CCD) Employment and Training Task Force, we submit the following comments in response to the Federal Register notice of December 14, 2009 concerning the Ticket to Work program – “Revised Procedures and Criteria for Payment of Vocational Rehabilitation Services Under the Cost Reimbursement Program.”

The notice requests responses to four questions: 1. What changes to the VR cost reimbursement regulations might we consider to make them work more effectively with the Ticket to Work Program?; 2. Is the list of services for which payment may be made, found at 20 CFR 404.2114 and 416.2214, adequate and comprehensive? If not, what changes to the list of allowable services should we consider?; 3. Under the Ticket to Work program, our rules discount payments to an EN when it accepts assignment for job retention services for a beneficiary who is a former VR agency client and was working when the VR agency closed the VR case. 20 CFR 411.585. Our reimbursement rules do not cover the reverse situation: when the EN is the first provider and the VR agency later provides job retention or career advancement services. How should we avoid duplicate payments for the same services while ensuring that individuals get the services they need to maximize opportunities for employment?; 4. Benefits planners (including those with the Work Incentives Planning and Assistance organizations) provide information to beneficiaries with disabilities regarding the effect of earnings on many types of benefits. We would appreciate your comments about how benefits planning can become a more central part of a beneficiary’s participation in the VR process.

- 1. What changes to the VR cost reimbursement regulations might we consider to make them work more effectively with the Ticket to Work Program?*

- **Treatment of Income:** For the purposes of calculating reimbursement only, we recommend that SSA consider gross income when calculating when a state VR agency receives reimbursement. Currently, state VR Agencies are not reimbursed if the person is using any work incentives, including subsidies, which brings them below SGA (net).
- **Submission of Claims:** We recommend that SSA consider increasing the allowable time period for submitting claims from 12 months from the completion of the ninth month of SGA to 24 months from the completion of the ninth month of SGA. There are often situations where VR agencies need to request extensions of the time limit such as: problems resulting from outdated technology, delays in implementing new technology that affect obtaining the data needed, and staff retirements or the extended absence of the staff person responsible for reimbursement processing.. SSA currently makes exceptions to the length of time on a case-by-case basis. If the time period were extended to 24 months, it would largely eliminate the need to ask for extensions.
- **SGA Time Boundaries:** For the purposes of reimbursement, we recommend that SSA consider increasing the time period boundaries for reaching SGA from 9 out of 12 months to 9 out of 18 months. This extension should apply to ENs as well.
- **Reimbursement Formula Changes:** We recommend that SSA consider revising the cost formulas used for calculating the administrative and tracking costs. Recent revisions eliminated Innovation and Expansion expenditures, as well as Post Employment cases, from the calculations, and made minor adjustments to the “months in service” figures based on using statistical averages as opposed to exact numbers. These changes had a negative impact on the cost formula figures for VR agencies.
- **Employment Data:** We recommend that SSA use quarterly employment figures rather than monthly when calculating SGA for reimbursement purposes, as the majority of states rely on quarterly data from the Unemployment Insurance (UI) program. We also recommend using the Earnings Inquiry Request system for reimbursement, as SSA does for the Ticket program.
- **Electronic Filing of Claims:** We recommend that SSA develop the capacity to accept electronic filing of reimbursement claims. This would expedite the processing of claims for reimbursements to state VR agencies.
- **Communicating Ticket Status:** We recommend that SSA look at ways to ensure that VR agencies have access to immediate, accurate information on an individual’s ticket status, as well as “in use” status. There are multiple situations where inaccurate information is leading to problems for the beneficiary and either the VR agency or the EN.

2. *Is the list of services for which payment may be made, found at 20 CFR 404.2114 and 416.2214, adequate and comprehensive? If not, what changes to the list of allowable services should we consider?*

The services listed in these two sections appear to be fairly comprehensive. However, considerable attention is being given to the value of apprenticeships and professional certification in enabling people with disabilities to obtain employment or in advancing in their careers. While payment for these programs could likely be inferred under (12) and (13)

of section 404.2114 and (4) and (13) of section 416.2214, we recommend these lists be modified to explicitly cover such services.

Other Services:

- **Benefits counseling:** This service is not currently separated out in the RSA-911, but RSA intends to include this as an identifiable service in the near future. We recommend that SSA add this as well.
  - **Transition:** The 1998 Amendments to the Rehabilitation Act included transition as a recognized service. This should be added to SSA's list to remain consistent with the Rehabilitation Act.
  - **Technical Assistance:** The 1998 Amendment to Section 508 of the Rehabilitation Act included technical assistance as a recognized service. The service is defined as "Technical assistance and other consultation services to conduct market analyses, develop business plans, and otherwise provide resources, to the extent those resources are authorized to be provided through the statewide workforce investment system, to eligible individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment outcome." This should be added to SSA's list to remain consistent with the Rehabilitation Act.
  - **Independent Living Services:** There are times when a State VR agency may fund IL services necessary for the individual to successfully maintain employment. For example, IL services included in an employment plan may provide training on how to organize chores that need to be completed like doing laundry to prepare clothes for work, making lunches to bring to work, coming up with ways to schedule the day so that the individual gets up on time, gets out of the house on time, etc. Without these skills in place, the consumer may not successfully maintain employment.
3. *Under the Ticket to Work program, our rules discount payments to an EN when it accepts assignment for job retention services for a beneficiary who is a former VR agency client and was working when the VR agency closed the VR case. 20 CFR 411.585. Our reimbursement rules do not cover the reverse situation: when the EN is the first provider and the VR agency later provides job retention or career advancement services. How should we avoid duplicate payments for the same services while ensuring that individuals get the services they need to maximize opportunities for employment?*

One of the hallmarks of the Ticket to Work system is that ENs are paid for beneficiary successes. This means that services must be provided with out supportive initial funding and with no assurance of funding to cover the costs of unsuccessful services. Since this is the case, the program must be made attractive to providers and provide incentives in other ways. Putting ENs at risk of repayment, even though they have provided services so that beneficiaries successfully met milestones, would be extremely detrimental to providers willingness to participate as ENs.

