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Joanne Cianci 10/19/2000 03:23:40 PM

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To: Andrea Kane/OPD/EOP@EOP, **Christina S.** Ho/OPD/EOP@EOP, Jonathan M. Young/WHO/EOP@EOP

cc:

Subject: article: Reno urges agencies to hire disabled workers

FYI

---------- Forwarded by Joanne Cianci/OMB/EOP on 10/19/2000 03:24 PM ----------

Claudia M. Abendroth 10/19/2000 02:11:06 PM

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cc:

Subject: article: Reno urges agencies to hire disabled workers

October 18, 2000

Reno urges agencies to hire
disabled workers

By Kellie Lunney
klunney@govexec.com

Attorney General Janet Reno said Tuesday that although the information age has enhanced the lives of disabled Americans, employment of people with severe disabilities has not kept pace with advances in technology.

Reno gave the keynote address at the third annual Interagency Disability Educational Awareness Showcase (IDEAS) hosted by the Agriculture Department, the General Services Administration and the Presidential Task Force on the Employment of Adults with Disabilities.

President Clinton established the task force in 1998 to coordinate an agressive national disability policy.

The employment rate for people with disabilities in the United States has not kept up with the boom in assistive technology, Reno said. Seventy-five percent of Americans with significant disabilities are unemployed or underemployed, according to the Census Bureau. Overall, one in ten Americans has a severe disability.

Reno said that statistic was ironic considering that number of technology jobs that go unfilled.

"Many of these [tech] jobs are perfect for people with disabilities," said Reno.

In July, President Clinton issued an executive order requiring the federal government to hire 100,000 disabled workers by 2005.

The two-day IDEAS conference ends Oct. 18 and features panel discussions and workshops on federal regulations affecting disabled workers, including Section 508 of the Rehabilitation Act of 1973. Section 508 requires agencies to ensure that federal employees with disabilities have the same access to information and computers enjoyed by federal employees without disabilities, assuming doing so would not cause an undue burden on an agency.

"The importance of 508 to people with disabilities cannot be overemphasized," said Reno. She said Section 508 empowers the disabled with the authority to hold the federal government accountable on disability workforce issues.

Reno delivered a similar speech on the importance of Section 508 and assistive technology at FOSE 2000, a government technology trade show held in Washington in April. The attorney general yesterday reiterated her stance that "accessible design is good design," and emphasized that making technology accessible to everyone will promote inclusion, efficiency and productivity.

Reno praised Agriculture's Accessible Technology Program and its resource center for disabled employees, known as the TARGET Center (for Technology Accessible Resources Gives Employment Today). The center contains cutting-edge assistive technology such as screen readers for the visually-impaired and text telephones for the hearing-impaired.

Two Web sites—www.Section508.gov and www.disability.gov—contain an abundance of information on federal disability law, programs and resources for disabled people and assistive technology.

In March, the federal Access Board proposed a new set of standards aimed at making federal information systems more accessible to federal employees and to citizens with disabilities.

The Access Board drafted the standards to implement 1998 amendments to Section 508 of the Rehabilitation Act of 1973. Final standards were supposed to be incorporated into the Federal Acquisition Regulation by Aug. 7, but are still in the works.

Olga Grkavac, executive vice president of the Information Technology Association of America, said that the final standards would most likely go to the Office of Management and Budget in November, and be published in the Federal Register by the end of the year.

Message Sent To:

From: Karen N. Blank on 07/28/2000 05:06:55 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc: Ingrid M. Schroeder/OMB/EOP@EOP

Subject: LRM KNB53 - - Social Security Administration Statement for the Record on Improved Programs for Disabled Persons for 7/13 hearing convened by House Ways and Means Committeee, Social Security Subcommittee

Comments are due by 11:00am Tuesday, August 1. Thank you.

Statement fr Recrd.d

---------- Forwarded by Karen N. Blank/OMB/EOP on 07/28/2000 04:58 PM ----------

LRM ID: KNB53

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Friday, July 28, 2000

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference
OMB CONTACT: Karen N. Blank
PHONE: (202)395-7363 FAX: (202)395-6148
SUBJECT: **Social Security Administration Statement for the Record on Improved Programs for Disabled Persons for 7/13 hearing convened by House Ways and Means Committeee, Social Security Subcommittee**

DEADLINE: **11:00am Tuesday, August 1, 2000**
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. **Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.**

COMMENTS: FYI, HHS testimony for this hearing was circulated on 7/11 as LRM KNB39.

