

WORK INCENTIVES FOR DISABLED

Talking Points

- o Movement toward encouraging people with disabilities to work, especially those on SSI/SSDI because of exploding cost to government, increasingly young average age
- o Barriers are many -- lack of good rehab, access to health insurance, technology, personal assistance services, etc.
- o Interest running high on this in disability community; interest on Hill (Bunning) both from return to work and cost saving perspectives

Working on 2 fronts to get into budget. Concerned about the second front, since budget process on Medicare/Medicaid has not allowed time for deliberations on more minor items like this.

Ticket demo -- already agreed to as part of the budget

hand write note

- o Today, those on SSI/SSDI not well served by federal vocational rehabilitation program
- o This plan would offer recipients a "ticket" they could take to private rehab providers
- o Providers who successfully get clients off the SSI/SSDI rolls would get 50 percent of the benefits for up to 5 years
- o Begin in 5 states; potential to expand to 25-35 if successful and costs do not increase

Extend health insurance to those who return to work -- under discussion with OMB, HHS, SSA

- o Entry level jobs unlikely to offer adequate coverage, particularly for disabled
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- o We must work to resolve this in next day or two
- o Might make sense to do as a demonstration
- o If we can resolve roadblocks, do we have your support for the concept?

*→ retain - depend on
base not on earnings
but income retained*

CHILDREN'S SSI CUTS

Background

- o Program geared to families with income under 190% of poverty; maximum monthly payment of \$460 a month declines as income increases
- o SSI also makes you eligible for Medicaid
- o Tremendous growth in program due to Supreme Court decision, outreach, better recognition of mental impairments -- now 1 million children, up from 300,000 children in 1989, at a cost of almost \$5 billion a year
- o Supreme Court decision led SSA to lower its standard -- "IFA" test -- and emphasize child's functioning, not just disease
- o Media stories of coaching children to "act crazy" never documented beyond a tiny number; more likely resentment sprang from marginal cases -- learning disabilities, behavioral problems, ADHD -- many of which SSA probably rejected

Legislative Change

- o House initially wanted to block grant, or cut grants to all children; Senate resisted and crafted this compromise, which we ultimately endorsed
- o New definition: child must have "marked and severe functional limitations"; IFA repealed
- o We and Congressional leadership assumed strict interpretation at the time, including cost estimates (savings of \$8 billion over 5 years)
- o Advocates worked quietly with Daschle, Conrad, and Chafee to add some legislative history to support their current contention that SSA could add back a new version of the IFA test (most Dems were silent, however)
- o Conference report supports strict interpretation; Republican leadership would charge us with bad faith since we endorsed this

Implementation Tasks

- o Law required SSA to issue new definition by Nov. 22
- o Since August, new applications in the "grey area" have been on hold (60,000-100,000)
- o By next August, SSA must redetermine eligibility of the approximately 300,000 children who got on current rolls through IFA test; families received notices
- o Once decision is made, we will work with SSA to respond to media reports. There are likely to be inaccurate stories about children who will lose their benefits, but decisions about individual children will not be made until summer.

OPTIONS

How SSA Determines If a Child is Disabled

- o We must use SSA's current framework for making this decision -- it would take up to 2 years to design a new approach (not practical given the backlog built up since August)
- o Children are eligible for SSI if:
 - 1. their disease/impairment is on SSA's list; or
 - 2. they have functional limitations in certain "domains" (e.g., personal, cognitive, social, motor)
- o IFA allows children with "3 moderate" or "1 marked and 1 moderate" impairment.
- o Eliminating the IFA would raise that standard to "2 marked" impairments.

Option 1: Strict Interpretation. Cuts off 190,000 kids. No cost to budget. Eliminate "IFA" test, strict standard of "2 marked" impairments.

Option 2: Advocates' Proposal. Cuts off 45,000 kids. Cost to budget: \$6.4 billion over 5 years. Build back new IFA test that allows children with "1 marked and 1 moderate" impairment to qualify; eliminate only those with "3 moderates." Supported by Sens. Daschle, Chafee, Conrad, Cohen; Gov. Dean; Mayor Rendell.

Option 3: Middle Ground. Cuts off 135,000 kids. Cost to budget: \$2.4 billion over 5 years. Eliminate "IFA" test and strict standard of "2 marked", but soften with modifications.

- o add new motor domain, to take better account of children with physical disabilities
- o ensure that adjudicators consider a child's functioning by requiring them to fill out a special form
- o require special consideration of chronic/episodic impairments, that come and go (AIDS, schizophrenia)
- o grandfather Medicaid for all children now on rolls (50,000 are otherwise expected to lose Medicaid) -- may be most important part of benefit

Pro's: o While a significant change from our previous position, probably won't alienate Republicans; would restore public confidence in program

Con's: o While probably right middle ground to strike, advocates will view as defeat
o Hard to be confident SSA's system is picking up most severely disabled
o Poor families are facing other changes in welfare system
o Few will speak out in support
o While program has few supporters, stories of children losing aid could change this

Note: SSA is guessing at the number of children affected by each proposal; also, SSA has considerable administrative power in implementing any definition

PROFILE OF CHILDREN

- o Difficult to estimate because so many children who entered program via IFA would actually qualify under toughest standard
- o Appears that most stories the press has picked up are children who would still qualify
- o Not a question of what diseases or impairments, but degree of impairment
- o Difference between marked and moderate often question of frequency: "occasional pain" vs. "frequent pain"
- o Most of the children in question have mental impairments:

Even Advocates Agree to cut:

- o Children with less severe behavioral problems, such as conduct disorder, ADHD, learning disabilities, or mild mental retardation -- many of which were the impetus for changes to the program.

Advocates want to preserve benefits for:

- o Children with significant impairments, such as asthma, cerebral palsy or mental retardation, whose problem does not spill over into other areas of the child's functioning (social, activities of daily living)

Middle Ground Option would preserve benefits for:

- o many children with physical disabilities
- o children with episodic illness

Strictest Option would be unfair to:

- o children with physical disabilities
- o children with chronic physical problems

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JIM BUNNING, KENTUCKY, CHAIRMAN
SUBCOMMITTEE ON SOCIAL SECURITY

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JANICE MAYS, MINORITY CHIEF COUNSEL
SANDRA CASBER WISE, SUBCOMMITTEE MINORITY

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

SUBCOMMITTEE ON SOCIAL SECURITY

October 31, 1996

Dear Colleague:

On September 27, 1996, Congressman Jim Bunning, Chairman of the House Ways and Means Social Security Subcommittee, introduced H.R. 4230, the "Rehabilitation and Return to Work Opportunity Act of 1996," to help Social Security and Supplemental Security Income disability recipients who want to return to a life of financial independence and self sufficiency.

*Bunning -
const issues*

Chairman Bunning is interested in hearing comments from all those who would be affected by this legislation -- persons with disabilities, employers, and rehabilitation services providers -- so that in the next Congress he can take legislative action to provide real opportunity for rehabilitation and return to work to persons with severe disabilities. Attached for your review is a copy of H.R. 4230, as well as a summary of its provisions, and Chairman Bunning's introductory statement. Your comments would be most appreciated, and if possible should be in writing by December 31, 1996, directed to Chairman Bunning at the Ways and Means Social Security Subcommittee, B-316 Rayburn House Office Building, Washington, DC 20515. They may also be faxed to 202-225-9480.

Should you have any questions, please contact Kim Hildred of the Subcommittee Staff at (202) 225-9263.

