Bunning+Kennelly

Joanne Cianci 03/12/98 10:02:26 AM

Record Type: Record

To: Diana Fortuna/OPD/EOP

cc:
Subject: FYI -- disability bill story

According to this the Bunning/Kennelly bill will cost up to $2 billion over 5 years.
---------- Forwarded by Joanne Cianci/OMB/EOP on 03/12/98 10:02 AM ----------

BNA
Daily Report for Executives

No. 48
Thursday March 12, 1998

Regulation, Law & Economics

Employment
Bipartisan Bill Seeks to Help Disabled Leave SSDI to Return to Work

Bipartisan legislation removing barriers that discourage people with disabilities from entering the workforce was introduced March 11 by Reps. Jim Bunning (R-Ky) and Barbara Kennelly (D-Conn).

"The Ticket to Work and Self Sufficiency Act" (HR 3433) helps those with disabilities leave the Social Security Disability Insurance rolls and provides beneficiaries with a voucher that can be used to obtain rehabilitation, employment, or other support systems, the House Ways and Means Social Security Subcommittee said in a statement.

The measure also would extend Medicare coverage for up to two years for disabled beneficiaries returning to work and provide an annual tax credit of up to $5,000 to persons with disabilities cope with impairment-related work expenses, the statement said.

The Social Security Administration would run the new program, which would be implemented one year after bill enactment and be phased in over six years. The subcommittee has scheduled a March 17 hearing on the bill. A subcommittee spokesman told BNA the measure would cost up to $2 billion over five years.

Proper Support Sought

"Less than 1 percent of the disabled ever leave the Social Security Disability Insurance rolls and return to work," Bunning said in the statement. "Many of them want to work and could work if they had the proper support and rehabilitation opportunities.

"But, while Social Security Disability provides a vital safety net for people with disabilities, those who want

to leave SSDI and return to work have often found themselves entangled in this net and unable to become independent and self-sufficient," said Bunning, chairman of the subcommittee.

The legislation would create a tax credit of 50 percent of impairment-related work expenses up to $10,000 annually, according to the statement. It also requires SSA to test a gradual offset of SSDI benefits by reducing monthly benefits $1 for every $2 in earnings over a determined level. The bill also would create an advisory panel comprised of consumers, providers, and employer representatives to report to Congress on the program's implementation and the establishment of pilot sites.

Since fear of losing health care coverage is a prime barrier to working for the disabled, the measure would extend Medicare coverage two years beyond the four now provided from the time a disabled individual first attempts to work, according to the statement.

The Consortium for Citizens with Disabilities, a group of 10 organizations working with people with disabilities, praised the bill in a March 11 statement, saying "it sets the stage for important improvements in SSA disability programs that will enable SSDI and SSI beneficiaries to work to the greatest extent of their abilities."

Total Pages: 9

LRM ID: MDH161

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

URGENT

Friday, March 13, 1998

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Janet R. Forsgren (for) Assistant Director for Legislative Reference
OMB CONTACT: Melinda D. Haskins
PHONE: (202)395-3923 FAX: (202)395-6148
SUBJECT: **Social Security Administration Testimony on HR3433 Ticket to Work and Self-Sufficiency Act of 1998**

DEADLINE: **10 AM Monday, March 16, 1998**

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: The attached SSA (Daniels) testimony will be delivered at a March 17th hearing before the House Subcommittee on Social Security (HWM). Note that the testimony discusses H.R. 3433, which was introduced by Reps. Bunning and Kennelly on March 11th. In addition to its "ticket to work" provision, the bill would extend Medicare benefits two years beyond current law eligibility for those individuals participating in "ticket to work." In addition, H.R. 3433 would create a tax credit of 50 percent of impairment-related work expenses up to $10,000 a year.

THIS DEADLINE IS FIRM. IF WE DO NOT HEAR FROM YOU BY THE DEADLINE, WE WILL ASSUME THAT YOU HAVE NO OBJECTION.

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LRM ID: MDH151 **SUBJECT:** Social Security Administration Testimony on HR3433 Ticket to Work and Self-Sufficiency Act of 1998

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: **Melinda D. Haskins Phone: 395-3923 Fax: 395-6148**
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: _____ **(Date)**

_____ **(Name)**

_____ **(Agency)**

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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** _____

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P.2 - V
F, L, I act cause fg conc ....
Pkg presents ch, mtg

DRAFT

RETURN TO WORK INITIATIVES FOR PEOPLE WITH DISABILITIES

HEARING BEFORE THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON SOCIAL SECURITY

Insert:

SSA has com re BK bills mand 2 for 1 ben offset demo. First while we recog that the curr ben struct may be a barrier for some benes to RTW, we & the eff of this type of demo. Eval anal suggests it wld also similarly red ben while it is unclear of its effects on helping benes RTW the role as a result of WC. Our accts estd that 2/1 ben offset if fully implted wld cost $2-5b/ 5yrs.

Second, SSA has many priority issues competing for ltd res fund. SSA res $ spts efforts to exam S solvency of SSA, needing disab det process study, barriers to RTW & (Prior to spdg $ on a demo effort) In this context it is impt to rem that the DI TF is expected to be exhstd by 2015. Direct this spec demo leg statute at this time would not be an effc use of $ at this time. For this reason, we wld prefer to conduct demos only thru a reauth demo auth

MARCH 17, 1998

STATEMENT BY
SUSAN M. DANIELS, Ph.D
ASSOCIATE COMMISSIONER
FOR DISABILITY
SOCIAL SECURITY ADMINISTRATION

March 12, 1998 3:30 p.m.

Mr. Chairman and Members of the Subcommittee:

Thank you for inviting me here today to discuss initiatives to assure that the Social Security Administration's (SSA) beneficiaries with disabilities who want to participate in the workforce have the opportunity to do so. As administrator of the largest disability program in the world, and as a member of one of the country's largest minorities, Americans with disabilities, this month, I have witnessed initiatives that I believe will be invaluable to increase workforce participation for individuals with disabilities.

Four days ago, I was in the oval office and watched the President sign his executive order, Increasing Employment of Adults with Disabilities, ~~which is the largest national effort to date~~ to increase the employment of adults with disabilities to a rate that is as close as possible to the employment rate of the general adult population and to support the goals of the Americans with Disabilities Act of 1990. And just two days before that, you, Mr. Chairman and you, Representative Kennelly, introduced legislation which furthers this effort. Thanks to the President's leadership, and your efforts, we can make real progress in this area, so that those individuals with disabilities who want to work can do so.

When the President first offered a proposal for a "Ticket to Independence" last year, and when I accompanied then-Acting Commissioner Callahan as he testified before this subcommittee in July, we recognized that there were a number of issues that required resolution. Today, I join with ~~the President and~~ Commissioner Apfel on behalf of our beneficiaries with disabilities to applaud the spirit and intent of your proposed legislation.

No one solution will be all things to all people, but the time has come, and the Agency is prepared, to make the concepts of economic independence a reality. SSA stands ready, willing, and able to begin implementing this legislation as soon as it is signed. Today, I would like to reinforce the principles behind the "Ticket" which are similar to the provisions in the Bunning-Kennelly bill, and to give you some information about other initiatives we are involved in to help our beneficiaries return to work.

The "Ticket" Proposal

Rehabilitation and return to work have always been important parts of the Social Security disability program. Indeed, provisions for rehabilitation were included in the law at the inception of the disability program in 1954. Congress required that individuals with disabilities applying for benefits should be promptly referred to the State Vocational Rehabilitation (VR) Agency for necessary services, so that the maximum number of individuals with disabilities might resume productive work activity. Congress recognized great potential for return to work in populations affected by disability and stressed the importance of continuing cash benefits during rehabilitation.

We believe that the approaches included in our proposal, the "Ticket," and your bill, will result in many more opportunities for our beneficiaries to receive the services they need in order to work. The "Ticket" is a public-private partnership to give people receiving disability payments what they want and need--the control and flexibility to secure services tailored to their individual requirements from their choice of providers. The "Ticket" maintains fiscal discipline, since providers would be paid only for results.

The President's proposal for a "Ticket to Independence", which is similar to your bill, Mr. Chairman, is based on the following sound fundamental principles:

Customer Choice: SSA's beneficiaries desire and need maximum flexibility and choice in pursuing services which will help them to become gainfully employed. Beneficiaries with disabilities must be able to choose a participating public or private employment or rehabilitation provider to access the services that they need to participate in the workforce. Our experience indicates that customer choice is a key element in their decision to seek services.

Paying for Outcomes: Beneficiaries and providers alike should focus on the goal of stable employment. A focus on outcomes and milestones is best achieved by linking it to financial rewards. Our goal is to reward success and frugally use public funds in an accountable and targeted way.

Encouraging Innovation: The proposed legislation encourages ~~widespread~~ innovations in the private and public sectors by creating opportunities for State agencies, local non-profit and for-profit providers, employers, and beneficiaries ~~to work together~~.

The "Ticket," like the Bunning-Kennelly bill, is based on a structure of bringing new service providers into this process. Both are based on developing new and innovative ways to return beneficiaries with disabilities to the workforce based on actual outcomes, working with service providers outside of the Government bureaucracy, and providing a good infrastructure of information and support services. Many of these concepts are currently underway at SSA, and I would like to take this opportunity to discuss some of our initiatives.

Where We Are Today

As you are well aware, a very limited number of our approximately 8 million Social Security and Supplemental Security Income (SSI) disability recipients leave the disability rolls each year because of successful rehabilitation. In fiscal year (FY) 1997, SSA paid State VR agencies about $89 million for their services provided to approximately 8,300 beneficiaries with disabilities who worked at least 9 months at the substantial gainful activity level.

Based on our experience and extensive collaboration with professional groups and advocates, we have learned that many more individuals with disabilities want to work and will do so if they

No comment on substantive issues w/ ticket?

have access to the services they need to reenter the workforce. We recognize the myriad of complex and sensitive issues that must be addressed to achieve the goal of removing barriers for our beneficiaries with disabilities to successfully participate in the workforce. In the past months, we have been working very closely with you to refine the return to work proposals to ensure that they will meet the needs of our beneficiaries with disabilities, the provider community, and the American taxpayer.

With this is mind, we have made tremendous progress on a number of other initiatives in the return-to-work arena which I would now like to share with you.

Alternate Provider

It is clear that there are many providers in the private sector who are willing to help. In March 1994, the SSA amended the VR regulations to provide more opportunities for people with disabilities to receive employment and rehabilitation services they need to return to work or enter the workforce for the first time. These regulatory changes allowed SSA to refer Social Security Disability Insurance (SSDI) beneficiaries and Supplemental Security Income (SSI) recipients who are blind or disabled to VR service providers in the public or private sectors. The option of serving the beneficiary continues to be offered first to the states; however, if SSA does not receive notification that the state has accepted a beneficiary for services by the end of the 4th month after the month of referral, we may arrange for an alternate provider to serve that individual. (Of course, this process will change when the "Ticket" legislation is passed.)

not yet implemented?

During 1996, SSA mailed a presolicitation notice to more than 500 potential providers who had previously contacted us regarding participation in our program. Later in that year, we released a Request for Proposal (RFP) describing the requirements for the VR program and requested interested VR service providers to apply. As part of their proposals, potential alternate participants were required to specify the type of impairment(s) and geographic area(s) they can serve.

We received 500 proposals in response to the solicitation, and currently have over 270 providers under contract. We have contracts with providers in 41 states and, although we currently do not have contracts with providers in every state, we do have several providers with national service areas. This is an indication that there are providers who are ready to work with our beneficiaries with disabilities and with SSA.