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LRM ID: KNB53 **SUBJECT:** Social Security Administration Statement for the Record on Improved Programs for Disabled Persons for 7/13 hearing convened by House Ways and Means Committeee, Social Security Subcommittee

RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: **Karen N. Blank Phone: 395-7363 Fax: 395-6148**
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: _____ **(Date)**

_____ **(Name)**

_____ **(Agency)**

_____ **(Telephone)**

The following is the response of our agency to your request for views on the above-captioned subject:

_____ **Concur**

_____ **No Objection**

_____ **No Comment**

_____ **See proposed edits on pages** _____

_____ **Other:** _____

_____ **FAX RETURN of** _____ **pages, attached to this response sheet**

Message Sent To: _____

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Mr. Chairman and Members of the Subcommittee:

Thank you for providing me the opportunity to discuss initiatives to assure that the Social Security Administration's beneficiaries with disabilities receive the supports needed to achieve independence. This is an important issue, and the Social Security Administration (SSA) has placed a high priority on helping its Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) beneficiaries return to work.

I will discuss SSA's disability process, the current work incentives available to individuals with disabilities and the Ticket to Work legislation that will provide more opportunities for individuals with disabilities to return to work. I will also discuss some of the differences between SSA's programs and private insurer programs.

Social Security Disability

Generally, when people think about Social Security, they think about retirement benefits. Nearly one third of Social Security beneficiaries, however, are the surviving family members of workers who have died or are severely disabled workers or their wives and children. Because about 25 to 30 percent of today's 20 year olds are estimated to become disabled before retirement, the protection provided by the SSDI program is extremely important, especially for young families. For a young, married, average income worker with two children, Social Security is the equivalent of a $223,000 disability income insurance policy. In the event of severe disability, the SSDI program stands between these families and poverty. Additionally SSI serves the most economically vulnerable population with disabilities, most of whom are living in poverty.

In June 2000, 5,884,200 beneficiaries were receiving Social Security benefits on the basis of disability--4,959,500 disabled workers, 724,400 disabled adult children, and 200,300 disabled widows and widowers. In addition, 170,800 spouses and 1,4219,800 minor and student children of disabled workers were receiving benefits. Further, 5,304,324 blind or disabled individuals received SSI benefits. About 30 percent of these individuals received both SSDI and SSI

benefits. Thus, in June, SSA sent benefits to over 9.5 million individuals on the basis of disability. Disabled workers and their dependents received over $50 billion in cash benefits under the Social Security program in fiscal year 1999.

Furthermore, SSDI benefits are the gateway to the Medicare program to those individuals who have been eligible for disability benefits for 24 months. These benefits provide health care coverage that to many SSDI beneficiaries is simply irreplaceable, since many would not be able to obtain insurance in private markets simply because they are already disabled. The Medicare program paid over $24 billion in benefits in fiscal year 1999 to individuals whose entitlement to Medicare is based on their SSDI benefits. Thus, almost $75 billion was paid in fiscal year 1999 from the Social Security and Medicare programs on behalf of disabled workers and their families.

As with the retirement program, SSDI is funded through a payroll tax on covered earnings, paid by employees, their employers, and the self-employed. The current DI payroll tax on earnings is 0.85 percent for employees and employers, each, and 1.7 percent for the self-employed.

SSDI is designed to protect workers covered under the Social Security program who become severely disabled, with applicants judged on the basis of a uniform set of standards. The criteria we use to award disability benefits requires that the condition either be expected to result in death or last at least 12 months. To qualify, the individual must be unable because of a medical condition to perform any substantial work in the national economy. Thus, the inability to do one's own past work or the inability to find suitable employment are not a sufficient basis for meeting the definition of disability. Our regulations provide for a five-step sequential evaluation process based on the statutory definition of disability, and require that a claimant not currently be engaging in substantial gainful activity (SGA)--a level of work currently set at $700 per month. → Additionally, applicants must have worked 20 quarters during the 40 quarter period ending with the quarter in which disability began (special provisions apply for workers who are under age 31), and they must complete a 5-month waiting period after the onset of the disability.