** Who are employers? Ask Tony G to set up mtg*

Sincerely,

Valerie S. Nixon

Valerie S. Nixon
Staff Director

*consumers
elder
providers
taxpayers*

*MA - diff comm
* Jack - get all #s
ask Chris to setup
* Meet w/ Nixon + Chesser?
+ others - ask Judy
December?*

** SSA worker Jeffords
proposal - wk incentives
also web site
modeling mentioned*

*5 Wise - will private sector
editors
more cons control
R's - will demongue
warning - sweetener to attack
(Ken's pt.)*

The "Rehabilitation and Return to Work Opportunity Act of 1996"
(H.R. 4230 – Short Summary by Title)

I. REHABILITATION SERVICES UNDER REHABILITATION AND RETURN-TO-WORK PROGRAM

a. Rehabilitation and Return-to-Work Program

1. Assessment of Capability for Vocational Adjustment

Once an individual is determined to be disabled for purposes of entitlement to Social Security disability insurance or Supplemental Security Income, a determination will be made whether there is a reasonable possibility that the individual will be capable, upon being provided vocational rehabilitation (VR) services, of performing substantial gainful activity.

2. Regional Administrators

The U.S. shall be divided in specified service regions. The Commissioner of Social Security shall, after a competitive bidding process, enter into agreements with private sector organizations (experienced in the field of vocational rehabilitation or Federal contract management) to serve as Regional Administrators of the Program for each service region. Agreements will be limited to 5 years, subject to renewal, and provide for early termination upon failure to meet established performance standards (which include success rates, access ease, and timely operation of payment systems).

The Regional Administrator may not provide any direct service in their region or hold financial interests in any of the network coordinators or service providers under their administration. The Regional Administrator shall:

- o Provide for expedited referral of beneficiaries and applicants to providers of vocational rehabilitation services in the service region, and for change of provider with good cause;
- o Arrange for annual reviews by consumer groups to provide for effective quality assurance in the provision of services by providers in the service region and in the administration of the milestone payment system, with results published locally, to educate prospective recipients of vocational rehabilitation services available; and
- o Resolve any disputes that arise between parties.

3. Network Coordinators

The Regional Administrator for each service region shall recruit, hire, monitor, and authorize the compensation by SSA of such Network Coordinators for the service region as are necessary to ensure adequate choices for VR services are made to recipients under the program. Network Coordinators shall consist of organizations which have substantial expertise and experience in the field of VR.

Network Coordinators must ensure a comprehensive array of services are available throughout the service region, including rural areas. The Network Coordinator may provide these services directly or by entering into agreements with other VR service providers.

Network Coordinators must ensure that each beneficiary or applicant has reasonable access to providers of services which shall include career planning, career plan development, vocational assessment, job training, placement, and follow-up services and such other vocational services as may be specified through regulation as core services.

Network Coordinators shall ensure that providers of VR services meet specific service delivery program expectations, serve minimum geographic areas and populations and meet and maintain compliance with certain selection criteria (professional certification, education credentials, and work experience) as set forth in regulations.

Each Network Coordinator shall maintain procedures for establishing lists of Network Providers eligible for referrals under the Program and reimbursements for time periods specified under the Program, subject to annual performance reviews (to include return-to-work rates, job retention, timeliness, and cost).

4. Individual Employment Plans

Each provider of service under the Program shall develop, jointly with each recipient of services, an employment plan.

In developing the employment plan, the provider shall undertake an employment evaluation for each recipient which shall include a review and assessment of the recipient's prior work history; educational background; mobility, cognitive, sensory, and mental abilities and limitations; and interests and aptitudes. The evaluation will also include an inventory of the necessary services needed to obtain employment.

5. Milestone Payment System

The payment system shall consist of an incremental fee structure based on milestones directed towards the goal of permanent employment, such as completion of the employment plan, initial employment, and retention of employment for specified periods of times. The milestone payment shall provide for payment of a fixed fee to the Network Coordinators upon the attainment of each milestone by the recipient and subsequent payment of deferred retention fees for a recipient who retains employment.

The fee schedule shall be designed so that approximately 2/3 of the total compensation for services come from the deferred payment that results from assisting people to stay off the rolls for an extended period of time.

b. Conforming Amendments

The existing State VR referral and reimbursement program after an individual remains employed for 9 months remains essentially the same. However, recipients will be referred to all qualified providers of vocational rehabilitation services, including private and non-profit (instead of State VR agencies only), and incremental reimbursement to such providers will not be subject to completion of the trial work period by the individual receiving rehabilitation services.

c. Effective Date

The amendments shall apply to applications filed and CDRs conducted at pilot sites 6 months after the date of enactment.

d. The Rehabilitation and Return-To-Work Commission

1. Duties of the Commission

The Commission shall, jointly with the Commissioner, issue regulations as are necessary to fully implement the Rehabilitation and Return-to-Work program as soon as practicable but not later than 3 years after the date of enactment, covering such issues as the procedures for assessing the capability of beneficiaries for vocational rehabilitation, the milestone payment system, and procedures for effective oversight. The Commission shall also establish initial service regions for the program and carry out pilot sites in each region not later than 6 months after enactment to ensure the development and refinement of referral processes, payment systems, computer linkages, management information systems, and administrative processes necessary to provide for full implementation. The Commission shall oversee the operation of the Program

and include the results of its oversight in reports to the President and Congress.

2. Membership

The Commission is composed of 9 members appointed by the President as follows:

- o Three members selected for appointment from among individuals recommended by the Speaker of the House of Representatives (not more than 2 may be of the same political party);
- o Three members selected for appointment from individuals recommended by the Majority Leader of the Senate (not more than 2 may be of the same political party); and
- o Three members selected for appointment from among individuals as the President may consider appropriate (not more than 2 may be of the same political party).

Of the members selected, one shall represent the interests of recipients of vocational rehabilitation services, one shall represent the interests of providers of vocational rehabilitation services, and one shall represent the interests of private employers. Four members shall be appointed for a term of 2 years and 5 members shall be appointed for a term of 4 years. Members shall be paid at the daily equivalent of level 4 of the SES, and be reimbursed for travel expenses. The Chairperson shall be designated by the President for a 4-year term of office. The Commission shall meet at least quarterly, with 5 members constituting a quorum.

4. Commission Staff

A Director shall be appointed by the Commission who may appoint additional personnel and contract out expert and consultant services, subject to rules by the Commission. Staff from other Federal agencies may be detailed to the Commission.

5. Powers of the Commission

The Commission has the power to conduct hearings, use the U.S. mail, and request administrative support from the Administrator of General Services

6. Reports

The Commission will report to the President and the Congress annually, with a final report not later than 5 years after enactment, which details its findings and conclusions, together with its recommendations for legislation and administrative actions.

104TH CONGRESS
2D SESSION

H. R. 4230

To amend title II of the Social Security Act and the Internal Revenue Code of 1986 to make improvements in the rehabilitation programs provided for disabled individuals under such Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 27, 1996

Mr. BUNNING of Kentucky (for himself, Mr. JACOBS, Mr. GIBBONS, Mr. CRANE, Mr. THOMAS, Mr. SHAW, Mrs. JOHNSON of Connecticut, Mr. CAMP, Mr. SAM JOHNSON of Texas, Mr. COLLINS of Georgia, Mr. PORTMAN, Mr. LAUGHLIN, Mr. ENGLISH of Pennsylvania, Mr. CHRISTENSEN, and Ms. DUNN of Washington) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

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1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Rehabilitation and Re-
5 turn to Work Opportunity Act of 1996".