It is important to note that this is not a competitive procurement with limits on the number of contracts awarded. SSA intends to expand the pool of providers who can serve our beneficiaries with disabilities, and, in fact, we expect to release another RFP later this spring to solicit more providers. We are very encouraged by the number of contracted providers who have already expressed interest in participating in SSA's VR program. The current list of qualified providers

are serving a number of the approximately 86,000 available beneficiaries. We expect the number to increase as the pool is expanded and the contracted providers gain experience.

Project RSVP

Our experience with Project RSVP (Referral System for Vocational Rehabilitation Providers) will help us better understand the concept of using a program manager to oversee service providers. The objective of Project RSVP is to assure that return to work services are more readily available to SSA-referred individuals while improving the administration and cost-effectiveness of the program. RSVP is a 3-year demonstration project to test the advantages and the cost effectiveness of contracting out certain administrative functions under SSA's VR referral and reimbursement programs. On September 27, 1997 a contract was competitively awarded to Birch & Davis Associates, Inc. of Maryland. Birch & Davis has begun marketing efforts to alert potential VR providers about the project. In addition, a toll-free number to respond to questions as well as the contractor's bulletin board to refer individuals to Alternate Providers have become operational.

Delivery of Work Incentive Information

As a part of our research agenda, we are working with the Virginia Commonwealth University to develop and test a decision support software package called WorkWorld for use in assisting consumers and service providers in determining the effects of work on their entitlement to SSA benefits as well as other federal/state benefits, such as food stamps. This will allow our beneficiaries to make more informed choices regarding employment opportunities.

We have created an attractive education kit called, "Graduating to Independence" (GTI), that is aimed specifically at youth in transition from education to employment and their families. It was designed for use by educators or professional organizations to instruct young beneficiaries and their families about SSA's work incentives. This multimedia kit contains a videotape and several computer disks, in addition to written materials, that combine facts with motivational examples. We have been very aggressive in distributing the GTI kits, sending them to school districts across the country, and handing them out at national conferences.

Additionally, we publish a number of other training and public information materials on work incentives. These materials are provided in multiple formats and have been designed with significant consumer input to be user-friendly.

And, we have developed an Internet website within the Social Security website which contains information about work incentive provisions, access to our publications, and information on our rehabilitation and employment programs.

Through all of these initiatives, we have gained valuable insight and experience that we will use to ensure the success of this proposed legislation. We are encouraged by the results. We have learned that many highly skilled, outcome- focused agencies and professionals are eager to assist our diverse population to return to work. And, we have learned that individualized planning and support is essential to successful work re-entry.

Demonstration Authority

I would be remiss if I did not remind you that the demonstration authority of section 505(a) of P.L. 96-265 expired June 9, 1996. I do thank those on this Committee for their support for an extension passed by the House and we eagerly await Senate action. In order to initiate any new projects under the SSDI program for promoting return-to-work, we seek the permanent demonstration authority as is available in the title XVI program so that we can test new approaches to accomplish our goals in this area. With this renewed authority, SSA can develop a comprehensive strategy that integrates earlier intervention, and identification and provides necessary assistance in removing barriers to work for applicants and beneficiaries.

SSA plans to solicit projects which will determine the degree of interaction of State and Federal systems and benefits, and look for ways to overcome barriers to employment. We will initiate powerful, well researched, and comprehensive demonstration projects which are designed to: strengthen and facilitate the coordination and delivery of services and benefits at the State or local level; increase income through earnings; and be cost-neutral. To this end, at each site, the State will implement a team-based, comprehensive package ~~which will coordinate team-based, comprehensive package that~~ coordinates vocational planning and support, employer and employee coaching, financial planning, risk management, health and long-term care, job search, job placement and ongoing job support, transportation, training, and other necessary supports.

Just as these programs have already provided important information, we would continue to pursue other projects that bring us closer to our goal of supporting the active participation of our beneficiaries with disabilities in the workforce.

Insert

Conclusion

Mr. Chairman, I want to assure you that the Social Security Administration stands ready, willing, and able to work with lawmakers on both sides of the aisle to ~~ensure that this legislative effort becomes a reality~~ for thousands of Americans with disabilities, who with appropriate services and support, can be successful in obtaining work. We want to thank you and Representative Kennelly for ~~your support of innovative programs that will result in jobs~~ for persons with disabilities who would otherwise remain dependent upon the disability rolls. I want to thank you for your time and would be happy to answer any questions.

FAX COVER

Income Maintenance Branch
Office of Management and Budget
Executive Office of the President
Washington, D.C. 20503

To: Diana Fortuna

Organization: DPC

Fax Number: 6-7431

From: Joanne Crawford

Date/Time: 3/13

Number of Pages: Cover + 9

Notes: 2-for-1 Demos

Oppose
S261 - BNA rpt.
unclear eff

Income Maintenance Fax Number: (202) 395-0851
Voice Confirmation: (202) 395-4686

Demonstration of SSDI Benefit Offsets Due to Earnings From Work Activity

Highlighted Features of Proposed Demonstration

The demonstration proposes reducing a beneficiary's SSDI benefit amount by $1 for every $2 of earnings above an $85 earned income disregard level (as is done in the SSI program). The $85 disregard is lower than the Substantial Gainful Activity (SGA) level of $500 proposed by some as the disregard level.

For some beneficiaries, the two for one benefit offset provision will result in an overall reduction in benefits. SSDI benefits will be subject to reduction due to earnings from the first month of SSDI entitlement. As such, earnings during the nine month Trial Work Period (TWP) and the following three month grace period will now result in a reduction of benefits. Similarly, benefits will be reduced due to earnings during the 36-month Extended Period of Eligibility (EPE), whether or not the individual is earning at a rate in excess of the SGA level.

Under the demonstration, continuing entitlement to free Medicare will be determined based on the rules currently in effect for all beneficiaries. That is, free Medicare entitlement will terminate when the beneficiary has exhausted their TWP and EPE. Accordingly, some working beneficiaries could lose their Medicare entitlement while still being entitled to cash SSDI benefits under the benefit offset provision.

This demonstration proposal recommends the Medical Improvement Review Standard (MIRS) as the disability criteria to use when evaluating a reapplication from a beneficiary who lost SSDI entitlement due to work. Use of the MIRS would assure beneficiaries that they do not need to limit their earnings to maintain SSDI entitlement, since entitlement to SSDI could always be reestablished if a beneficiary's medical condition has

not improved.

BACKGROUND

In the SSI program, disabled individuals have their payments reduced by $1 for every $2 of earnings above an earnings disregard level ($85 per month).

Historically, one of the primary arguments against having a benefit/earnings offset provision in SSDI similar to the provision in SSI is that an offset provision might cost SSDI program dollars. The bulk of this anticipated cost stems from working individuals being induced to file for SSDI benefits by the attractiveness of a benefit offset provision.

There is no empirical data upon which to estimate if, and how many, low income workers with a severe impairment would be induced to file for SSDI benefits if a benefit/earnings offset provision were adopted. It is assumed by some, however, that the program costs associated with induced filers would exceed the savings resulting from a benefit/earnings offset provision.

Most individuals with severe impairments who work are employed part-time. It is estimated that about 700,000 individuals are working part-time due to health or medical limitations.[1] Some portion of these individuals would have illnesses of long-term duration. Unlike individuals with severe impairments who have totally stopped working, it is these part-time workers who are the potential universe of induced filers.

To evaluate through a demonstration whether a benefit/earnings offset provision, in lieu of a TWP and EPE for cash benefit purposes, would save or cost SSDI program dollars, the demonstration would need to:

measure induced filers,
compare program savings under the current TWP and EPE with the offset

---

[1] Source: Statistical Abstract of the United States 1996, p.403, U.S. Department of Commerce. Data for 1995 based on Current Population Survey.

provision, and
establish safeguards to control the program costs resulting from the demonstration.

In order to implement this demonstration, SSA would have to be provided authority to carryout, on a demonstration basis, a work incentive program under which the TWP/EPE would be eliminated for SSDI cash benefit purposes and replaced with a benefit/earnings offset.

Potential Demonstration Design

Demonstration Sites

The demonstration could be undertaken in five or more States selected to be representative of largely urban and rural populations. By conducting the demonstration in a relatively small number of States, the universe of potentially induced filers would be substantially restricted, as would the number of affected beneficiaries.

Projections of potential induced filers in a State can be made using the estimation that the 700,000 individuals who work part-time due to their health or an illness comprise about one-half of one percent of the workers in the country. Thus, for example, in Alaska one could estimate the maximum number of induced filers to be 1,600 (.5% of 320,000 workers).

Examples of States and their respective SSDI beneficiary populations, working populations, and estimated maximum number of potential induced filers are:

State	SSDI Pop.	Working Pop.	Induced Filers
Alabama	94,090	2,239,000	11,195

Alaska	5,370	320,000	1,600
Arizona	66,620	2,139,000	10,695
Arkansas	64,910	1,338,000	6,690
Calif.	371,540	14,784,000	73,920
Colorado	54,380	2,089,000	10,445
Conn.	44,820	1,934,000	9,670
Delaware	11,110	461,000	2,300
D.C.	7,610	440,000	2,200
Florida	230,490	7,346,000	36,730
Georgia	129,380	3,946,000	19,730
Hawaii	10,040	661,000	3,300
Idaho	15,870	648,000	3,240
Illinois	156,990	6,481,000	32,405
Indiana	91,090	3,286,000	16,430
Iowa	41,330	1,635,000	8,175
Kansas	35,180	1,509,000	7,545
Kentucky	102,000	1,946,000	9,730

Demonstration Duration

There are two key considerations in determining the duration of the demonstration. First, the demonstration has to be operational for a sufficient period of time for the potentially induced filers to become aware of the change in the program and act on the inducement. Since the speed with which program changes become public knowledge likely will vary substantially among communities, a minimum of three years should be provided for individuals to file for benefits and become subject to the offset provision. Three years would also be the minimum timeframe in which to evaluate whether there was a trend in the number of induced filers.

The second key consideration with respect to duration is the length of time the study intervention, i.e., the benefit/earning offset provision, will be applicable to participants. Unless the study intervention is of sufficient duration to replicate a permanent change in the program that could motivate behavioral change, a meaningful measure of induced filers will not be possible. Accordingly, for those individuals who participate in the demonstration, the benefit/earnings offset provision should be available for a period of ten years.

Providing the benefit/earnings offset provision for ten years does not mean

that the demonstration cannot be finally evaluated for ten years. For the beneficiaries enrolled in the demonstration, the demonstration treatment can exceed the duration of the demonstration. SSA can administer the provisions of the demonstration without continuation of demonstration authority.

Basically, the demonstration would run for five years.

Year one: Design, development of baseline measures, and implementation

Years two - four: Beneficiaries identified for participation in 2 for 1 offset provision

Year five: Final evaluation and report

Year six – ten: Enrolled beneficiaries maintained under 2 for 1 offset provision.

This schedule does not reflect interim evaluations that will be done to determine if demonstration should be modified or expanded.

Waiting Period

Since the intent of the benefit/earnings offset provision is to encourage the beneficiary's return to work as soon after entitlement as possible, no special waiting period is being proposed for eligibility to the offset provision in the demonstration. If, however, an interim evaluation indicates that the number of induced filers is going to result in substantial program costs, a 12 or 24 month waiting period could be adopted before the offset provision became effective.

Ticket for Return to Work Services

Under the Ticket to Independence, providers of services are to be paid one-half of the benefit savings accruing to the program from the beneficiary

returning to work. Absent an offset provision, providers would be entitled to payments for any month the beneficiary was no longer receiving SSDI benefits due to earnings. (There may also be milestone payments predicated on the beneficiary achieving a certain level of work, e.g., complete a TWP.)
To ensure that providers serving beneficiaries in a demonstration state are not disadvantaged and discouraged from providing services, the following payment criteria are proposed. A provider of services satisfying all other provisions of the Ticket, would be eligible for a milestone payment as soon as the beneficiary had:
12 months without a cash benefit due to their work activity, or
12 months of earnings at a level which would have been sufficient to exhaust the nine month TWP period and the following three month grace period.
For the following five years, incentive payments would be made to the provider for any month in which the beneficiary:
did not receive an SSDI benefit payment due to work, or
earned an amount equivalent to the Substantial Gainful Activity (SGA) level.