May want to mention that the President recently announced a plan to annually index the SGA level to the

After a claim is taken in one of Social Security's field offices, it is forwarded to one of the State Disability Determination Services. These state employees are responsible for following up on at least one year's worth of medical evidence in support of the claim, scheduling consultative examinations if necessary, and making the disability determination at the initial and reconsideration (the first level of appeal of an adverse initial determination) levels. The States are fully reimbursed for making these determinations. The process of evaluating an individual's disability accounts for the administrative costs for the disability program being somewhat higher (3.0 percent of benefits) than those for the retirement and survivor program, largely because of the cost of obtaining medical evidence and the need for a thorough evaluation by a physician or other highly trained professional reviewer.

While the Social Security eligibility criteria are very strict, we also have a very structured system to ensure that applicants' rights are protected and that those applicants who are eligible actually get their benefits. Currently, a physician must be part of the decision-making team, although we are testing a system where certain claims, generally the most severe and obvious cases, would be decided by a trained layperson. After a reconsideration denial, a claim can be appealed to an administrative law judge, then the Appeals Council and up to a federal court. We also are testing a model, which would streamline the process by eliminating the reconsideration step. While the primary purpose of SSDI is to replace a portion of income, the program also includes provisions designed to encourage beneficiaries to return to work.

Current Work Incentive Provisions

Work incentives assist beneficiaries with disabilities to enter or reenter the workforce by protecting entitlement to cash payments and/or health care until this goal is achieved. Some work incentives are common to both the Social Security Disability Insurance (SSDI) and Supplemental Security Income Program (SSI), while some are unique to one program or the other. Because even the common work incentives may be treated differently by either program, I would like to briefly discuss work incentives as each program treats them.

SSDI Work Incentives

There are several work incentives for SSDI beneficiaries built into the Act, most notably impairment-related work expenses (IRWE), the trial work period (TWP), the extended period of eligibility for reinstatement of benefits (EPE), and continuation of Medicare. These are dependent upon the disabled beneficiary continuing to have a disabling impairment.

When determining SGA, we deduct from gross earnings the cost of certain impairment-related work expenses. Thus, we deduct beneficiaries' IRWE paid during a period of work when:

- The item or service enables them to work;
- They need the item or service because of their disabling impairment;
- They pay the cost and are not reimbursed by another source (e.g., Medicare, Medicaid, private insurance);
- The expense is "reasonable"--that is, it represents the standard charge for the item or service in their community.

The TWP allows disabled beneficiaries to test their ability to work for at least 9 months. During the TWP, beneficiaries receive full benefits regardless of how high earnings might be. The TWP continues until the accumulation of 9 months (not necessarily consecutive) of "services" performed within a rolling 60-consecutive-month period. We use this "services" rule only to control when the TWP stops. "Services" means any activity in employment or self-employment for pay or profit or of the kind normally done for pay or profit (whether or not it is SGA). We currently consider work to be *services* if earnings are more than $200 a month (or more than 40 self-employed hours in a month).

Once benefits have been ceased due to SGA, the EPE allows automatic reinstatement of benefit payments for any month in which earnings fall below SGA. Benefits can be reinstated anytime during the 36-month period following the end of the TWP, and will continue as long as

requirements are met. Currently, Medicare coverage continues during this period and for three additional months. At that point, individuals with disabilities can buy Medicare coverage. Effective October 1, 2000, based on the new Ticket to Work Incentives Improvement Act, premium-free Medicare is extended an additional 4 years.

In addition to providing incentives to work, we also refer beneficiaries with disabilities to their local State Vocational Rehabilitation (VR) agency, or to other service providers in the public and private sector who try to help beneficiaries return to work. In fiscal year 1999, SSA paid State VR agencies about $120 million for their services provided to over 11,000 beneficiaries with disabilities who worked at least 9 months at the substantial gainful activity level. Although this was a record year for reimbursements, we look forward to much more progress in this area.

SSI Work Incentives

Some general information about the SSI program is useful to explain the work incentive provisions as they apply to that program. The SSI program differs from Social Security in that the monthly Federal benefit standard (currently, $512 for an individual and $769 for an individual with an eligible spouse) is reduced dollar-for-dollar by the amount of the individual's "countable" income--i.e., income less all applicable exclusions. The result of this computation determines whether the individual (or couple) is eligible and the amount of the benefit payable.