There already exists one model for the circumstances described in the question above. According to 20 CFR 411.420, "An EN that holds a beneficiary's ticket assignment may refer

the beneficiary to a state VR agency for services. However, to do this, the EN and state VR agency must have an agreement that specifies the conditions under which the state VR agency will provide services. The agreement must be in writing and signed by both parties before the EN can refer a ticket holder to the state VR agency". The Partnership Plus model in current regulations offers an alternative approach but still requires a written agreement between the EN and the state agency.

The foregoing approaches assume, however, that a Ticket holder might go to an EN and then to VR in fairly close succession. In many cases, however, a Ticket holder is served by an EN, goes to work and at some distant time later finds it necessary to seek additional services from VR in order to remain at the job or to get promoted.

Some have suggested that if the EN is the first provider and VR is the second provider, then the EN should have to reimburse SSA for any Phase 1 Milestones received prior to VR opening the case. This ignores the fact that the EN has supplied services enabling the Ticket holder to achieve the threshold for the Phase I Milestones. The perception that these payments were potentially at risk would be a major disincentive for providers to be ENs. The Ticket program is risky enough without adding another risk of repayment. There are many valid reasons why an individual may not achieve success in progressing to achieve self-sufficiency. The EN should not be penalized for this.

Others have expressed concern over the potential for an EN to "cream" the Phase I Milestone payment by paying the beneficiary to do some work and then offering that beneficiary no further services. This appears to us to be an administrative issue in evaluating and publicizing the performance of the EN. It could be addressed in the RFP/contract as well. The solution to this problem is not to develop rules which would penalize all ENs as this is counter-productive to the intent of the new Ticket regulations.

Another concern for our task force is the lack of a time frame associated with the loss of the Phase 1 Milestone payments when an EN gets a Ticket assignment after VR has closed a Cost Reimbursement case with the beneficiary employed. The EN loses the Phases 1 Milestone payments no matter what level of employment the beneficiary achieves. Many beneficiaries are served by VR under the Rehabilitation Act. They achieve employment, sometimes at a level not even equal to the Phase I Milestone 1 level, but do not achieve wages above SGA. That employment may continue or even cease. The beneficiary may then apply to an EN for services under the Ticket. There may be a gap of months or years between case closure by VR and the beneficiary's seeking services from an EN. It is not clear when an EN may seek payment for the Phase 1 Milestones. Current practice says that if a beneficiary has a case closed by VR with the beneficiary employed (regardless of the hours worked or the earnings), then the EN may not receive Phase 1 Milestones - even in cases where SSA has made no reimbursement to the VR agency. This practice is unfair to both the beneficiary and the EN.

There should be a time limitation after VR closes a case resulting in employment which impacts the eligibility of an EN for Phase 1 Milestone payments. It does not assist a beneficiary to achieve self sufficiency in denying them full access to EN services only

because VR assisted them in finding part-time, below SGA employment or employment several years previously at no cost to SSA. Nor is it fair to the EN to deny them substantial payment when VR is still eligible for cost reimbursement if they were to provide services to the individual. We would recommend that SSA follow the model of the Phase 1 Milestone payments and establish a time limit of 18 months post case closure by VR after which the EN would be eligible for all applicable milestone payments.

4. *Benefits planners (including those with the Work Incentives Planning and Assistance organizations) provide information to beneficiaries with disabilities regarding the effect of earnings on many types of benefits. We would appreciate your comments about how benefits planning can become a more central part of a beneficiary's participation in the VR process.*

Evaluations of Ticket to Work and extensive feedback from beneficiaries and advocates have demonstrated the absolutely vital role that benefits planning plays in beneficiary decisions about going or returning to work. Increasing the numbers of WIPA organizations/benefits counselors would improve beneficiary access to these services.

Beneficiaries require information about the risks and advantages of employment including how work incentives can be used to support their work efforts. And often, they need time to stabilize their condition and get everything sorted out so that work once again becomes a possibility.

SSA needs to recognize through regulation that Return to Work is NOT an automatic overnight process. Rather, the ticket data shows us that the average ticket holder keeps their ticket for 2 1/2 years before seeking support services to return to work. Yet SSA has insisted through WIPA program changes that services only be provided to beneficiaries with a current work effort so that they can clearly demonstrate results - an increase in employment. This disregards and diminishes the effectiveness of the service as it fails to acknowledge that beneficiaries need FIRST to understand the impact of work on their benefits since the information/rumors on the street are incorrect and often terrifying - "if you go back to work you'll lose your benefits and OWE SSA thousands of Dollars".

It would also be useful if the Social Security Administration publicized the existence of benefits planning services in its regular communications with beneficiaries and for State Vocational Rehabilitation Agencies to encourage full utilization of benefits counselors for all beneficiaries applying for vocational rehabilitation services.

#### Co-Chairs

Cheryl Bates-Harris, NDRN – 202-408-9514  
Charlie Harles, INABIR – 202-543-6353  
Susan Prokop, PVA – 202-416-7707  
Susan Goodman, NDSC – 301-570-8892  
Paul Seifert, CSAVR -- 301-654-8414