The amount payable to the provider as an incentive payment would be a percentage of the actual program dollars saved, irrespective if that savings was in the amount of the entire SSDI benefit payment or a portion thereof. (Note that payments to providers based on a reduction in the SSDI benefit would have to be based on the actual amount saved, as compared to the average SSDI benefit).

Medicare Impact

In the SSI program, an individual can maintain their Medicaid eligibility

under Section 1619(b) when earnings preclude cash payments and certain other conditions are met. A similar provision is not available for SSDI beneficiaries to maintain their Medicare entitlement. Assuming there is no legislative solution for addressing the linkage between SSDI entitlement and Medicare entitlement after the beneficiary leaves the SSDI rolls due to work, entitlement to Medicare coverage under the demonstration could operate as:

beneficiaries would still have to serve a 24 month waiting period to establish Medicare entitlement,
free Medicare entitlement would end after 39 months have passed since the beneficiary earned at a level that would have exhausted their TWP,
current law pertaining the purchase of Medicare would apply after free Medicare entitlement ends.

Reestablishing Entitlement to SSDI

If the benefit/earnings offset provision is effective, more beneficiaries with severe impairments will return to work. A portion of these individuals, due to the episodic nature of their disability, will be unable to continue work.
To ensure that attempts to return to work are not discouraged by time delays and uncertainties inherent in reestablishing entitlement, consideration should be given to using the Medical Improvement Review Standard (MIRS) as the disability standard to reestablish entitlement. Under the MIRS, if the beneficiary's medical condition has not improved since the last medical entitlement review, the beneficiary is determined to be entitled. For those beneficiaries who experienced multiple levels of appeal and over a year's delay in establishing their initial entitlement, the fear of having to reestablish entitlement can be a real disincentive to work.
The MIRS standard is currently used to assess the continuing entitlement of beneficiaries during continuing disability reviews. It protects against different adjudicators exercising their judgment and reaching different determinations of disability, despite the beneficiary's condition remaining unchanged.

Administrative Systems and Processes

Presently, SSDI payment systems do not have the capability to automatically offset SSDI benefits due to earnings. Modifying the basic SSDI payment systems to

accommodate the automatic offset of benefits is a major systems change that would entail a substantial expenditure of resources and could require more than the year this discussion proposes for implementation. There are a number of alternatives possible that could reduce the extent to which the SSDI payment systems need to be reprogrammed.

I. Staff in SSA Program Centers could manually input adjustments to SSDI benefits based on reports of earnings from SSDI beneficiaries. This approach would require a large expenditure of scarce workyears.

II. A contractor could be secured to administer the demonstration, particularly the receipt of earning reports and the computation of adjusted benefits.

III. A capitation process could be employed under which a contractor or State entity would issue the adjusted benefits from advanced program funds. In effect, SSA would be allocating funds for the full benefits payable and a third party would be enforcing the appropriate offsets based on beneficiary earnings.

None of these alternatives have been adequately developed and analyzed to render a conclusion about their feasibility or cost. The purpose of this discussion is solely to recognize that a benefit offset provision for SSDI would require a major process change and a substantial commitment of resources and time to implement.

FAX COVER

Income Maintenance Branch
Office of Management and Budget
Executive Office of the President
Washington, D.C. 20503

To:	Diana Fortuna
Organization:	DPC
Fax Number:	456-7431
From:	Joanne Cianci
Date/Time:	March 10, 1998 (12:05PM)
Number of Pages:	Cover + 7

Notes:

Diana,

Attached is the latest Bunning/Kennelly summary. It includes a 2-year Medicare expansion and a disabled worker tax credit. Jim O'Donnell said they plan to introduce the bill tomorrow and that a 10:00 press conference is scheduled.

Joanne

JK – HCFA Cost Est.

0-24 $13b 1st yr!

No CBO yet

② State MA Pirs, do w/ disab, not SSA

③ Drop IRWE

(& MT more complex)

Income Maintenance Fax Number: (202) 395-0851
Voice Confirmation: (202) 395-4686

3/25 intro date

The Ticket to Work and Self-Sufficiency Act of 1998

a. Ticket to Work and Self-Sufficiency Program

1. The Ticket to Work and Self-Sufficiency

The Commissioner of Social Security is authorized to provide Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) disabled beneficiaries with a ticket which they may use to obtain vocational rehabilitation, employment, and other support services from an employment network (provider of services) of their choice. After the recipient assigns the ticket to an employment network, the ticket will serve as evidence of the Commissioner's agreement to pay an employment network for successful outcomes based on one of two payment options.

2. State Vocational Rehabilitation (VR) Agency Participation

A State VR agency will have the option of electing to participate in the Program as an employment network or remaining in the current law reimbursement system. State VR agencies will periodically have an opportunity to change the option selected.

3. Responsibilities of the Commissioner of SSA

The Commissioner of SSA will enter into agreements, by competitive bidding, with one or more program managers to assist in administering the Program. The Commissioner will also select and enter into agreements with employment networks to provide services. Other SSA responsibilities include providing for periodic quality assurance reviews of employment networks, and establishing a method for resolving disputes between: (1) recipients and employment networks, and (2) program managers and employment networks.

In addition, the Commissioner will create performance measures for employment networks such as the degree to which recipients can easily access services.

4. Program Managers

Program managers will be responsible for the following tasks:

- Recruiting and recommending to the Commissioner, employment networks to provide services;
- Ensuring that adequate choices of services are made available to recipients;
- Facilitating recipient access to vocational rehabilitation, employment, or other support services;
- Assisting the Commissioner in administering the Program;
- Providing assurances to the Commissioner that payment by the Commissioner to employment networks is warranted based on compliance with the agreement terms; and
- Establishing and maintaining lists of employment networks and making such lists available to recipients.

Program managers are precluded from (1) directly participating in the delivery of employment network services in the geographic area covered by their agreement; and (2) holding a financial interest in an employment network which provides services in an area under their agreement.

5. Employment Networks

Employment networks will consist of either a single, private or public provider of employment, vocational rehabilitation, or other support services or an association of such providers organized to combine their resources into a single entity. Networks serving under the Program will demonstrate substantial expertise and experience in the field of employment, vocational rehabilitation, or other support services.

Each employment network will be required to serve prescribed service areas, comply with selection criteria, and ensure that employment, vocational rehabilitation, and other support services are provided under individual employment plans as defined by the Commissioner.

6. Individual Employment Plans

The employment network and the recipient will work together to develop an individual employment plan. The plan will be developed so that the recipient can exercise informed

choice in both selecting an employment goal and specific services needed to achieve that goal.

7. Employment Network Payment Systems

The Commissioner will authorize payment to employment networks under one of two payment systems: an outcome payment system; or an outcome-milestone payment system.

The Commissioner will pay an employment network that selects the outcome payment system up to 40 percent of the average disability benefit for each month that a recipient does not receive a benefit payment due to work activity but not for more than 60 months.

Employment networks that select the outcome-milestone payment system will be paid for combination of: (1) achieving one or more milestones directed toward assisting the beneficiary in achieving permanent employment; and (2) for outcomes payable for each month an individual does not receive a benefit payment due to work activity up to 60 months.

Without the outcome-milestone payment system, provider participation in the Program will be limited to only a few large providers who have the necessary cash flow to serve a substantial number of disabled individuals. However, to ensure the cost-effectiveness of the Program, the total of the milestones and outcome payment system must be less than the total amount payable to a provider that would have been payable for each individual under the outcome payment system.

SSA will periodically review and alter the percentages, the milestones, or the period of time specified for payments to the extent that the Commissioner determines that an alteration would provide an adequate incentive for employment networks to assist beneficiaries into the workforce.

8. Authorizations

Funds are authorized to be transferred from the OASDI trust funds to carry out Program activities for SSDI recipients and from general revenues for SSI recipients.

b. Conforming Amendments

State VR agencies that do not elect to participate in the Program will continue to be reimbursed for services under current law, i.e., after the recipient completes 9 months of substantial gainful activity.

The current law provision authorizing priority referral of recipients by SSA to State VR agencies will be repealed on a gradual basis as States are phased into the new program.

The current law provision that imposes benefit deductions for refusal to accept VR services is repealed upon enactment.

c. Effective Date

The Program will begin one year after the date of enactment.

d. Graduated Implementation of the Program

The Program will be implemented on a graduated basis at phase-in sites selected by the Commissioner beginning no later than 1 year after enactment. Referral processes, payment systems, computer linkages, management information systems, and administrative processes will be developed and refined prior to full implementation. The Program will be fully implemented as soon as practicable, but not later than six years after the Program begins.

SSA will design and conduct a series of evaluations to determine the success of the Program taking into consideration advice from experts in the fields of disability, vocational rehabilitation, and program evaluation. The evaluations will address a host of issues such as the types of services furnished to Program participants, the characteristics of individuals who participate, the characteristics of providers that participate, the duration of services provided to those individuals who return to work and to those who do not, measures of satisfaction among individuals who participate, and the costs and savings which result from the Program.

The Commissioner will submit a report to Congress at the end of the third and fifth fiscal years following enactment of the Program containing SSA's evaluation of the progress of the Program.

e. The Ticket to Work and Self-Sufficiency Advisory Panel

1. Responsibilities of the Advisory Panel

There will be established an Advisory Panel which will advise the Commissioner on:

- Establishing phase-in sites for the Program and on fully implementing the Program thereafter;
- Refining the referral process, payment systems, and management information systems; and
- Effectively designing research and demonstration projects associated with the Program, including the $1 for $2 offset demonstration project.

2. Membership

The Advisory Panel will be composed of 6 members as follows:

- One member appointed by the Chairman of the Committee on Ways and Means of the House of Representatives;
- One member appointed by the ranking minority member of the Committee on Ways and Means of the House of Representatives;
- One member appointed by the Chairman of the Committee on Finance of the Senate;
- One member appointed by the ranking minority member of the Committee on Finance of the Senate; and
- Two members appointed by the President, not more than one of whom may be of the same political party.

Of the members appointed, at least one will represent the interests of the recipients of employment, vocational rehabilitation, and other support services; at least one member will represent the interests of providers of employment, vocational rehabilitation services, and other support services; and at least one member will represent the interests of private employers. The President will designate terms for the members: (1) three members will be appointed for a term of four years; and (2) three members will be appointed for a term of two years. Members will be paid at a daily rate of the Senior Executive Service, level IV and will be reimbursed for travel expenses. The President will designate a Chairperson for a four-year term of office. The Panel will meet at least quarterly with four members constituting a quorum.

3. Panel Staff

The Panel will appoint a Director. The Director may appoint additional personnel and may procure experts and consultants subject to rules prescribed by the Panel. In addition, staff from other Federal agencies may be detailed to the Panel.

4. Powers of the Panel

The Panel is authorized to conduct hearings, use the U.S. mails, and request administrative support from the Administrator of General Services.

5. Reports

The Panel will submit a report annually to the President and the Congress. A final report detailing findings, conclusions, and recommendations for legislation and administrative actions will be due eight years after enactment.

6. Termination of the Panel

The Panel will terminate 30 days after submission of its final report.