1 **SEC. 2. REHABILITATION SERVICES UNDER REHABILITA-**
2 **TION AND RETURN-TO-WORK PROGRAM.**

3 (a) IN GENERAL.—Section 222 of the Social Security
4 Act (42 U.S.C. 422) is amended—

5 (1) by redesignating subsection (e) as sub-
6 section (f); and

7 (2) by inserting after subsection (d) the follow-
8 ing new subsection:

9 “(e) REHABILITATION AND RETURN-TO-WORK PRO-
10 GRAM.—

11 “(1) IN GENERAL.—There is established under
12 the Social Security Administration a Rehabilitation
13 and Return-to-Work Program.

14 “(2) ASSESSMENT OF CAPABILITY FOR VOCA-
15 TIONAL ADJUSTMENT.—Under the Program, each
16 determination under section 221 or sections 1631(c)
17 and 1633(a) that an individual is under a disability
18 shall be accompanied by a determination, by the offi-
19 cials making such determination under section 221
20 or sections 1631(c) and 1633(a), of whether or not
21 the individual is capable of vocational adjustment.
22 The individual shall be determined to be capable of
23 vocational adjustment if such officials determine
24 that there is a reasonable possibility that the individ-
25 ual will be capable, upon provision of vocational re-
26 habilitation services to the individual under the Pro-

1 gram or under a State plan approved under title I
2 of the Rehabilitation Act of 1973, to perform sub-
3 stantial gainful activity. Participation in the Pro-
4 gram or such a State plan by individuals determined
5 capable of vocational adjustment shall be mandatory,
6 until a determination is made by a provider of reha-
7 bilitation services, in the course of employment eval-
8 uation under paragraph (5)(B) or during the imple-
9 mentation of the employment plan under paragraph
10 (5), that the individual is no longer capable of voca-
11 tional adjustment or that the original determination
12 that the individual is capable of vocational adjust-
13 ment was in error. Nothing in this paragraph shall
14 be construed to preclude voluntary participation in
15 the Program by any individual determined to be
16 under a disability under section 221 for whom par-
17 ticipation is not mandatory.

18 “(3) REGIONAL ADMINISTRATORS.—

19 “(A) SERVICE REGIONS.—The Program
20 shall provide for the division of the geographic
21 area of the United States into specified service
22 regions for purposes of the Program.

23 “(B) SELECTION AND ASSIGNMENT TO
24 SERVICE REGIONS.—Under the Program, the
25 Commissioner of Social Security shall enter into

1 agreements with organizations in the private
2 sector to serve as regional administrators of the
3 Program for each service region. Regional ad-
4 ministrators shall be selected for each region by
5 means of a competitive bidding process, from
6 among organizations in the private sector with
7 substantial expertise and experience in the field
8 of vocational rehabilitation or Federal contract
9 management. Such organizations may serve as
10 regional administrator for any number of serv-
11 ice regions, except that not less than 2 qualified
12 organizations may serve at any time as regional
13 administrators under the Program.

14 “(C) TENURE, RENEWAL, AND EARLY TER-
15 MINATION.—Each agreement entered into
16 under this paragraph shall provide for service
17 by regional administrators limited to terms of 5
18 years, subject to renewal. Such agreements
19 shall provide for early termination upon failure
20 to meet performance standards which shall be
21 specified in the agreement and which shall be
22 weighted to take into account any performance
23 in prior terms. Such performance standards
24 shall include (but are not limited to)—

1 “(i) measures for timely operation of
2 provider payment systems,

3 “(ii) measures for ease of access by
4 recipients to vocational rehabilitation serv-
5 ices, and

6 “(iii) measures for determining the
7 extent to which failures in obtaining voca-
8 tional rehabilitation for participants for
9 each service region, and in relation to
10 other service regions, fall within acceptable
11 parameters.

12 “(D) PRECLUSION FROM DIRECT PARTICI-
13 PATION IN DELIVERY OF SERVICES IN OWN
14 SERVICE AREA.—

15 “(i) IN GENERAL.—Agreements under
16 this paragraph shall conform to require-
17 ments which shall be provided in regula-
18 tions prescribed under this section which
19 preclude—

20 “(I) direct participation by the
21 regional administrator for any service
22 region in the delivery of vocational re-
23 habilitation services to participants in
24 such region, and

1 “(II) the holding by regional ad-
2 ministrators of financial interests in
3 network coordinators and service pro-
4 viders under their administration.

5 “(ii) DELIVERY OF SERVICES IN
6 OTHER AREAS PERMITTED.—No agreement
7 under this paragraph shall limit the ability
8 of a regional administrator for any service
9 region to operate as a service provider
10 under the Program in any other service re-
11 gion not under its administration.

12 “(E) REFERRAL OF BENEFICIARIES AND
13 APPLICANTS TO PROVIDERS.—The regional ad-
14 ministrator for each service region shall provide
15 for expedited referral of beneficiaries and appli-
16 cants to providers of vocational rehabilitation
17 services in the service region. The regional ad-
18 ministrator shall ensure that each beneficiary or
19 applicant is allowed changes in providers for
20 good cause without being deemed to have re-
21 jected services under the Program, under stand-
22 ards which shall be provided in regulations pre-
23 scribed under this section in order to promote
24 the mutual responsibility of the provider of such
25 services and the recipient of such services to

1 avoid unnecessary disruption in the delivery of
2 such services by the provider. The regional ad-
3 ministrator for each service region shall estab-
4 lish and maintain lists of providers of vocational
5 rehabilitation services eligible for referrals in
6 the service region and shall make such lists
7 generally available to the public.

8 “(F) QUALITY ASSURANCE.—The regional
9 administrator for each service region shall enter
10 into arrangements providing at least annually
11 for such reviews by consumer groups and pri-
12 vate auditing firms as are necessary to provide
13 for effective quality assurance in the provision
14 of services by providers in the service region
15 and in the administration of the milestone pay-
16 ment system prescribed pursuant to paragraph
17 (6) with respect to such providers. The primary
18 focus of such reviews shall be on the extent to
19 which the required components of employment
20 evaluation under paragraph (5)(B) and of indi-
21 vidual employment plans under paragraph
22 (5)(C) are reflected in the files of the recipients
23 of vocational rehabilitation under the Program.
24 Such reviews shall also determine the extent to
25 which such recipients have received information

1 required under the Program relating to the
2 availability of the services of providers of core
3 services, providers of support services, and pro-
4 viders of specialized services, and the extent to
5 which such recipients have been given the op-
6 portunity of personal choice regarding the selec-
7 tion of providers and of their own employment
8 goals and objectives. The regional administrator
9 shall publish locally the results obtained from
10 the arrangements entered into under this sub-
11 paragraph, in accordance with regulations pre-
12 scribed under this section, so as to effectively
13 educate prospective recipients of vocational re-
14 habilitation services as they select their provid-
15 ers.

16 “(G) DISPUTE RESOLUTION.—Under regu-
17 lations which shall be prescribed under this sec-
18 tion, the regional administrator for each service
19 region—

20 “(i) shall afford to any party to a dis-
21 pute arising under the Program a reason-
22 able opportunity for a full and fair review
23 by the regional administrator of the matter
24 in dispute, and

1 “(ii) shall afford to all parties to the
2 dispute an opportunity to submit the dis-
3 pute to arbitration by a third party se-
4 lected by the parties from persons deter-
5 mined by the regional administrator as
6 qualified to serve as an independent arbi-
7 trator.