SSI law defines two kinds of income: earned and unearned. Earned income is wages, net income from self-employment, remuneration for work in a sheltered workshop, royalties on published work, and honoraria for services. All other income (including income received in kind) is unearned.

When determining an individual's countable income, exclusions are taken for various types of income. There is a general $20 exclusion, generally applied to an individual's for unearned income. In the case of earned income, we exclude a portion of the $20 general exclusion that has not been used, and then exclude the first $65 and one-half of the remainder of the earnings. This

greater exclusion for earned income acts as a work incentive for all SSI recipients.

In determining the benefits of individuals with disabilities, we exclude IRWEs. For these individuals, we exclude work expenses directly related to the individual's disability, such as attendant care services, assistance in travelling to and from work and personal assistance related to work. Additional work incentives are available for blind SSI beneficiaries, as is a higher, statutory SGA threshold.

Under SSI we also exclude income set aside or being used to pursue a plan for achieving self-support (PASS) that has been established by a disabled or blind person. These plans are established to help blind and disabled individuals become self-supporting by excluding income that is set aside to help the individual reach a specific occupational goal. In December 1999, there were 1,045 SSI recipients with a PASS established, although not all of those individuals reported earnings for that month.

Finally, the laws governing SSI contain provisions that enable blind and disabled individuals to continue working and receiving income beyond the limit that would normally result in ineligibility.

Under section 1619(a), a disabled beneficiary who would cease to be eligible because of earnings over the SGA limit (currently $700 a month) can continue to receive cash benefits until the amount of earnings would cause him or her to be ineligible for benefits under SSI income counting rules. Being a recipient of this special benefit equals being an "SSI recipient" for Medicaid eligibility purposes.

Section 1619(b) provides "SSI recipient" status for Medicaid eligibility purposes for certain SSI recipients. These individuals have earnings which preclude the payment of an SSI benefit but are not sufficient to provide a reasonable equivalent of the SSI, social services, and Medicaid benefits that the individuals would have in the absence of earnings. For these individuals, the loss of the social service and Medicaid benefits would seriously inhibit their ability to continue

working. However, these individuals have to be otherwise eligible except for their earnings.

According to SSA's Office of Research, Evaluation and Statistics, there were approximately 340,000 SSI disability beneficiaries (or 6.4 percent) who were working in December 1999. About 70,000 of these individuals were receiving benefits under section 1619(b). These beneficiaries do not receive a SSI payment but retain their Medicaid coverage. Almost three-fourths of those who received this type of SSI benefit had amounts of earned income below the substantial gainful activity level.

Ticket to Work and Work Incentives Improvement Act of 1999

Last December the President signed the *Ticket to Work and Work Incentives Improvement Act of 1999 (the "Ticket")* into law. I want to express again my thanks to the Chairman and the members of the Subcommittee for your support in getting the "Ticket" passed. This legislation will help disabled individuals who want to work by lessening their fears about losing health care coverage and income during attempts to work. It improves and expands their VR choices, providing enhanced work incentives, outreach activities and new service structures.

Ever since the "Ticket" was enacted, we have been actively engaged in the hard work of implementing its various provisions. We again look forward to working with you as the different provisions take shape and begin to show the results we anticipate—more people with disabilities entering or reentering the workforce. We will be reporting to Congress regularly about the progress of the "Ticket" program. By December 2002, we must report to Congress on the adequacy of our payment rates to employment networks. Over the next six years we must make three separate reports to the House Committee on Ways and Means and Senate Committee on Finance evaluating the progress of program activities, as well as conclusions on whether or how the program should be modified.

The new law requires SSA to conduct a demonstration project to evaluate the effects of reducing

benefits $1 for every $2 of earnings over a certain limit. Beginning in December 2001, annual reports to Congress are required on this project, with a final report due no later than one year after the project is complete. Additionally, Congress extended SSA demonstration authority till December 2004 to allow SSA to explore various projects that will enable more individuals to return to work. We are working out what experiments and projects we want to undertake.