7. Authorization of Appropriations

Expenses for the Panel are authorized from OASDI trust funds.

f. Specific Regulations Required

The Commissioner will prescribe regulations to address the following issues:

- The format and wording of the tickets and the way in which tickets will be distributed to beneficiaries;
- The way in which State agencies may elect participation in the Program;
- The terms of State agencies at the time State agencies exercise elections;
- The terms of agreements to be entered into with program managers and with employment networks;
- Standards for individual employment plans;
- Standards for payment systems;
- Procedures for effective oversight of the Program by the Commissioner, including periodic reviews and reporting requirements.

g. Work Incentive Specialists

The Commissioner will establish a corps of trained, accessible, and responsive work incentive specialists to specialize in SSDI and SSI disability work incentives for the purpose of disseminating accurate information to disabled recipients.

h. Demonstration Projects Providing for Reductions in Disability Insurance Benefits Based on Earnings

1. Authority

The Commissioner will conduct demonstration projects for the purpose of evaluating a program for SSDI recipients under which each $1 of benefits payable is withheld for each $2 of such recipient's earnings that is above a level to be determined by the Commissioner. A reduction in benefits based on earnings will help soften the total loss of benefits to recipients who attempt work.

2. Scope of the Demonstration Projects

The scope, duration, and scale of the demonstration projects will be sufficient enough to permit a thorough evaluation of the project to determine the: (1) effects, if any, of induced entry, (2) extent to which the project is affected by the administration of the Ticket to Work and Self-Sufficiency Program, and (3) savings that accrue to the Trust Funds.

3. Reports

The Commissioner will submit a report to Congress on or before June 9, 2000, and each of the succeeding years thereafter on the progress of the demonstration projects. A final report is due one year after completion of the projects.

i. Medicare Coverage for SSDI Recipients Who Return to Work

Medicare coverage will be extended for 2 additional years beyond current law (39 months) for SSDI recipients who return to work. The Medicare extension will operate on a phase-in basis paralleling the phase-in of the *Ticket to Work and Self-Sufficiency Act of 1998*.

j. Disabled Worker Tax Credit

A tax credit in an amount equal to 50 percent of impairment-related work expenses up to $10,000 will be provided to disabled workers.

OFFICE OF MANAGEMENT AND BUDGET

Legislative Reference Division
Labor-Welfare-Personnel Branch

Telecopier Transmittal Sheet

URGENT

FROM: Melinda Haskins **395-3923**

DATE: 1/15/98 **TIME:** 11 AM

Pages sent (including transmittal sheet): 14

COMMENTS: Comments received to date on SSA views on Building RTW bill. Note: We expect DOJ to comment.

TO: Diana Fortuna

PLEASE CALL THE PERSON(S) NAMED ABOVE FOR IMMEDIATE PICK-UP.

January 15, 1998

TO: Ms. Haskins, OMB

FROM: Randy Hansen
Department of Education

SUBJECT: Comments on SSA Mark-up of "Ticket To Work and Self-Sufficiency" Proposal

The comments below reflect both OSERS and RSA imput. In some instances, it was not possible to respond to specific changes made by SSA because of the poor reproduction of the document provided and the fact that specific lines of text have been blacked out. If you have any questions please do not hesitate to call.

General.--This proposal seeks to provided Social Security Disability Insurance (SSDI) beneticiaries, and disabled or blind Supplemental Security Income (SSI) recipients a "ticket" which may be used to obtain employment, vocational rehabilitation, and other support services from a service provider of the individual's choice. The goal of these services is to assist the individual in obtaining employment, which will lead to earnings substantial enough to lessen or eliminate dependence on Social Security cash benefits.

How tickets will be distributed to beneficiaries, and who will receive them is not clear. The proposal indicates that these issues will be spelled out through regulation. It is also unclear as to whether or not the choice to use a ticket will be voluntary. Earlier proposals have been characterized as "voluntary", but a close reading of the language has indicated that the Commissioner of SSA would have the authority to suspend benefits to beneficiaries who fail to use their tickets, or refuse services without "good cause". These issues are important, and RSA recommends that they be clarified in the legislation, rather then left to the discretion of the Commissioner of SSA to regulate (the method preferred by SSA).

Employment Networks and the Role of State Vocational Rehabilitation Agencies.--This proposal would establish "Employment Networks", which may be a single organization, or a group of organizations, designed to offer return-to-work services. Such services will be provided either directly, or by arranging services with other providers. While it is clear that the intention of the proposal is to permit both private and public organizations to participate, reference to public organizations is not made in section 1146(d)(1) on pages 5 and 6 of the proposal. This may be an inadvertent omission, but the term "public" needs to be inserted. This change has been noted throughout the proposal by SSA, and RSA concurs.

Under current law, State Vocational Rehabilitation (VR) Agencies may claim reimbursement from SSA for services provided to disabled beneficiaries when these individuals return to work at earnings high enough to terminate benefits. Under this proposal, State VR agencies will be able

to participate as an employment network, and the provisions of Title I of The Rehabilitation Act of 1973, as amended, will remain in effect. However, even in instances where VR elects to participate, the provisions in current law (specified in sections 222 and 1645 of The Social Security Act), which cover referral of beneficiaries to VR, and reimbursement for VR services, will no longer be in effect.

An earlier draft proposal (SSA's 6/30/97 proposal entitled "Ticket To Independence"), afforded VR agencies the option to participate in the Ticket program, or continue to be reimbursed under current law. RSA recommends that this proposal include language to maintain the provisions of current law.

Under this proposal, employment networks may provide services directly, or arrange for their provision with other providers. This implies that an employment network may choose to refer a beneficiary to the State VR program to receive necessary services. VR is obligated to assess individuals, make eligibility determinations, and provide appropriate services to individual's who are determined eligible, and meet order of selection provisions. Thus, an employment network may be able to claim reimbursement for services actually provided by the State VR program.

The June 30, 1997 proposal offered by SSA, contained a provision which protected the State VR program by requiring there to be an agreement between VR and other providers. Such agreements had to specify how VR would be compensated for its services when other providers referred individuals for services. RSA recommends that this proposal include this protection for the State VR program.

Finally, while section 1146(c) states that Title I of the Rehabilitation Act will remain in effect (for VR agencies who elect to participate as an employment network), the reference on page 5 of the proposal should be changed to read: "...shall be governed by Title I of the Rehabilitation Act of 1973, as amended". This language is clearer than that contained in the proposal.

Dispute Resolution.--While the proposal states that there will be a system for dispute resolution, in cases where individuals are in disagreement with the employment network, the language lacks specificity, and apparently will be clarified through regulation.

Due process for individuals with disabilities is a high priority for RSA. It is recommended that the issue of dispute resolution be expanded, and specifically addressed in the legislation itself.

Responsibilities of Employment Networks and Individual Employment Plans.--The proposal offers specific language covering certain requirements which organizations must meet in order to be accepted as an employment network. Also, the proposal outlines specific elements which must be included in each individual's written employment plan. These appear on page 15 of the proposal.

RSA supports retention of these requirements, as they are supportive of principles of the Rehabilitation Act which places emphasis on quality of service providers, and employment outcomes that take into consideration the abilities, skills and desires of individuals with disabilities. For these reasons, RSA disagrees with SSA's deletion of provisions on pages 15,16

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(3)

and 19.

Payment Methodology.--The proposal is designed to reimburse employment networks for successful outcomes. In addition, networks can elect to also be paid (at a lower rate), for the achievement of "milestones", as an individual successfully completes steps leading to an employment goal.

RSA is supportive of this approach, as VR agencies who elect to participate in the program will have opportunities for reimbursement not currently available. However, the language covering the payment methodology on page 20 of the proposal is confusing and complicated. RSA recommends that steps be taken to clarify the methodology for determining how employment networks will be paid. Also, as SSA has pointed out, the payment rate established in the proposal (35% of savings during a 60 month period), may be too low to attract service providers.

Evaluation.--Evaluation of the program is addressed on bill pages 28-32. SSA wants to set the terms themselves and not have the design done by (outside?) experts. That is fine. SSA appears to have missed the references to the milestone payments on page 31 (VIII); they tried to delete these elsewhere.

However, the evaluation provisions are problematic in two important areas. First, the "annual" costs themselves are of little practical consequence if milestone payments are not being made. The costs or amounts of up-front investments in services to individuals by providers will be far greater for at least 4-5 years than the earnings and tax payback by those persons who are working successfully. The evaluation should be focused on establishing a model to demonstrate the effects of investing training and employment services to return people to work. We know that NOT investing means almost certainly no work. That is why the rolls are growing. This would be a good time and place to get agreement on a methodology demonstrating program performance.

Second, the evaluation design should not be free standing but should accommodate comparisons with persons served by the VR system and other more limited service providers, such as workforce boards. I really don't understand how services for significant numbers of persons could be financed " up front" in this bill by any but the very largest providers and am confident that VR could hold its own in a comparison.

Experiments and Demonstrations.--The proposal provides for experiments and demonstrations to look at the effect of return-to-work innovations. This section of the proposal is vague, and how such projects will be funded is not known. It seems apparent that other programs (i.e., The Health Care Financing Administration) would be involved, and this may present problems for the feasibility of demonstrations.

Also, any $2 for $1 earnings offset demonstration (the last provision of the draft bill) should be available to all persons in a service area. We note SSA's opposition to this demonstration on cost and technical grounds.

Conclusion.--RSA is supportive of new programs that increase employment opportunities for

individuals with disabilities. The proposal contains elements with this potential, and acknowledge highly valued principles of The Rehabilitation Act, specifically informed choice, and quality rehabilitation services. We at RSA are interested in taking the time necessary to conduct an in-depth analysis of this proposal, and would welcome the opportunity to furnish more comprehensive commentary and recommendations.

LRM ID: MDH12D **SUBJECT:** Social Security Administration Views on HR___ Ticket to Work and Self-Sufficiency Act of 1998

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: Melinda D. Haskins Phone: 395-3923 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: 1/15/98 (Date)
Anne Lee (Name)
OGE (Agency)
208-8022 ___ (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: _____

__X__ FAX RETURN of __2__ pages, attached to this response sheet

United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

January 15, 1998

MEMORANDUM

TO: Janet R. Forsgren (for)
Assistant Director for
Legislative Reference

FROM: Jane Ley
Deputy Director for GRSP

SUBJECT: SSA Views on HR __ Ticket to Work and Self-Sufficiency Act of 1998, LRM ID: MDH 120

We have reviewed the draft bill as edited by SSA and the one page summary comments. We believe that the manner in which SSA wishes to edit the provisions which establish Ticket to Work and Self-Sufficiency Advisory Panel (begins on page 32 of draft bill) will cause problems with the application of conflict of interest laws and other ethics statutes and regulations. Therefore we have provided some options that address our concerns.

As background, the problem with this panel arises primarily because of the manner in which the members are appointed. If the President were to appoint all the members then it would be far more clear that this panel is an executive branch entity and that statutes that differentiate ethics coverage as to the branch in which an employee works could be understandably applied. While editing the bill to make sure that the duties of the panel are simply advisory helps avoid the question of an Appointments Clause problem with the members appointed by legislative branch officials (assuming the panel is in the executive branch), it still will not help with the application of the criminal conflict of interest statutes which cover advisory activities. Therefore, here are some options that will cure this problem. The options are listed in order of preference.

1. Eliminate the panel.

2. Eliminate Congress' authority to appoint any of the members of the panel and have some executive branch official appoint all members.

3. Have the Congress appoint all of the members and include language that makes it clear that the panel is advisory to the Congress and is in the legislative branch.

4. On page 32, lines 13 and 14, retain the language that the Panel is established "in the Social Security Administration". That way it is clear that the panel and its members serve in the executive branch. If it is in the executive branch, and the Congress continues to appoint certain of the Members, the changes to make the panel purely advisory are absolutely necessary or the Appointments Clause issue arises. (This solution as well as any solution where the panel is in the executive branch and some of the members are appointed by Members of Congress still leaves questions about who can provide waivers to the panel members under 18 U.S.C. 208 if that becomes necessary.)