8 An award by an arbitrator pursuant to arbitra-
9 tion entered into under this subparagraph shall
10 be final and binding between the parties to the
11 arbitration but shall have no force or effect on
12 any other person. Nothing in this subparagraph
13 shall be construed to otherwise limit the appli-
14 cation of subsections (b) and (g) of section 205
15 and sections 221, 1631(c), and 1633(a) with re-
16 spect to any beneficiary or applicant.

17 “(4) NETWORK COORDINATORS.—

18 “(A) HIRING BY REGIONAL ADMINISTRA-
19 TORS.—The regional administrator for each
20 service region under the Program shall recruit,
21 hire, monitor, and authorize the compensation
22 by the Social Security Administration of such
23 network coordinators for the service region as
24 are necessary and appropriate to ensure that
25 adequate choices for vocational rehabilitation

1 services are made available to recipients of such
2 services under the Program.

3 “(B) QUALIFICATIONS FOR NETWORK CO-
4 ORDINATORS.—The network coordinators re-
5 ferred to in subparagraph (A) shall consist of
6 organizations which have substantial expertise
7 and experience in the field of vocational reha-
8 bilitation.

9 “(C) ENSURING AVAILABILITY OF ADE-
10 QUATE SERVICES.—In accordance with regula-
11 tions which shall be prescribed under this sec-
12 tion, each network coordinator assigned to a
13 service region shall ensure that—

14 “(i) a comprehensive array of voca-
15 tional rehabilitation services are available
16 throughout the service region, including
17 rural areas, and

18 “(ii) such services are provided by
19 both—

20 “(I) providers who are generalists
21 with respect to all populations, and

22 “(II) providers who are special-
23 ists with respect to particular popu-
24 lations, which may include specialists
25 in mobility, cognitive, sensory, and

1 mental impairments and other areas
2 specified in such regulations.

3 A network coordinator may meet the require-
4 ments of this subparagraph by providing voca-
5 tional rehabilitation services directly, or by en-
6 tering into agreements with other vocational re-
7 habilitation service providers.

8 “(D) REASONABLE ACCESS TO SERV-
9 ICES.—Under standards which shall be provided
10 in regulations prescribed under this section,
11 each network coordinator shall take such meas-
12 ures as are necessary to ensure that each bene-
13 ficiary or applicant has reasonable access under
14 the Program to vocational rehabilitation serv-
15 ices, including career planning, career plan de-
16 velopment, vocational assessment, job training,
17 placement, and follow-up services and such
18 other vocational rehabilitation services as may
19 be specified in regulations issued under this sec-
20 tion as core services.

21 “(E) REQUIREMENTS RELATING TO PROVI-
22 SION OF SERVICES.—Each network coordinator
23 shall take such measures as are necessary to
24 ensure that—

1 “(i) providers of vocational rehabilita-
2 tion services made available by the network
3 coordinator meet specific service delivery
4 program expectations which shall be set
5 forth in regulations prescribed under this
6 section,

7 “(ii) such providers serve minimum
8 geographic areas and populations which
9 shall be specified in regulations prescribed
10 under this section, and

11 “(iii) such providers are required to
12 meet, and maintain compliance with, both
13 general selection criteria (such as profes-
14 sional and governmental certification and
15 educational credentials) and specific selec-
16 tion criteria (such as the extent of work
17 experience by the provider with specific
18 populations), which shall be set forth in
19 regulations prescribed under this section.

20 “(F) REFERRAL LISTS AND QUALITY
21 MEASURES.—Each network coordinator shall
22 maintain procedures for establishing lists of
23 network providers eligible for referrals under
24 the Program and reimbursement for time peri-
25 ods specified under the Program, subject to an-

1 nual performance reviews measured against es-
2 tablished quality measures applied to recipients
3 of rehabilitation services. Such measures shall
4 include return-to-work rates, job retention,
5 timeliness, cost, and other factors which shall
6 be specified in regulations prescribed under this
7 section.

8 “(G) PROVISION OF SERVICES UNDER IN-
9 DIVIDUAL EMPLOYMENT PLANS ENSURED.—
10 Each network coordinator shall take such meas-
11 ures as are necessary to ensure that vocational
12 rehabilitation services provided under the Pro-
13 gram by, or under agreements entered into
14 with, the network coordinator are provided
15 under appropriate individual employment plans
16 meeting the requirements of paragraph (4).

17 “(H) ADMINISTRATION OF MILESTONE
18 PAYMENT SYSTEM.—Each regional adminis-
19 trator for a service region shall take such meas-
20 ures as are necessary, in accordance with regu-
21 lations prescribed under this section, to ensure
22 that any compensation received, by network co-
23 ordinators or by other providers under agree-
24 ments entered into with network coordinators,
25 for vocational rehabilitation services provided

1 under the Program in the service region com-
2 plies with the requirements of the milestone
3 payment system prescribed pursuant to para-
4 graph (6). Each network coordinator shall ad-
5 minister the milestone payment system with re-
6 spect to vocational rehabilitation services pro-
7 vided by, or under agreements with, such net-
8 work coordinator, including the authorization
9 and verification of payments to providers and
10 securing restitution of overpayments.

11 “(I) ANNUAL FINANCIAL REPORTING.—In
12 accordance with regulations which shall be pre-
13 scribed under this section, each network coordi-
14 nator for a service region shall engage a cer-
15 tified public accountant, who shall prepare such
16 annual financial reports to the regional admin-
17 istrator for such region as are necessary to pro-
18 vide for the quality assurance required under
19 paragraph (3)(F).

20 “(J) PERIODIC OUTCOMES REPORTING.—
21 Each network coordinator for a service region
22 shall prepare periodic reports, on at least an
23 annual basis, itemizing for the covered period
24 specific outcomes achieved with respect to spe-
25 cific services provided by the network coordina-

1 tor. Such report shall conform to a national
2 model which shall be prescribed in regulations
3 under this section. In such report, outcomes
4 shall be measured at least in part on uniform
5 customer satisfaction surveys. Each network co-
6 ordinator shall provide a copy of the latest re-
7 port issued by the network coordinator pursu-
8 ant to this subparagraph to each beneficiary or
9 applicant upon enrollment under the Program
10 for services to be received through such network
11 coordinator. Upon issuance of such report to
12 each beneficiary or applicant, a copy of such re-
13 port shall be maintained in the files of the net-
14 work coordinator pertaining to such beneficiary
15 or applicant. The regional administrator for
16 each service region shall ensure that copies of
17 all such reports issued under this subparagraph
18 are made available to the public under reason-
19 able terms.

20 “(5) INDIVIDUAL EMPLOYMENT PLANS.—

21 “(A) IN GENERAL.—In accordance with
22 regulations which shall be prescribed under this
23 section, each provider of vocational rehabilita-
24 tion services under the Program shall develop,
25 jointly with each recipient of such services, an

1 employment plan meeting the requirements of
2 this paragraph.

3 “(B) EMPLOYMENT EVALUATION.—In de-
4 vising the employment plan, the provider shall
5 undertake an employment evaluation with re-
6 spect to the recipient. Each employment evalua-
7 tion shall set forth in writing with respect to
8 the recipient at least the following:

9 “(i) A review and assessment of—

10 “(I) the recipient’s prior work
11 history,

12 “(II) the recipient’s educational
13 background,

14 “(III) the recipient’s mobility,
15 cognitive, sensory, and mental abilities
16 and limitations, and

17 “(IV) the recipient’s interests
18 and aptitudes.