Private Insurance vs. Social Security Disability

Both private and foreign systems use a less restrictive definition of disability. Generally, the first definition for disability in private insurance is the inability to do the person's own occupation; this makes for a quicker and easier determination. After six months to two years, the definition extends to any occupation. SSA must make a long-term, broad-ranging entitlement determination. Favorable DI determinations normally cannot be changed without demonstrating medical improvement, while a private insurance determination can be reversed or discontinued without determining that the individual's disabling condition has medically improved. Furthermore, SSA must meet strict requirements for providing claimants legal due process and for ensuring uniformity across its national program.

SSA's beneficiaries are on average more severely and permanently disabled than workers in those other systems and have significantly lower expected return to work rates. Private insurers often provide policies and services only to relatively low-risk clients such as professional or technical employees or else charge high premiums for others. Insurers also may not offer individual disability insurance to people in higher risk jobs, or may offer it at a cost to the employee which is prohibitive. SSA provides benefits to any eligible disabled worker or low income disabled person and must accept disabled individuals with high-risk as well as low-risk profiles for high lifetime disability costs.

SSA tends to serve on average a less affluent and less educated population than private disability insurance providers do. As such, applicants under the SSA-administered disability programs often require greater assistance with the disability application and adjudication process than do

applicants for private insurance disability benefits especially since the latter more frequently receive employer assistance in pursuing their claims. The SSDI and SSI programs must cover individuals with all types of impairments (pre-existing conditions, mental impairments, etc.) while private insurers can choose what conditions they will cover.

One-half of SSDI claimants have been out of work for over a year before applying for benefits. The current connection with the employer is often broken and sometimes health insurance lapses. Therefore, some SSDI applicants do not have complete and current medical documentation of their disability. Private insurance is frequently associated with an employer-based benefit program, and documentation of the medical condition is often available through the employee's employer-provided health insurer. Often, the employer will assist the claimant in obtaining evidence under the terms of their insurance coverage. Additionally, there is typically not an extended period during which the applicant does not have health insurance coverage.

SSA agrees that earlier intervention, and earlier identification and provision of necessary return-to-work assistance for applicants and beneficiaries should be researched and considered as part of an overall return-to-work strategy. There are differences between the public and private system which must be taken into account. Private and, to a lesser extent, foreign disability programs have direct connections with employers. Private insurers sometimes place case managers on-site with large employers to achieve the earliest resolution of the disability episode.

Foreign systems require employers to notify the government-operated system when employees have been out of work for only a few days, so case workers can contact the employee at an early point in the episode. SSA does not have authority to require employers to provide notice that an episode is beginning nor can SSA intervene with workers before application for benefits. Application for SSDI and SSI is often months after the onset of the episode. Other than through our demonstration project authority, SSA cannot even refer disability claimants for reimbursable VR services until after they are awarded benefits. We agree that earlier intervention to assist presumably disabled applicants with securing appropriate return to work services should be

researched and considered as part of an overall return-to-work strategy. How best to coordinate this with State unemployment insurance, State temporary disability benefits, and State workers compensation programs are just some of the details that will need to be worked out.

Conclusion

We want to build on the momentum provided by the enactment of the "Ticket" and to increase incentives to work for all people with disabilities. Our commitment is to make every effort to enrich the lives of all people with disabilities and to help all those who want to work do so. One of the best ways for SSA to do this is to continue its active implementation of the Ticket program, including the evaluation of its progress and our reports to Congress.

We know that return to work efforts must include coordination with other Federal departments and agencies as well as the private sector to find new and innovative ways to encourage work. Solutions to the redesign of the Federal disability programs require the active involvement of several Federal agencies, including the Departments of Education, Labor, Treasury, and Health and Human Services. On March 13, 1998, President Clinton signed into law Executive Order 13078, establishing the Presidential Task Force on Employment of Adults with Disabilities. The mandate of the Task Force is to evaluate existing Federal programs to determine what changes, modifications, and innovations may be needed to remove barriers to employment opportunities faced by adults with disabilities. The work of the Task Force will help ensure that national initiatives identified will receive high priority within respective departments and agencies.

The private rehabilitation community, private insurers, consumers, employers and advocates for people with disabilities can greatly assist SSA in implementing the Ticket to Work legislation. We will continue to look for ways to further enhance the productive capabilities of disabled beneficiaries with our private sector business partners.

We look forward to working together with the Subcommittee and Congress to achieve our

mutual goal: removing as many barriers to work as possible and providing as many incentives and supports as possible to enable people with disabilities to participate in the workforce.