5. On page 32, lines 13 and 14 substitute the words "in the executive branch for purposes of ch. 11, Title 18 United States Code and all other ethics statutes and regulations" for "in the Social Security Administration." While it may possibly be acceptable for that to read only "in the executive branch", we are not in a position to say with certainty that would be the case for other reasons outside our area of expertise.

We also note that the provision on page 34 which discusses representation may mislead readers to believe that the members of the panel are "representatives" for purposes of conflicts law and are thus not covered by the criminal conflict of interest statutes. The will be covered because, on page 35, the draft provides that they are to be paid. Individuals paid by the government are not "representatives" for conflicts purposes. Thus the requirement for representation and the requirement for pay together will ensure that there will be members on the panel that will have potential conflicts and will need to have the application of 18 U.S.C. 208 addressed. To reiterate, waivers under that statute are given by the appointing authority. The President has delegated his authority within the executive branch, but the legislative branch, to our knowledge, has never even considered this issue. This will be an ethics program headache of fairly decent proportions.

If SSA would like this Office to discuss these problems with the proponents of the bill, we would be happy to do so. Certainly these ethics issues for SSA ethics officials would go away if the panel were not created. If the panel was in the legislative branch, the ethics counseling should occur in the legislative branch under those circumstances, but SSA should anticipate that the panel members may turn to it (or GSA) for help. This is now the case for the newly created Gambling Commission which turns out to be a legislative branch entity much to the surprise of the Congress.

LRM ID: MDH120 SUBJECT: Social Security Administration Views on HR___ Ticket to Work and Self-Sufficiency Act of 1998

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: Melinda D. Haskins Phone: 395-3823 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: January 14, 1998 (Date)
William R. Ratchford, Associate Administrator for Congressional Affairs (Name)
General Services Administration (Agency)
202-501-0563 (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 ___

XXX ___ Other: Comments Attached

___ FAX RETURN of ___ pages, attached to this response sheet

Social Security Administration Views on H.R. Ticket To Work and Self-Sufficiency Act of 1998 (LRM #MDH120)

By legislative referral memorandum dated January 9, 1998, your office requested the comments of the General Services Administration (GSA) on the draft bill, "Social Security Administration Views on HR__ Ticket to Work & Self-Sufficiency Act of 1998". GSA has reviewed the subject draft bill and accompanying draft sectional analysis and has the following comments.

We defer to the Social Security Administration on the substantive provisions of the Bill.

GSA comments relating to Section 2(a) by adding as part of a new section to Part A, Title XI, of the Social Security Act, of the Ticket To Work and Self-Sufficiency Advisory Panel on page 32:

As drafted, the legislation provides for a panel "in" the Social Security Administration (SSA) both advisory to the Commissioner of Social Security and independently reporting to the President, but with certain non-advisory, or operational functions to "assist" and to "provide oversight of research and demonstration projects associated with the Program." This panel appears to be an independent, or self-standing Presidential advisory committee not part of SSA, given its partly operational functions, an authorization of appropriations not from those specifically for the operations of SSA, and the provision included for obtaining reimbursable support services from the General Services Administration (GSA).

According to the legislative language, the panel appears subject to the Federal Advisory Committee Act (FACA), as amended, and also therefore, to the related GSA guidelines.

On the matter of substantive need for this commission, or whether the establishment of this commission is compelling and essential, we defer to the positions of both SSA and the Office of Management and Budget (OMB). GSA shares the concerns of SSA that "any functions beyond providing advice to the Commissioner are not appropriate."

Moreover, as we have indicated previously, OMB has stated that "(C)onsistent with Executive Order 12838 and the National Performance Review, "the Administration is working to reduce the number of advisory committees," and that "toward that end, the President (has) requested Congress to show restraint in the creation of new statutory committees...".

Finally, in a June 28, 1994, memorandum to agency heads regarding the further implementation of EO 12838, the Vice President noted, "the Administration will not support legislative language that establishes new advisory committees or seeks to exempt groups from the requirements of the Federal Advisory Committee Act."

GSA comments relating to (B) Staff of the Ticket to Work and Self-Sufficiency Advisory Panel on page 37:

Provision should specify whether the staff must be hired in accordance with the provisions of Title 5, USC relating to classification and GS pay rates. As it is now written, it is ambiguous.

GSA Comments relating to (5)(B) Powers of Members and Agents on page 37:

Agents of the panel, if not government employees, cannot obligate the panel to expend government funds, etc.
Remove the reference to agents in this section.

LRM ID: MDH120 **SUBJECT:** Social Security Administration Views on HR__ Ticket to Work and Self-Sufficiency Act of 1998

RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

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(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
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Please include the LRM number shown above, and the subject shown below.

TO: Melinda D. Haskins Phone: 395-3923 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: January 15, 1998 (Date)
Karen Dorsey (Name)
Treasury (Agency)
622-1192 (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: _____

__X__ FAX RETURN of __1__ pages, attached to this response sheet

TREASURY COMMENTS RE SSA VIEWS ON HR____, TICKET TO WORK AND SELF-SUFFICIENCY ACT OF 1998

Comments from the Office of the Fiscal Assistant Secretary:

Page 16, last sentence (h)(1)(A): We recommend that the word "authorized" be added after the word "payment" so that the phrase would read as follows:

"The Program shall provide for payment authorized by the Commissioner."

Generally, we support the financial responsibility aspects of comments 2 and 4.

1/12/98
SSA

Draft Response to Ways and Means staff on Draft Legislative Language on Return to Work

---

Thank you for the opportunity to review and provide technical comments on the draft legislative language for the return to work initiative.

Enclosed is a marked-up version of the draft you supplied that reflects our comments to date.

The comments reflect our concerns in several major areas, in particular:

1. TOO MUCH PRESCRIPTION OF THE SERVICES AND FUNCTIONS OF THE EMPLOYMENT NETWWORKS.
Given our goal of expanding the market of available service providers be reward outcomes, we remain convinced that the legislation should not require all eligible providers to provide prescribed vocational and rehabilitation services

2. OUR CONTINUING BELIEF THAT ANY MILESTONE PAYMENTS, IF ANY, NOT BE PAID UNTIL AFTER A BENEFICIARY STOPS RECEIVING CASH BENEFITS.
The essence of the program is to reward outcomes and we remain concerned about any proposals that pay for process without guaranteed outcomes.

3. OUR CONCERN ABOUT THE APPROPRIATE FUNCTIONS OF ANY ADVISORY BOARD.
Any functions beyond providing advice to the Commissioner are not appropriate.

Value ?

4. THE ~~COST IMPLICATIONS OF~~ A $2 FOR $1 OFF-SET DEMONSTRATION.
We are concerned that this demonstration would cost a great deal and that the temporary nature of a demonstration would not allow for any real measurement of induced demand or "woodworking."

Leave out ?/ OCW/ SSA

Hlth Div. - want to drop

reverse

We would be glad to sit down with you to go over the detailed comments on the draft.

FAX COVER SHEET

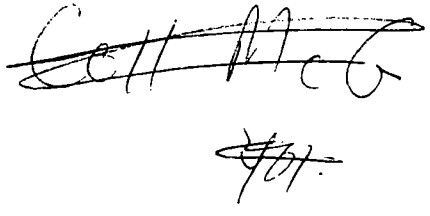
OFFICE OF LEGISLATION

Number of Pages:_____ Date: 9/18/97

To:	From:
Donna Fortuna	Jennie Barney
Fax: 456-7431	Fax: 202-690-8168
Phone: _____	Phone: _____

REMARKS:_____

HEALTH CARE FINANCING ADMINISTRATION
200 Independence Ave., SW
Room 341-H, Humphrey Building
Washington, DC 20201



TALKING POINTS ON REP. BUNNING'S DRAFT RETURN-TO-WORK PROPOSAL

Continued Medicare Coverage

- Rep. Bunning's proposal would allow for 2 additional years of premium-free Part A Medicare coverage after the existing 9-month trial work period and 39-month extended period of eligibility. In addition, the current Medicare buy-in after the extended period of eligibility would be replaced with an income-related Medicare buy-in.

- We have several concerns about the draft proposal. First, we are concerned about the cost implications on the Part A Hospital Insurance Trust Fund of extending premium-free Part A coverage for 2 additional years for all SSDI beneficiaries. Although this proposal may achieve a surplus in the Social Security Trust Fund, as written it would put further strain on the Medicare Trust Fund.

- Second, we have serious concerns ~~question the wisdom~~ of implementing an income-related premium in the Medicare program. We do not believe that this is the place to experiment with such an unprecedented provision. prob on grandle

- Third, any legislation proposal would also need to address the status of Medicare as a secondary payer for disabled beneficiaries in large group health plans. Under the BBA of 1997, Medicare permanently becomes the secondary payer for disabled beneficiaries in large group health plans. Making Medicare primary once again for SSDI beneficiaries would come at considerable cost to the Medicare Trust Fund.

- Finally, we are concerned that an additional two years of premium-free Part A coverage may not be a strong enough incentive for SSDI beneficiaries to leave the disability rolls and return to work. ⇒ that's why our demo?

- The Clinton Administration believes that one of the biggest barriers to work for people with disabilities is the fear of losing their health insurance. We would like to work with you to refine this work incentive. Our goal is to establish health incentives that will serve as strong incentives to return to work, but also meet the overarching concern of maintaining the solvency of the trust fund.

Restate old 2

6 page fax

TO: Michael Barr

FROM: Diana Fortuna DF

RE: Bunning "return to work" proposal

We have been active this year in trying to design ways that people on SSI/SSDI can return to work, including a proposal we made in the President's budget. So have a number of people on the Hill, especially Rep. Bunning. Attached is his latest draft proposal on the subject, and it includes a disabled worker tax credit. A tax credit is something that advocates have wanted for a long time. We did not include a tax credit as part of our plan. Bunning wants SSA's/the Administration's reaction to this draft by Friday 9/19.

The purpose of this note is to ask you to designate someone from Treasury who could participate in a conference call on this subject tomorrow. Can your secretary call Linda Cooper at 456-5593 or me at 456-5570 to let us know who should participate?

Substance-wise, I know you guys are unlikely to like the tax credit, but opposing it will put us in a very awkward position with the disability community. They were just pushing this in a meeting with the President last week. It also may be good policy.

Office of Legislation and Congressional Affairs
Social Security Administration
Fax Sheet

Date: 9-10-97

Pages: Cover + 11

Fax to: Diana Fortuna

Fax number:

Phone number:

From: Jim O'Donnell

Phone number: (202) 358-6030
Fax number: (202) 358-6074

cc Anne Tumlinson 395-3910
Jack Smalligan 395-0851 } OMB

cc Jennie Bonney (ph 690-5631)
Kathy King fax 690-6362

Please contact Paulette Anderson or Regina Williams (202) 358-6030 if transmission is incomplete.

Message:

Judy Chesser asked me to fax the attached New Bunning Proposal for Return to Work. We owe Kim Hildred comments by 9-19

Social Security

EAGLE: Experiments to Achieve Gainful Levels of Employment

EXPERIMENTS TO ACHIEVE GAINFUL LEVELS OF EMPLOYMENT

The Commissioner of Social Security will implement Experiments to Achieve Gainful Levels of Employment (EAGLE) to learn more effective strategies to help Social Security Disability Insurance (SSDI) beneficiaries and Supplemental Security Income (SSI) recipients achieve gainful employment and self sufficiency.

EXPERIMENTAL PROVISIONS

EAGLE tests changes to Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) under three experimental conditions:

- EAGLE-1 tests the effect of changes to SSDI work incentives (including Medicare coverage) for beneficiaries currently on the rolls;
- EAGLE-2 tests the effect of changes to SSDI benefits structure and work incentives on new SSDI entrants; and
- EAGLE-3 tests the effect of changes to SSI benefits structure and work incentives (including Medicaid coverage) on new SSI entrants.