19 “(ii) An inventory of the services de-
20 termined by the network coordinator as
21 most efficacious in obtaining employment
22 for the recipient or facilitating training for
23 employment for the recipient, identifying—

24 “(I) those services which are to
25 be provided by providers who are gen-

1 eralists with respect to all populations,
2 and

3 “(II) those services which are to
4 be provided by providers in areas of
5 specialty, which may include special-
6 ties in mobility, cognitive, sensory,
7 and mental impairment and other
8 areas specified in regulations pre-
9 scribed under this section.

10 “(C) REQUIREMENTS FOR INDIVIDUAL EM-
11 PLOYMENT PLANS.—Each individual employ-
12 ment plan shall—

13 “(i) take into account results obtained
14 from the employment evaluation under-
15 taken pursuant to subparagraph (B), iden-
16 tifying any particular strengths and abili-
17 ties of the recipient,

18 “(ii) set forth specific employment
19 goals that relate to the availability of gain-
20 ful activity within the economy of the serv-
21 ice region or the economy of any alter-
22 native service region within which the re-
23 cipient chooses to relocate,

24 “(iii) outline specific steps and activi-
25 ties necessary to prepare for employment,

1 obtain employment, retain employment,
2 and pursue advancement after initial em-
3 ployment,

4 “(iv) identify and promote career
5 paths that will allow the recipient to main-
6 tain a level of compensation upon obtain-
7 ing employment which equals or exceeds
8 the greater of—

9 “(I) the minimum level of earn-
10 ings which, under regulations of the
11 Commissioner of Social Security, dem-
12 onstrates an ability to engage in sub-
13 stantial gainful activity, or

14 “(II) the level of benefits received
15 by the recipient while disabled as cash
16 benefits under this title and title XVI
17 and the cash value of items and serv-
18 ices received under title XVIII or
19 under State plans under title XIX,

20 “(v) incorporate to the extent prac-
21 ticable existing resources and programs,
22 including (but not limited to):

23 “(I) co-enrollment in vocational
24 rehabilitation programs provided
25 under State plans approved under

1 title I of the Rehabilitation Act of
2 1973,

3 “(II) any unexhausted training
4 resources available from the carrier
5 through which the recipient’s worker’s
6 compensation benefits are provided,

7 “(III) personal resources of the
8 recipient,

9 “(IV) stipends, grants, and loans
10 available from other Federal, State, or
11 local governmental programs,

12 “(V) stipends, grants, or loans
13 from, or partnership agreements with,
14 organizations of network coordinators,
15 and

16 “(VI) cooperative agreements
17 with prospective employers providing
18 for assistance with training and relat-
19 ed costs, and

20 “(vi) take effect upon approval by the
21 recipient.

22 “(6) MILESTONE PAYMENT SYSTEM.—

23 “(A) IN GENERAL.—Under regulations
24 prescribed under this section, the Program shall
25 provide for a milestone payment system, which

1 shall consist of an incremental fee structure
2 governing providers of vocational rehabilitation
3 services under the Program which meets the re-
4 quirements of this paragraph. The milestone
5 payment system shall provide for capitation of
6 costs and fees in the case of each recipient of
7 such services under managed competition
8 (thereby precluding the use of any cost-reim-
9 bursement, cost-plus, or other cost-based pay-
10 ment methodology).

11 “(B) MILESTONES.—The milestone pay-
12 ment system shall provide for milestones, with
13 respect to all recipients of vocational rehabilita-
14 tion services from a provider under the Pro-
15 gram, which are directed toward the goal of
16 permanent employment and which shall serve as
17 the basis for graduated fee levels applicable
18 with respect to providers. Such milestones may
19 include:

20 “(i) completion of the employment
21 plan developed with the recipient under
22 paragraph (5);

23 “(ii) initial employment of the recipi-
24 ent secured after enrollment under the
25 Program; and

1 “(iii) retention by the recipient of em-
2 ployment secured after enrollment under
3 the Program for specified periods of time.

4 “(C) INITIAL FIXED FEES AND SUBSE-
5 QUENT DEFERRED RETENTION FEES.—The
6 milestone payment system shall provide for—

7 “(i) payment of a fixed fee to the net-
8 work coordinator upon the attainment of
9 each milestone by the recipient of voca-
10 tional rehabilitation services, as consider-
11 ation for the attainment by the recipient of
12 such milestone, and

13 “(ii) subsequent payment of deferred
14 retention fees to the network coordinator
15 for a recipient who ceases to be entitled to
16 benefits under this title or ceases to be eli-
17 gible for benefits under title XVI by reason
18 of retention by the recipient of employment
19 after enrollment under the Program.

20 “(D) BACKLOADED PAYMENT STRUC-
21 TURE.—Under regulations prescribed under
22 this section, the milestone payment system shall
23 provide for a schedule of fee payments in con-
24 nection with milestones attained by a recipient
25 prior to termination of entitlement to benefits

1 under this title or eligibility for benefits under
2 title XVI. The fee schedule shall be designed
3 so that the total amount of such fee payments
4 do not exceed 33 percent of all fees payable
5 under the Program with respect to such a recip-
6 ient if the recipient were to attain all milestones
7 and retain employment upon termination of
8 such entitlement or eligibility for a substantially
9 continuous period of not less than 5 years.
10 Such fees shall be scheduled so as to ensure
11 that profits attained by providers for providing
12 vocational rehabilitation services under the Pro-
13 gram are deferred generally until after reten-
14 tion by the recipient of employment for a sig-
15 nificant period of time. At least 67 percent of
16 all fees payable under the Program shall consist
17 of deferred retention fees described in subpara-
18 graph (C)(ii).

19 “(E) PERIODIC REVISIONS.—Under regula-
20 tions prescribed under this section, any fee
21 schedule established under the milestone pay-
22 ment system shall be revised on a periodic
23 basis, based on information provided to the
24 Commissioner of Social Security by the regional
25 administrators under the Program and on com-

1 parisons made by the Commissioner of the Pro-
2 gram with other similar programs established
3 by the Federal Government.”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) AMENDMENTS TO TITLE II.—

6 (A) Section 222 of such Act (42 U.S.C.
7 422) is further amended—

8 (i) in subsection (a), by striking “shall
9 be promptly referred” and all that follows
10 through “services,” and inserting the fol-
11 lowing: “shall be promptly referred to
12 qualified providers of vocational rehabilita-
13 tion services,”;

14 (ii) in subsection (b)(1)—

15 (I) by striking “for any month in
16 which such individual, if” and insert-
17 ing “for any month, if (A) such indi-
18 vidual is”;

19 (II) by striking “refuses” and in-
20 serting “(B) participation by the indi-
21 vidual in the Rehabilitation and Re-
22 turn-to-Work Program or a State plan
23 approved under title I of the Rehabili-
24 tation Act of 1973 is mandatory
25 under subsection (e)(2), and (C) the

1 individual refuses in such month”;
2 and

3 (III) by striking “a State plan
4 approved under title I of the Rehabili-
5 tation Act of 1973” each place it ap-
6 pears and inserting “the Program or
7 such a State plan”;

8 (iii) in subsection (d)(1)—

9 (I) by inserting “to operate, ad-
10 minister, and provide for payments
11 under the Rehabilitation and Return-
12 to-Work Program and” before “to re-
13 imburse”; and

14 (II) by inserting “under such a
15 State plan” after “under this para-
16 graph” in clause (ii);

17 (iv) by striking paragraph (2) of sub-
18 section (d) and redesignating paragraphs
19 (3), (4), and (5) of subsection (d) as para-
20 graph (2), (3), and (4), respectively;

21 (v) in paragraph (2) (as redesignated)
22 of subsection (d), by inserting “to States”
23 after “Payments”;

24 (vi) in paragraph (3) (as redesign-
25 ated) of subsection (d), by striking “for

1 the reimbursement of the costs of provid-
2 ing services to” and inserting “for the op-
3 eration and administration of the Rehabili-
4 tation and Return-to-Work Program with
5 respect to services provided to”, and by in-
6 serting “and otherwise for the reimburse-
7 ment of the costs of providing services to
8 such individuals,” after “such individ-
9 uals,”, and by striking “to be reimbursed”
10 in subparagraph (A) and inserting “to be
11 paid for the operation and administration
12 of the Rehabilitation and Return-to-Work
13 Program and otherwise for reimburse-
14 ment”; and

15 (vii) in paragraph (4) (as redesign-
16 nated) of subsection (d), by striking “sub-
17 section” each place it appears and insert-
18 ing “section”.

19 (B) Section 225(b)(1) of such Act (42
20 U.S.C. 425(b)(1)) is amended by striking “a
21 program” and inserting “a program consisting
22 of the Rehabilitation and Return-to-Work Pro-
23 gram or another program”.

24 (2) AMENDMENTS TO TITLE XVI.—Section
25 1615 of such Act (42 U.S.C. 1382d) is amended—

1 (A) in subsection (a), by inserting after
2 “referral of such individual” the following: “(A)
3 to the Rehabilitation and Return-to-Work Pro-
4 gram established under section 222(e) or (B)”;
5 and

6 (B) in subsection (b), by inserting “under
7 the Rehabilitation and Return-to-Work Pro-
8 gram or” after “available to him”.

9 (c) EFFECTIVE DATE.—Subject to subsection
10 (d)(2)(C), the amendments made by subsections (a) and
11 (b) shall apply with respect to applications filed, and re-
12 views of continuing disability commenced, after 6 months
13 after the date of the enactment of this Act.

14 (d) THE REHABILITATION AND RETURN-TO-WORK
15 COMMISSION.—

16 (1) ESTABLISHMENT.—There is established in
17 the Social Security Administration a commission to
18 be known as the “Rehabilitation and Return-to-
19 Work Commission” (in this subsection referred to as
20 the “Commission”).

21 (2) DUTIES OF COMMISSION.—

22 (A) IN GENERAL.—The Commission shall,
23 jointly with the Commissioner of Social Secu-
24 rity, take such actions, including issuance of
25 appropriate regulations under the amendments

1 made by this section, as are necessary for the
2 full implementation of such amendments as
3 soon as practicable after the date of the enact-
4 ment of this Act but not later than 3 years
5 after such date of enactment.

6 (B) SPECIFIC PROGRAM DEVELOPMENT
7 RESPONSIBILITIES.—As soon as practicable
8 after the date of the enactment of this Act, the
9 Commission shall, in direct consultation with
10 Commissioner of Social Security—

11 (i) formulate and develop for purposes
12 of subparagraph (A) the procedures for as-
13 sessing the capability of beneficiaries and
14 applicants for vocational rehabilitation,

15 (ii) formulate and develop for pur-
16 poses of subparagraph (A) the milestone
17 payment system described in section
18 222(e)(5) of the Social Security Act (as
19 amended by subsection (a)) and establish
20 annual oversight procedures for such sys-
21 tem,

22 (iii) formulate and develop for pur-
23 poses of subparagraph (A) the referral
24 services, quality assurance measures, and
25 dispute resolution procedures referred to in

1 subparagraphs (E), (F), and (G) (respec-
2 tively) of section 222(e)(3) of such Act (as
3 so amended),

4 (iv) establish, for the Rehabilitation
5 and Return-to-Work Program upon its es-
6 tablishment and for programs undertaken
7 in preparation for the establishment of the
8 Program, procedures for effective oversight
9 by the Commission and by the Commis-
10 sioner of Social Security, including periodic
11 reviews and reporting requirements, and

12 (v) establish the initial service regions
13 for the Rehabilitation and Return-to-Work
14 Program and carry out the provisions of
15 subparagraph (C) in each such region.

16 (C) GRADUATED IMPLEMENTATION OF
17 PROGRAM.—

18 (i) IN GENERAL.—Not later than 6
19 months after the date of the enactment of
20 this Act, the Commission, in consultation
21 with the Commissioner of Social Security,
22 shall commence implementation of the
23 amendments made by this Act in grad-
24 uated phases at pilot sites selected by the
25 Commission. Such pilot sites shall be se-

1 lected so as to ensure, prior to full imple-
2 mentation of the Program, the develop-
3 ment and refinement of referral processes,
4 payment systems, computer linkages, man-
5 agement information systems, and admin-
6 istrative processes necessary to provide for
7 full implementation of such amendments.

8 (ii) REQUIREMENTS.—Implementation
9 of the Program at each pilot site shall be
10 carried out on a wide enough scale to per-
11 mit a thorough evaluation of the alter-
12 native methods under consideration, so as
13 to ensure that the most efficacious meth-
14 ods are determined and in place for full
15 implementation of the Rehabilitation and
16 Return-to-Work Program on a timely
17 basis. In selecting pilot sites under this
18 subparagraph, the Commission shall take
19 full advantage of the results of experiments
20 and demonstration projects conducted pur-
21 suant to section 505 of the Social Security
22 Disability Amendments of 1980 selecting
23 pilot sites which have participated in such
24 demonstration projects (including "Project
25 Network"). The Commission shall also se-

1 lect sites which have participated in the
2 “Project with Industries” programs estab-
3 lished under title VI of the Rehabilitation
4 Act of 1973.

5 (iii) FULL IMPLEMENTATION.—The
6 Commission, in consultation with the Com-
7 missioner of Social Security, shall ensure
8 that the Rehabilitation and Return-to-
9 Work Program is fully implemented as
10 soon as practicable after the date of the
11 enactment of this Act but not later than 3
12 years after such date of enactment.

13 (D) OVERSIGHT DUTIES.—After full imple-
14 mentation of the Rehabilitation and Return-to-
15 Work Program pursuant to subparagraph
16 (C)(iii), until termination of the Commission,
17 the Commission shall oversee the operation of
18 the Rehabilitation and Return-to-Work Pro-
19 gram and include the results of its oversight of
20 the Program in its reports to the President and
21 the Congress pursuant to paragraph (6). The
22 Commissioner of Social Security shall cooperate
23 with the Commission in carrying out its duties
24 under this subparagraph and, to the extent per-
25 mitted by law, provide to the Commission such

1 information and facilities as the Commission
2 may request in the performance of its duties
3 under this subparagraph.

4 (3) MEMBERSHIP.—

5 (A) NUMBER AND APPOINTMENT.—The
6 Commission shall be composed of 9 members
7 appointed by the President as follows:

8 (i) 3 members selected for appoint-
9 ment from among individuals rec-
10 ommended by the Speaker of the House of
11 Representatives.

12 (ii) 3 members selected for appoint-
13 ment from among individuals rec-
14 ommended by the Majority Leader of the
15 Senate.

16 (iii) 3 members selected for appoint-
17 ment from among such other individuals as
18 the President may consider appropriate.