SSDI and SSI changes to be tested--individually or in combination as deemed necessary and appropriate by the Commissioner and when needed, in conjunction with other federal agency officials--for the EAGLE experiments are as follows.

EAGLE-1

EAGLE Experiment 1 (EAGLE-1) tests the effect of changes to SSDI work incentives on a sample of current beneficiaries.

Gradual Benefit Reduction

EAGLE-1 participants who return to work will have their SSDI cash assistance reduced by a set amount for every dollar earned beginning when earnings exceed a set amount. The Commissioner will determine the set amounts.

SSDI Workers Tax Credit

EAGLE-1 participants are granted an income-based refundable tax credit. This credit is independent and in addition to the Earned Income Tax Credit (EITC). Participants can choose to file an eligibility certification with their employer and have the refundable amount included in their paychecks. The Commissioner, in conjunction with the Internal Revenue Service, will develop the credit's formula and phase-out levels.

Employer Tax Credit

Employers who provide employment to EAGLE-1 participants will be granted a waiver of their portion of the FICA payment on that SSDI beneficiary for the period of employment. The Commissioner will determine the conditions of employment that must be met for the employer to use the tax credit.

Medicare Buy-In

The law currently allows SSDI beneficiaries to receive Medicare coverage after a 24-month waiting period. For beneficiaries attempting to return to work, coverage continues through a 9-month Trial Work Period, a 3-month transition period, and a 36-month Extended Period of Eligibility (EPE). After EPE, Medicare continues if the beneficiary elects to pay the same monthly cost as uninsured retired beneficiaries pay. EAGLE-1 participants who exit EPE will be allowed to purchase Medicare on an income-based sliding scale, as determined by the Commissioner in conjunction with the Health Care Financing Administration.

TAX CREDIT FOR PERSONAL ASSISTANCE

EAGLE-2

EAGLE Experiment 2 (EAGLE-2) tests the effect of fundamental changes to SSDI on a sample of new entrants into the program. The Commissioner of Social Security will establish an Advisory Panel to report to SSA on changes to the application process, eligibility determination, benefit structure, and work incentives to encourage participants to engage in work.

The Panel will consider, among other options, the merit of the following changes:

Provisional Disability Benefit Status

Participants who enter SSDI under EAGLE-2 will be placed in a provisional benefits status. The objective of this change is to create a strong presumption of employability at the end of the provisional period. Participants will have an incentive to become employed because--in addition to other EAGLE-2 provisions--they will understand that program benefits will expire at a set date. The provisional period can be expanded for participants demonstrating the inability to function in the workplace despite substantial efforts to obtain gainful employment. Under limited circumstances, beneficiaries unable to achieve gainful employment after multiple attempts can be converted to the existing SSDI program without reapplying for program benefits.

Waive Waiting Period for Eligibility

The requirement that SSDI applicants be out of work as a result of an impairment for a 5-month waiting period will be waived for EAGLE-2 participants. The waiver will allow appropriate interventions to take place as early as possible while maximizing connections to the world of work.

Waived/Reduced Waiting Period for Medicare Benefits

Consistent with providing early medical and functional rehabilitation as a requisite condition for work, the requirement that SSDI beneficiaries wait 24 months for Medicare coverage will be waived or reduced, as determined by the Commissioner in conjunction with the Health Care Financing Administration, for EAGLE-2 participants.

Case Management

EAGLE-2 participants will select a case manager to serve as a return-to-work liaison with Social Security. Case managers will provide educational, counseling, assessment, and advocacy services--including arranging for the delivery and finance of appropriate supports and services.

Gradual Benefit Reduction

Same as EAGLE-1.

SSDI Workers Tax Credit

Same as EAGLE-1.

Employer Tax Credit

Same as EAGLE-1.

Medicare Buy-In

Same as EAGLE-1.

EAGLE-3

EAGLE Experiment 3 (EAGLE-3) runs concurrently with EAGLE-2 and tests the effect of changes to SSI on a sample of new entrants to SSI.

The Advisory Panel will also recommend changes to SSI that could encourage more SSI recipients to return to work. Among other changes, the Panel will consider the merits of the following changes:

Provisional Disability Benefit Status

EAGLE-2 provision modified for conversion to SSI if unable to work.

SSI Gradual Benefit Reduction

Currently, working SSI recipients have cash benefits gradually reduced as they achieve earnings. To determine cash benefit level, SSA deducts from monthly earnings a general income exclusion, an earned income exclusion, and one-half of remaining income. While a gradual benefit reduction will be applied to the earnings of EAGLE-3 participants, revisions to the current reduction formula could be considered to conform with the benefit reduction scale for SSDI participants under EAGLE-1.

SSI Workers Tax Credit

EAGLE-1 provision modified for SSI workers.

Employer Tax Credit

Same as EAGLE-1.

Case Management

Same as EAGLE-2.

Medicaid Buy-In

EAGLE-3 participants who otherwise would lose Medicaid eligibility upon exceeding their state's earnings limit, can purchase continued Medicaid coverage by an income-based sliding scale, as determined by the Commissioner in conjunction with the Health Care Financing Administration.

EVALUATION STUDIES

The Commissioner will report to the Congress annually on the status, costs, and outcomes of EAGLE1-3. At EAGLE's expiration, the Commissioner will provide the Congress with a final evaluation of outcomes, effectiveness, and changes in the programs' entry and exit rates to estimate net costs if changes were permanently adopted at the national level.

TIMEFRAME

EAGLE-1 will become operational within 1 year from EAGLE authorization. The Commissioner will present a final evaluation of EAGLE-1 to the Congress within 4 years from EAGLE authorization date. The EAGLE final evaluation study will be reported to the Congress within 7 years from EAGLE authorization date.

SUMMARY OF DRAFT RETURN-TO-WORK PROPOSAL

General

The proposed legislation would establish a Return-to-Work Ticket to Self-Sufficiency Program. The Program would provide Social Security and SSI disabled beneficiaries with a ticket which they may voluntarily use to obtain vocational rehabilitation, employment, and other support services from a public or private provider of their choice. The ticket would be provided to beneficiaries at initial entitlement, at periodic continuing disability reviews (CDRs), or upon request.

Providers of Services - The Employment Networks

Any vocational rehabilitation, employment, or other support services would be provided to beneficiaries through employment networks. An employment network may consist of a single provider organization or several small agencies organized to combine their resources to ensure that a comprehensive array of services are available to beneficiaries.

The employment networks would ensure that sufficient services are available to disabled beneficiaries and that services are available throughout a specified geographic area. In addition to furnishing beneficiaries with information on the many services they provide, each employment network would be a source of information regarding SSA's current work incentives. In essence, the employment networks would become case managers by informing beneficiaries of all Federal, State, and non-profit services for which they may be eligible.

Employment networks would also prepare individual employment plans jointly with the beneficiary. The networks would be required to prepare plans in such a manner that would afford beneficiaries the opportunity to exercise informed choice in selecting employment goals and the specific services to be provided.

Employment Network Payment System

Each employment network would have the option of electing one of two payment systems.

- **Outcome-Based Payment System**

  The employment network would be paid 40 percent of the average monthly benefit (or SSI disability payment) amount for a disabled worker for each month of benefit savings for a 5-year period.

- **Milestone Payment System**

  The milestone payment system would combine milestone payments along with a reduced outcome-based payment system. The Commissioner of SSA would determine the point(s) at which milestone payments would be made. Payments could occur at points such as the completion of an employment plan, initial employment of the beneficiary at the SGA level for 30 days, or retained employment by the beneficiary for a specified period of time.

  The employment network would receive an outcome-based payment but at 35 percent of the average monthly benefit amount for a disabled worker/SSI recipient for a 5-year period.

State VR Agencies

State VR agencies would have the option of being reimbursed under current law provisions or electing the Program's new payment system.

Continuing Disability Reviews (CDRs)

Beneficiaries participating in the program would not be subject to a CDR because of work activity.

Administration of the Program

To administer the Program, SSA would enter into agreements with a contractor(s) referred to as the Program Manager. The Program Manager's responsibilities would

include:

- recruiting and selecting employment networks;
- facilitating referral of beneficiaries to employment networks;
- maintaining lists of employment networks which would be made available to the public;
- providing periodic quality reviews of employment networks by consumer groups and private auditing firms;
- facilitating beneficiaries' requests for change in employment network for good cause; and
- resolving disputes that may arise between beneficiaries and employment networks.

The Program Manager would be prohibited from providing vocational rehabilitation, employment, or other support services to disabled recipients.

Ticket to Self-Sufficiency Advisory Board

In addition to general oversight of the Program, the Advisory Board would have the following responsibilities:

- advising the Commissioner on establishing pilot sites and ensuring full implementation of the Program;
- assisting the Commissioner in overseeing the refinement of referral processes, payment systems, and management information systems necessary for a successful Program;
- providing oversight of research projects associated with the Program; and
- furnishing progress reports of the Program to the President and Congress.

Disabled Worker Tax Credit

The refundable tax credit would provide a supplement to the Earned Income Tax Credit

(EITC). The credit would increase as earnings increased up to a maximum credit. The credit would plateau at a fixed level of earnings calculated to make work more financially rewarding than collecting disability benefits, and would phase out once earnings rise above an ending income level.

Continued Medicare Coverage

Medicare coverage would be continued 2 years beyond the current law 39-month extension. Thereafter, a Medicare buy-in would be provided unless the disabled individual medically recovers. The beneficiary would receive cost-free Medicare up to $15,000 in earnings and would pay a premium of 10 percent of earnings for amounts in excess of $15,000. The premium would be capped at the current law Medicare premium.

To Jennie Bonney
fr Diana F

FAX COVER

Income Maintenance Branch

Office of Management and Budget
Executive Office of the President
Washington, D.C. 20503

Spagg fax

To: Diana Fortuna

Organization: DPC

Fax Number: 456-7431

From: Joanne Cianci

Date/Time: 09/11/97

Number of Pages: Cover + 4

Notes:

Diana,

Here is the "Summary of Draft Return-to-Work Proposal" distributed at the meeting Rep. Bunning's staff organized last week. Please note that Kim Hildred requested that this draft not be widely circulated.

Let me know if you need anything else.

--Joanne
x53385

No Senate interest
Alec would ask right Q's
- unclear time limit bene

Treas Janet McCoven
Janet ~~Hettleman~~ (?)
Hockstein

Holtzblatt
622-1327

Income Maintenance Fax Number: (202) 395-0851
Voice Confirmation: (202) 395-4686

CONFIDENTIAL DRAFT

SUMMARY OF DRAFT RETURN-TO-WORK PROPOSAL

Cost

General

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service areas in state (Commissioner decides + services needed for check. this could happen)

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vs SSA?

pilot/rollout

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(EITC). The credit would increase as earnings increased up to a maximum credit. The credit would plateau at a fixed level of earnings calculated to make work more financially rewarding than collecting disability benefits, and would phase out once earnings rise above an ending income level.

offset?

Continued Medicare Coverage --Kennedy

Medicare coverage would be continued 2 years beyond the current law 39-month extension. Thereafter, a Medicare buy-in would be provided unless the disabled individual medically recovers. The beneficiary would receive cost-free Medicare up to $15,000 in earnings and would pay a premium of 10 percent of earnings for amounts in excess of $15,000. The premium would be capped at the current law Medicare premium.

- open to alternatives
- MA - open
- MC buy in to MA

Kathy - buy-in - not gd for maiden excursion

Can buy Part A — $188/mo

- LT MC reform

Q's re wisdom of 4-yr prem

F: Bunning RTW
CC Jack Smalligan OMB
Anne Lewis NEC
From Diana
This is internal.

Department Of The Treasury
Office of Tax Analysis
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

To: Name: Diana Fortuna
Firm/Organization: DPC

Fax Number: 456-7431
Phone Number: 456-5570

Number of pages (including this cover sheet):

Date; Time: September 18, 1997; 9:42am

From: Janet Holtzblatt
Phone: 202/622-1327 Fax: 202/622-0236

Comments: Tax Policy's comments (really, questions) about the disabled worker tax credit are attached.

Comments on Disabled Worker Tax Credit (in "Summary of Draft Return-to-Work Proposal")

More information is needed regarding this proposal in order to determine its impact on work incentives, fairness, and administerability. Some initial questions are:

- What is the purpose of the expanded credit? If the purpose of the expanded credit is to offset the disincentive effects of the social security disability insurance (SSDI) and the supplemental security income (SSI) disability programs, couldn't this goal be more easily achieved by changing the benefit reduction rates or modifying other eligibility criteria for those two programs?

- How would disability be defined?

- Would the expanded credit be available only to current and/or past recipients of SSDI and SSI disability benefits? Is there a tax policy justification for treating these disabled workers differently than other disabled workers who have not participated in the SSDI or SSI disability programs (e.g., disabled veterans or individuals who chose to work rather than apply for disability benefits)?

- Who would be responsible for certifying whether an individual was disabled? For example, agencies other than the IRS (such as the Social Security Administration) may be more experienced at determining whether an applicant is disabled, and it might be reasonable for such agencies to certify eligibility for the disabled worker tax credit. But one of the goals of the credit may be to eliminate such contacts for disabled workers, in order to move them out of a "welfare office" context. If so, how will the IRS be able to determine whether an individual is disabled? What information will be required from the taxpayer, and can this information be made available to the IRS in a usable form before the credit is paid out during the tax filing season?

- Would the disabled worker tax credit conform to other definitions and principles of the tax system? The individual income tax system, including the EITC, is based on the income of the marital unit. A disabled tax credit, based on the same criteria as the EITC, would treat the earnings of the two spouses equally, even if one spouse was not disabled. But basing the credit on the disabled spouse's own income would add significant complexity to the tax code and would be inconsistent with the general tax principle of treating couples, with equal ability to pay, in a similar manner.

- What is the proposed size of the credit? Would the EITC rates be increased for disabled individuals who currently meet other EITC eligibility criteria, or would the current EITC be made available to individuals who are currently not eligible for the EITC? (In 1997, the EITC is available to workers with one qualifying child and income up to $25,760; workers with two or more children and income up to $29,290; and workers without qualifying children with income up to $9,770.)

Center for Independent Living

2539 Telegraph Avenue
Berkeley, CA 94704
(510) 841-4776
(510) 848-3101 TDD
(510) 841-6168 FAX

310 8th Street #100
Oakland, CA 94607
(510) 763-9999

Oakland Office
New Address:
436 14th St. #218
Oakland, CA 94612
(510) 763-9999
(510) 444-1837 TDD
(510) 763-4910 FAX

cc Jack Smalligan } OMB
5-1875
Joanne Cianci

Fr: Diana

F: Bunning RTW

Commissioner Kenneth Apfel
The Social Security Administration
6401 Security Boulevard
Baltimore, Maryland 21235

October 10, 1997

Dear Commissioner Apfel:

We have been participating in policy discussions over the last two years with Social Security (SSA) beneficiaries with disabilities who work and with disability groups. We have taken part in the development of recommendations to upgrade employment and health care coverage law for Social Security recipients and beneficiaries with disabilities.

I am writing to ask that you evaluate the content and timeliness of these recommendations that are before the 105th Congress and that you encourage Social Security policy staff to participate fully in this policy design process with consumers. In September, 1997, the National Council on Disability published its final report on barriers to employment. The report contains specific recommendations that consumers and providers agree will increase employment outcomes for SSI recipients and SSDI beneficiaries.

There is now strong Congressional interest in several of the recommendations. Specifically, one upgrade replaces the Trial Work Period for SSDI beneficiaries with a gradual ramp off cash benefits similar to the formula in the SSI 1619(a) and (b) Program. In a related recommendation, earned income would not trigger an otherwise unscheduled Continuing Disability Review (CDR). CDRs would take place as stipulated and scheduled at the time of initial award of benefits. We think these recommendations have substantial value in laying a solid foundation for increased and prolonged periods of employment for people with significant disabilities.

People in any target group act in their own best self-interest. Currently, work triggers a medical review during the onset of new employment and prolonged employment can jeopardize the health care coverage needed to remain competitive in the workplace. Periodic success at new employment may or may not diminish the impact of or supports needed to live and work with a significant disability. It is hardly the right time for unnecessary government scrutiny. Furthermore, many SSDI beneficiaries today cannot get essential health care services they need to both live and work in society. Their earnings directly increase, dollar for dollar, their share of cost burden imposed by current Medicaid rules. Consumers have joined ranks across the country to ask that all stakeholders now expedite a policy solution away from these poorly administered, counterproductive regulations.[1]

---

[1] While the often stated intentions of the SSA Work Incentives have been to facilitate employment outcomes, the normal lines between perceptions, myths and fact have long been blurred in the area of these Work Incentives. This now common assessment has devalued the best of SSA policy intentions in the area. Please see Richard Baron's excellent presentation of these problems (with solutions) that he gave at the 1996 SSA/NIDRR Conference: "Employment and Return to Work for People With Disabilities." His prepared statement is in the Conference Manual, and is entitled: "STRENGTHENING THE WORK INCENTIVE PROVISIONS OF THE SOCIAL SECURITY ACT TO ENCOURAGE PERSONS WITH SERIOUS MENTAL ILLNESS TO WORK AT THEIR POTENTIAL." Richard C. Baron, M.A., Executive Director, Matrix Research Institute, 9 pages. I am writing you with seventeen years of direct services experience related to employment and people with disabilities.

Kenneth Apfel
Commissioner
The Social Security Administration

Some 30% of SSI recipients receive SSDI. SSI recipients who go to work pay into the SSA Trust Funds. Part time and periodic employment outcomes are worthy policy goals across the complex spectrum of employment. Policy design should be integrated and support all realistic outcomes that promote work when a consumer decides that he or she is job ready.

We understand that Social Security may not be currently receptive to the policy of a gradual ramp off SSDI cash benefits. The Congressional Budget Office (CBO) and SSA Office of the Actuary cost studies since 1988 on this topic contain serious flaws which are being analyzed elsewhere. More immediately, we think that consumers who advocate for the gradual ramp should also design a service delivery model that is cost neutral and user friendly. We propose that Social Security design an annual earnings reporting system similar to those in place for SSA retirees.[2] More importantly, we know from long years of direct experience with consumers and SSA District Offices that, without an improved and simplified service delivery system for SSA employment regulations, anticipated and increased employment outcomes will be jeopardized.

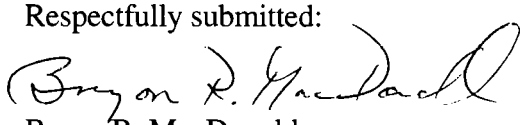
We are in peacetime. Congress is listening. We enjoy low unemployment today in a stable economy with minimal inflation. History shows that this climate of opportunity to better the employment opportunities for Americans with disabilities will not go on indefinitely.

We welcome you to your new position as Commissioner of the Social Security Administration. Most Americans know that we are about to restructure Social Security to meet our needs well into the next Century. This is another major reason to prioritize policy redesigns that facilitate all types of employment.

Please join us in fast tracking the policy design most suited to improving employment outcomes for Americans with disabilities.

Thank you for your time.

Respectfully submitted:



Bryon R. MacDonald
Benefits Counselor
Member, Social Security Committee, National Council on Independent Living

Enclosures

Mr. Baron's analysis and solutions share common ground with the difficulties experienced by people with a wide variety of significant disabilities.

[2] Please see Draft Proposal attachment, "An Annual Reporting System for SSDI Beneficiaries' Earnings Under the 2 for 1 Offset," by Alaine Perry, 3 pages.

cc:

Susan Daniels, Ph.D.
Associate Commissioner
Office of Disability
Social Security Administration
Room 560, Altmeyer Building
6401 Security Boulevard
Baltimore, MD 21235

Diana Fortuna
Domestic Policy Council
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Jay Johnson
Executive Director
OPTIONS, Resource Center for Independent Living
318 3rd Street NW
East Grand Forks, MN 56721-13870

Simi Litvak, Ph.D.
Research Director
World Institute on Disability
510 Sixteenth Street, Suite 100
Oakland, CA 94612-1500

Douglas Martin, Ph.D.
Special Assistant to the Chancellor
University of California, Los Angeles
Murphy Hall, Room A-239
Los Angeles, CA 90095-1405

Susan A. Webb, Chair
Social Security Committee, National Council on Independent Living
Executive Director
Arizona Bridge to Independent Living
1229 East Washington
Phoenix, AZ 85034

Tony Young
Policy Analyst
United Cerebral Palsy Associations
1660 L Street, NW, Suite 700
Washington, DC 20036-5602

* SUMMARY *

The CONSUMER PARTNERSHIP on SOCIAL SECURITY and EMPLOYMENT

RECOMMENDATIONS to the 105TH CONGRESS on

SOCIAL SECURITY (SSA), EMPLOYMENT, DISABILITY, HEALTH CARE and P.A.S.

PART 1. INCREASE CHOICE IN EMPLOYMENT SERVICES AND PROVIDERS

- Consumers/beneficiaries take responsibility for choosing among providers of return-to-work employment services, both public and private.
- Service providers are reimbursed upon attainment of milestone outcomes, e.g., after completing training, after job placement, after a period of time on the job.

PART 2. STREAMLINE SSI/SSDI WORK INCENTIVES--INCLUDING PASS PROGRAM

- SSI and SSDI cash benefits should be reduced $1 for every $2 earned above $500.00, the new Earned Income Exclusion (Indexed). Reductions would be made in $50 and $100 increments. This includes a "hold harmless" provision for SSDI beneficiaries who are blind.
- Eliminate existing complexities: e.g., Trial Work Period and Extended Period of Eligibility.
- Eliminate Substantial Gainful Activity regulations, except as related to initial eligibility determinations.
- Work activity should not trigger or be used as evidence against a beneficiary in a Continuing Disability Review (CDR).
- Retain and redesign the Plan to Achieve Self-Support (PASS) Program. Apply PASS to SSI and SSDI beneficiaries.
- SSA accountability. Improve by establishing an independent, federally funded oversight body that includes stakeholders (51% consumers) who approve and monitor employment-related regulations and their implementation. Install Employment Technicians in each Field Office to assist consumers in using employment regulations. See Proposals.

PART 3. REMOVE FINANCIAL DISINCENTIVES TO WORK

- Establish an Impairment Related Work Expense (IRWE) Tax Credit for SSI/SSDI working beneficiaries to cover 75% of the cost of impairment related work expenses up to a maximum of $15,000 per year. Phase out at income level of $50,000 and end at $75,000.
- Extend current IRWE tax deduction to include expenses related to preparation for and traveling to and from work.

PART 4. ENHANCE EMPLOYER INCENTIVES

- Implement a FICA Exemption (50% first year, 75% second year and 100% third year.)
- Implement a tax credit for true expenses such as increased worker's compensation costs, healthcare insurance, worksite modifications, sign language interpreters, on the job personal assistance, job coaches, etc..
- Establish an insurance fund that would cover employers' extraordinary expenses. Premiums could be taken as a tax credit.

PART 5. EXTEND MEDICAL SERVICES

- Extend 1619(a) and 1619(b) SSI Medicaid Coverage to SSDI beneficiaries who 1) are working and 2) meet 1619 earned income and resource eligibility criteria and 3) continue to meet disability criteria.
- Create 1619(c), a Medicaid buy-in for employees who reach the current 1619(b) earnings threshold. A 1619(c) candidate may choose to buy into the Federal Employee Health Benefit Plan.
- Establish a Medicare buy-in after current coverage ends with premiums at 10% of adjusted gross income in excess of $15,000.
- States should be encouraged to provide personal assistance services to disabled workers.
- States should be encouraged to provide equal access to psychiatric services including co-pays, numbers of visits, inpatient days, etc..
- Medicare/Medicaid will include a wrap around benefit to fill in gaps in employer insurance. Please see Proposals.