19 (B) POLITICAL AFFILIATION.—Not more
20 than 2 members appointed under each of
21 clauses (i), (ii), and (iii) of subparagraph (A)
22 may be of the same political party.

23 (C) REPRESENTATION.—Of the members
24 appointed under each of clauses (i), (ii), and
25 (iii) of subparagraph (A)—

1 (i) one shall represent the interests of
2 recipients of vocational rehabilitation serv-
3 ices,

4 (ii) one shall represent the interests of
5 providers of vocational rehabilitation serv-
6 ices, and

7 (iii) one shall represent the interests
8 of private employers.

9 (D) TERMS.—

10 (i) IN GENERAL.—Each member shall
11 be appointed for a term of 4 years (or, if
12 less, for the remaining life of the Commis-
13 sion), except as provided in clauses (ii) and
14 (iii).

15 (ii) TERMS OF INITIAL AP-
16 POINTEES.—As designated by the Presi-
17 dent at the time of appointment, of the
18 members first appointed—

19 (I) 4 shall be appointed for a
20 term of 2 years, and

21 (II) 5 shall be appointed for a
22 term of 4 years.

23 (iii) VACANCIES.—Any member ap-
24 pointed to fill a vacancy occurring before
25 the expiration of the term for which the

1 member's predecessor was appointed shall
2 be appointed only for the remainder of that
3 term. A member may serve after the expi-
4 ration of that member's term until a suc-
5 cessor has taken office. A vacancy in the
6 Commission shall be filled in the manner
7 in which the original appointment was
8 made.

9 (E) BASIC PAY.—Members shall each be
10 paid at a rate equal to the daily equivalent of
11 the rate of basic pay for level 4 of the Senior
12 Executive Service, as in effect from time to
13 time under section 5382 of title 5, United
14 States Code, for each day (including travel
15 time) during which they are engaged in the ac-
16 tual performance of duties vested in the Com-
17 mission.

18 (F) TRAVEL EXPENSES.—Each member
19 shall receive travel expenses, including per diem
20 in lieu of subsistence, in accordance with sec-
21 tions 5702 and 5703 of title 5, United States
22 Code.

23 (G) QUORUM.—5 members of the Commis-
24 sion shall constitute a quorum but a lesser
25 number may hold hearings.

1 (H) CHAIRPERSON.—The Chairperson of
2 the Commission shall be designated by the
3 President. The term of office of the Chair-
4 person shall be 4 years.

5 (I) MEETINGS.—The Commission shall
6 meet at least quarterly and at other times at
7 the call of the Chairperson or a majority of its
8 members.

9 (4) DIRECTOR AND STAFF OF COMMISSION; EX-
10 PERTS AND CONSULTANTS.—

11 (A) DIRECTOR.—The Commission shall
12 have a Director who shall be appointed by the
13 Commission. The Director shall be paid at a
14 rate not to exceed the maximum rate of pay
15 payable for GS-15 of the General Schedule.

16 (B) STAFF.—Subject to rules prescribed
17 by the Commission, the Director may appoint
18 and fix the pay of additional personnel as the
19 Director considers appropriate.

20 (C) EXPERTS AND CONSULTANTS.—Sub-
21 ject to rules prescribed by the Commission, the
22 Director may procure temporary and intermit-
23 tent services under section 3109(b) of title 5,
24 United States Code.

1 (D) STAFF OF FEDERAL AGENCIES.—

2 Upon request of the Commission, the head of
3 any Federal department or agency may detail,
4 on a reimbursable basis, any of the personnel of
5 that department or agency to the Commission
6 to assist it in carrying out its duties under this
7 Act.

8 (5) POWERS OF COMMISSION.—

9 (A) HEARINGS AND SESSIONS.—The Com-
10 mission may, for the purpose of carrying out
11 this its duties under this subsection, hold such
12 hearings, sit and act at such times and places,
13 and take such testimony and evidence as the
14 Commission considers appropriate.

15 (B) POWERS OF MEMBERS AND AGENTS.—

16 Any member or agent of the Commission may,
17 if authorized by the Commission, take any ac-
18 tion which the Commission is authorized to take
19 by this section.

20 (C) MAILS.—The Commission may use the
21 United States mails in the same manner and
22 under the same conditions as other departments
23 and agencies of the United States.

24 (D) ADMINISTRATIVE SUPPORT SERV-
25 ICES.—Upon the request of the Commission,

1 the Administrator of General Services shall pro-
2 vide to the Commission, on a reimbursable
3 basis, the administrative support services nec-
4 essary for the Commission to carry out its du-
5 ties under this subsection.

6 (6) REPORTS.—

7 (A) INTERIM REPORTS.—The Commission
8 shall submit to the President and the Congress
9 interim reports at least annually.

10 (B) FINAL REPORT.—The Commission
11 shall transmit a final report to the President
12 and the Congress not later than 5 years after
13 the date of the enactment of this Act. The final
14 report shall contain a detailed statement of the
15 findings and conclusions of the Commission, to-
16 gether with its recommendations for legislation
17 and administrative actions which the Commis-
18 sion considers appropriate.

19 (7) TERMINATION.—The Commission shall ter-
20 minate immediately upon submission of its final re-
21 port under paragraph (6)(B).

22 (8) AUTHORIZATION OF APPROPRIATIONS.—
23 There are authorized to be appropriated from the
24 Federal Old-Age and Survivors Insurance Trust
25 Fund and the Federal Disability Insurance Trust

1 Fund, as appropriate, such sums as are necessary to
2 carry out this subsection.

3 **SEC. 3. MEDICARE COVERAGE FOR OASDI DISABILITY BEN-**
4 **EFIT RECIPIENTS WHO RETURN TO WORK.**

5 (a) PROVIDING FOR 5-YEAR PERIOD OF CONTINU-
6 ATION COVERAGE FOR THOSE RETURNING TO WORK.—

7 Section 226 of the Social Security Act (42 U.S.C. 426)
8 is amended—

9 (1) in the first sentence of subsection (b), by in-
10 serting “(subject to subsection (h))” after “and end-
11 ing”;

12 (2) by redesignating subsection (h) as sub-
13 section (i); and

14 (3) by inserting after subsection (g) the follow-
15 ing new subsection:

16 “(h)(1) If an individual, in each month during a 3-
17 consecutive-month period (covered under paragraph
18 (2))—

19 “(A)(i) is entitled to benefits described in sub-
20 section (b)(2)(A), (ii) is a disabled qualified railroad
21 retirement beneficiary (within the meaning of section
22 7(d) of the Railroad Retirement Act of 1974), or
23 (iii) is described in subsection (b)(2)(C)(i) and would
24 be entitled to benefits described in subsection

1 (b)(2)(A) if subclauses (I) and (II) of subsection
2 (b)(2)(C)(ii)(II) were applicable, and

3 “(B) has earnings from employment of at least
4 160 times the minimum hourly wage rate in effect
5 under section 6(a)(1) of the Fair Labor Standards
6 Act of 1938 (29 U.S.C. 206(a)(1)) for the month,
7 then the entitlement to benefits pursuant to subsection (b)
8 shall not end before the earlier of (i) the end of the 5-
9 year period beginning with the month immediately follow-
10 ing such 3-consecutive-month period, or (ii) the month be-
11 fore the month in which the individual attains age 65.