ENDORSEMENTS OF the NCD HOUSTON CONFERENCE RECOMMENDATIONS

As of October 10, 1997

The United Cerebral Palsy Associations, Inc., Washington, DC
The National Council on Independent Living, Arlington, VA
WORLD INSTITUTE ON DISABILITY, Oakland, CA
Consortium of Citizens with Disabilities, Washington, DC
The National Council on Disability, Washington, DC
The Association for Persons in Supported Employment, Washington, DC
Council of State Administrators of Vocational Rehabilitation, Washington, DC (in part)
The Return to Work Group (of private rehabilitation providers), Washington, DC
The Arc, Washington, DC

The City Council and City of Oakland, CA
The Center for Independent Living, Berkeley/Oakland, CA
Women's Economic Agenda Project, (WEAP), Oakland, CA
California Mental Health Planning Council, Sacramento, CA
The Mayor's Commission on Disability, Oakland, CA
The City of Berkeley Commission on Disability, Berkeley, CA
Central Labor Council of Alameda County, AFL-CIO, CA
Access for Disabled Americans, Oakland, CA
California Alliance for the Mentally Ill, (CAMI), Sacramento, CA
California Foundation for Independent Living Centers, Sacramento, CA
AIDS Legal Referral Panel, San Francisco, CA

Under review by:

National Alliance for the Mentally Ill, Washington, DC
Mental Health Associations across California
National Mental Health Association
AIDS Benefits Counselors, San Francisco, CA
State Independent Living Council, Sacramento, CA

Draft Proposal
Alaine Perry
University of California at Berkeley
School of Public Health
August 17, 1997

An Annual Reporting System for SSDI Beneficiaries' Earnings Under the 2 for 1 Offset

Characteristics

- Modeled on the current reporting system for social security benefits for non-disabled persons (see enclosed description from SSA).

- Beneficiaries would be required to report estimated earnings at the beginning of the year if they anticipate earning over the Earned Income Exclusion amount ($1020 yearly for monthly EIE of $85, $6000 annually for monthly EIE of $500, or something in between). Monthly benefit checks would be reduced accordingly.

- At the end of the year beneficiary would submit a report of actual earnings for the year. The difference between estimated and actual earnings would be reconciled by either a refund to or a payment by the beneficiary.

- The possibility of having the beneficiary submit interim (quarterly) estimates and reports of earnings should be explored. This could reduce the amount of overpayments to be collected. Totals would still be calculated on an annualized basis.

Advantages

- Discourages the gaming that a 2 for 1 offset calculated on a monthly basis could be subject to (e.g., "I'd like a vacation so I'll take a few months off and collect my benefit check.")

- SSA's Office of the Actuary expressed a concern about disabled seasonal workers in the construction, agriculture, and education industries being able to collect benefits on their off seasons, while earning relatively good incomes when they work. (Memo by James McLaughlin, June 13, 1994) This system would eliminate that problem.

- Administrative costs and complexity would be greatly reduced. (SSA officials have expressed concerns about a 2 for 1 offset for SSDI, saying that they do not have the capacity to handle administration of this on a monthly basis.)

- Reporting would be simpler for beneficiaries.

- There is a precedent for this system in the annual reporting system for non-disabled Social Security beneficiaries. The program could possibly be handled by the same office. This also has the advantage of further "mainstreaming" disabled beneficiaries.

Possible Arguments Against

- Could exacerbate the problem of overpayments which already exists under the SSI monthly accounting system. Approaches to solving: Look at how the annual reporting system has worked for non-disabled beneficiaries and to what extent the collection of overpayments has been a problem. Explore ways to improve on this system such as interim reports and/or annual in-person interviews to report estimated income (for SSI could be done at time of redetermination.)

Extending this System to SSI

The possibility of extending this system to SSI recipients should be explored.
Advantages: Same as for SSDI (above); in alignment with the goal of making SSDI/SSI employment regulations more alike (especially important for those on both programs); precedent in the current system of annual reporting for SSI recipients who are self-employed. Possible arguments against: Same as for SSDI above (overpayment issue). This could possibly be a greater concern for the SSI population if there are a larger number of persons on this program who have difficulty managing their finances.

RE: Annual Accounting/Reporting for SSDI who work.

→ This is what SSA does with/to retirees who work.

If You Worked In 1995

If you earned more than the Social Security earnings limit and received some benefits in 1995, you must complete a 1995 Annual Report of Earnings, unless you were 70 or older all year.

- **If you were 65 to 69 in 1995,** the earnings limit was $11,280. We must deduct $1 from your benefits for each $3 you earned over $11,280.
- **If you were under 65 in 1995,** the limit was $8,160. We must deduct $1 from your benefits for each $2 you earned over $8,160.

We usually mail the Annual Report to you, but if you do not receive one by early February, contact us. **Generally, you must mail or deliver your completed report to us by April 15, 1996.** Remember, filing an income tax return with the Internal Revenue Service is not the same as filing an Annual Report of Earnings with us.

If You Plan To Work In 1996

In 1996, you can earn more and still receive all your Social Security benefits. If you are under 70, and plan to earn more than the 1996 earnings limits shown below, you need to give us an estimate of your earnings.

- **If you are now 65 to 69, or will turn 65 in 1996,** you can earn $11,520 and still receive all your benefits. We will deduct $1 from your benefits for each $3 you earn over $11,520.
- **If you are under 65 in all of 1996,** you can earn up to $8,280 and still receive all your benefits. We will deduct $1 from your benefits for each $2 you earn over $8,280.

However, if you are working outside the U.S., special rules apply. Contact your nearest U.S. Embassy or consulate for more facts.

If You Work And Receive Social Security Disability Or Supplemental Security Income (SSI) Payments

If you receive disability or SSI payments, you must report **all** work, no matter how much you earn. Also, there are special rules that help disabled and blind people return to work. Contact us for a free leaflet.

Medicare

In 1996, the Medicare hospital insurance deductible is $736. If your monthly income is $643 or less ($856 for a couple), your State may pay your Medicare premium, deductibles, and coinsurance. To find out if you qualify, contact your State or local Medicaid agency.

Shirley S. Chater
Commissioner of Social Security

Bryan MacDonald
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08/13/97 04:50:00 PM

Record Type: Record

To: Diana Fortuna

cc:
Subject: New Jeffords draft

Here is the write up of a proposed new Jeffords bill.
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Work Incentive Bill -- Draft Provisions
Sponsored by Senator James M. Jeffords

June 16, 1997

Senator Jeffords would like to reintroduce a bill he sponsored last year pertaining to work incentives for various Social Security beneficiaries. This year's bill will be entitled "The Disability Work Incentives Improvement Act of 1997." Please note that this document represents only a draft version of the bill as it has yet to be formalized into legislative language and introduced. Your comments regarding this proposal are always welcome. Should you have questions, concerns or comments regarding this matter, please do not hesitate to contact Chris Crowley at 202-224-5141 or Jess Huber at 802-658-6001.
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The Disability Work Incentive Improvement Act of 1997 (DWIIA) will incorporate several provisions that would address the problem with losing cash benefits and health care coverage when a Social Security Disability Insurance (SSDI) and Social Security Insurance (SSI) beneficiary loses his or her cash benefits and health insurance following a return to work.

o Under current law an individual receiving SSDI and Medicare may return to work where cash benefits continue for a 9 month trial work period (TWP), and a 3 month transition period. In the 13th month of work, once SGA is achieved, the individual loses cash benefits and, 39 months following the end of TWP, may purchase Medicare benefits at the same rate as retired Medicare beneficiaries. In the 13th month of work, the DWIIA would provide free Medicare coverage until an individual's adjusted gross income reaches $15,000 of earned income. At that point, the beneficiary shall pay a portion of the Medicare premium, based on 10% of the monthly earned income above $15,000 annually [for example, w/$30,000 in earned income, a recipient's obligation would total about $1,500]. Premium amounts would be capped at the premium rate for those aged 65+ Medicare beneficiaries.

There currently exists a Medicare buy-in program following the 36 month Extended Period of Eligibility for those who work. This would be unnecessary and would be repealed. Those who are currently working and

purchasing Medicare coverage under this option would have the option of receiving Medicare for no charge, provided they fall below the income threshold ($15,000 earned income).

o An individual initially applying for SSDI who wishes to obtain immediate Medicare coverage and will forego cash benefits may do so by signing a waiver of the receipt of cash assistance. The waiver will be made known to the recipient at the time of applying and, 5 months after the submission (and approval) of a disability application, the individual would begin to receive Medicare coverage.

o The Secretary of HHS shall designate that a percentage of premium contributions be placed in a separate fund to assist in funding for state programs that seek to establish a Medicaid buy-in programs for personal assistant services, prescription drugs and other services not provided under Medicare (as determined by the state for Medicare-eligible beneficiaries who return to work);

o the 36-month Extended Period of Eligibility (EPE) "clock" that applies to the time limitation on Medicare availability would suspend when an SSDI-eligible individual returned to work. It would restart if the work attempt failed with credit given for non-working months that followed the submission of a disability application. Otherwise, DI working individuals would be in a continuing disability status.

o The bill would also amend Medicaid Section 1115 waiver provisions to state that for individuals participating in a state Section 1115 waiver program, the EPE clock would be suspended. If that individual stops working, the clock would resume.

o If a DI-eligible recipient stopped working, he or she would once again receive cash assistance.

o The bill encourages and allows for states to establish a Medicaid premium buy-in program for those SSDI beneficiaries who return to work and whose income exceeds the requirements for lower-income Medicaid beneficiaries and would be partially funded from premiums collected from working Medicare recipients who earn more than $15,000 earned income (mentioned above). Premium payment buy-in amounts would be determined by the appropriate state agency administering the program.

o The bill would establish a Disability Insurance Workers Tax Credit (DIWTC) to provide a refundable federal income tax credit to SSDI beneficiaries who have been determined by Disability Determination Services to have a disability and who decide to return to work. The DIWTC would take effect 12 months following the passage of the bill and would kick in when the TWP for SSDI beneficiaries expires (at 12 months of Substantial Gainful Activity) and would phase out once income exceeded certain levels yet determined [additional information needed on the income parameters of this proposal]. The IRS would be responsible for the payment of DIWTC and would communicate with SSA to ensure that the individual is in a continuing disability status while receiving

DIWTC. The credit would cease to apply if/when the individual stopped working.

o The bill directs the Secretary of HHS to establish a Work Incentive Counseling and Assistance Program comprised of non-profit volunteers who provide initial SSI and SSDI beneficiaries information (in coordination and in communication with Social Security Field Office counterparts), counseling, and assistance on work incentives and employment-related support options, with an emphasis on vocational rehabilitation options. The individual will serve as an important link between the new incentives in this bill and would strengthen the link between VR services and an eventual return to work.

o The bill would eliminate the requirement under current law that gives first referral to state vocational rehabilitation agencies.

o It will also provide vouchers to SSDI and SSI-eligible beneficiaries who voluntarily go to private vocational rehabilitation vocational rehabilitation providers and would obligate the SSA to pay that provider after the beneficiary leaves the benefit roles. Beginning 12 months from the date of enactment of this bill, vouchers would be available to any individual who requested one.

o Dually eligible individuals, or those eligible for both SSDI and SSI, would continue to receive SSI and Medicaid coverage as provided under Sec. 1619 under current law.

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202.973.7112 Voice; 202.776.0414 Fax
"Preeminent Purveyor of Disability Policy"