12 “(2) Paragraph (1) shall apply only to a 3-consecu-
13 tive-month period that—

14 “(A) begins on or after the 4th month that be-
15 gins after the date of the enactment of the Disability
16 Benefits Reform Act of 1996, and

17 “(B) does not begin (with respect to an individ-
18 ual) during a 5-year coverage period previously pro-
19 vided under such paragraph with respect to the indi-
20 vidual.

21 “(3) Nothing in this subsection shall be construed as
22 affecting the month in which an entitlement under sub-
23 section (b) begins with respect to an individual.”.

24 (b) MAKING PERMANENT MEDICARE SECONDARY
25 PAYER RULES RELATING TO DISABILITY.—Section

1 1862(b)(1)(A) of such Act (42 U.S.C. 1395y(b)(1)(A)) is
2 amended by striking clause (iii).

3 (c) ELIMINATION OF CURRENT CONTINUATION COV-
4 ERAGE RULES.—

5 (1) IN GENERAL.—Section 226(b) of such Act
6 (42 U.S.C. 426(b)) is amended—

7 (A) by striking “(subject to the next to last
8 sentence of this subsection)” in the first sen-
9 tence, and

10 (B) by striking the third and fourth sen-
11 tences.

12 (2) EFFECTIVE DATE.—The amendments made
13 by paragraph (1) shall apply beginning with the 8th
14 month that begins after the date of the enactment
15 of this Act, except that such amendments shall not
16 apply to individuals who are entitled to benefits
17 under section 226(b) of the Social Security Act pur-
18 suant to the third sentence of such section for the
19 7th month that begins after such date of enactment.

20 **SEC. 4. TAX CREDIT FOR EMPLOYERS WHO HIRE CERTAIN**
21 **DISABLED INDIVIDUALS.**

22 (a) IN GENERAL.—Subpart D of part IV of sub-
23 chapter A of chapter 1 of the Internal Revenue Code of
24 1986 (relating to business-related credits) is amended by
25 adding at the end the following new section:

1 **“SEC. 45D. CREDIT FOR EMPLOYERS WHO HIRE CERTAIN**
2 **DISABLED INDIVIDUALS.**

3 “(a) IN GENERAL.—For purposes of section 38, the
4 disabled employee hiring credit determined under this sec-
5 tion for the taxable year is an amount equal to the tax
6 paid or incurred by the taxpayer under section 3111 dur-
7 ing such taxable year with respect to wages paid for serv-
8 ices performed by a qualified disabled individual during
9 an eligible month of employment.

10 “(b) QUALIFIED DISABLED INDIVIDUAL.—For pur-
11 poses of this section, the term ‘qualified disabled individ-
12 ual’ means any individual who is disabled within the mean-
13 ing of section 223 of the Social Security Act or blind or
14 disabled within the meaning of paragraph (2) or (3), re-
15 spectively, of section 1614(a) of such Act.

16 “(c) ELIGIBLE MONTH OF EMPLOYMENT.—For pur-
17 poses of this section:

18 “(1) IN GENERAL.—The term ‘eligible month of
19 employment’ means—

20 “(A) the first month in which the individ-
21 ual is employed on a substantially full-time
22 basis by the employer at a monthly rate of pay
23 equal to at least 160 times the minimum hourly
24 wage rate in effect under section 6(a)(1) of the
25 Fair Labor Standards Act of 1938 (29 U.S.C.
26 206(a)(1)) for the month, and

1 “(B) subject to paragraph (2), each suc-
2 ceeding month in which the individual is so em-
3 ployed.

4 “(2) LIMITATION ON NUMBER OF ELIGIBLE
5 MONTHS.—

6 “(A) IN GENERAL.—The number of eligi-
7 ble months which are taken into account under
8 this section with respect to the employment of
9 an individual (whether or not with the same
10 employer) during any period of disability shall
11 not exceed 12.

12 “(B) MONTHS OF ELIGIBILITY TO BE CER-
13 TIFIED.—An employer may treat a month as
14 one of the 12 months referred to in subpara-
15 graph (A) only if the employer receives a certifi-
16 cate to that effect from—

17 “(i) a provider of rehabilitation serv-
18 ices providing such services to the em-
19 ployed individual under section 222 or
20 1615 of the Social Security Act, or

21 “(ii) in the case of an individual who
22 does not receive services from a provider of
23 rehabilitation services under section 222 or
24 1615, the Commissioner.

1 “(C) PERIOD OF DISABILITY.—For pur-
 2 poses of subparagraph (A), the term ‘period of
 3 disability’ means the period of eligibility speci-
 4 fied in the disability determination under sec-
 5 tion 221(i) of the Social Security Act.

6 “(d) DENIAL OF CREDIT FOR EMPLOYMENT OF REL-
 7 ATIVES.—No credit shall be determined under this section
 8 with respect to the employment of any individual described
 9 in a subparagraph of section 51(i)(1).

10 “(e) DENIAL OF DOUBLE BENEFIT.—No deduction
 11 shall be allowed under this chapter for any amount taken
 12 into account in determining the credit under this section.

13 “(f) ELECTION NOT TO CLAIM CREDIT.—This sec-
 14 tion shall not apply to a taxpayer for any taxable year
 15 if such taxpayer elects to have this section not apply for
 16 such taxable year.”

17 (b) CREDIT TO BE PART OF GENERAL BUSINESS
 18 CREDIT.—

19 (1) Subsection (b) of section 38 of such Code
 20 (relating to general business credits) is amended by
 21 striking “plus” at the end of paragraph (11), by
 22 striking the period at the end of paragraph (12) and
 23 inserting “, plus”, and by adding after paragraph
 24 (12) the following new paragraph:

1 “(13) the disabled employee hiring credit deter-
2 mined under section 45D(a).”

3 (2) Subsection (d) of section 39 of such Code
4 is amended by adding at the end thereof the follow-
5 ing new paragraph:

6 “(8) NO CARRYBACK OF SECTION 45D CREDIT
7 BEFORE ENACTMENT.—No portion of the unused
8 business credit for any taxable year which is attrib-
9 utable to the disabled employee hiring credit deter-
10 mined under section 45D may be carried to a tax-
11 able year ending before the date of the enactment of
12 the Rehabilitation and Return to Work Opportunity
13 Act of 1996.”

14 (c) CONFORMING AMENDMENTS.—

15 (1) Subsection (c) of section 196 of such Code
16 (relating to deduction for certain unused business
17 credits) is amended by striking “and” at the end of
18 paragraph (6), by striking the period at the end of
19 paragraph (7) and inserting “, and”, and by adding
20 at the end the following new paragraph:

21 “(8) the disabled employee hiring credit deter-
22 mined under section 45D(a).”

23 (2) The table of sections for subpart D of part
24 IV of subchapter A of chapter 1 of such Code is

1 amended by adding at the end the following new
2 item:

“Sec. 45D. Credit for employers who hire certain disabled individuals.”

3 (d) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to months beginning after the date
5 of the enactment of this Act in taxable years ending after
6 such date.

○

Bunning Introduces H.R. 4230, the "Rehabilitation and Return to Work Opportunity Act of 1996"

Congressman Jim Bunning (R-KY), Chairman of the Ways and Means Subcommittee on Social Security, announced the introduction of the "Rehabilitation and Return to Work Opportunity Act of 1996" on September 27, 1996. The legislation has bipartisan support and was cosponsored by Rep. Andy Jacobs (D-IN), Rep. Clay Shaw (R-FL), and other Members of the Ways and Means Committee.

BACKGROUND:

The disability rolls -- both Social Security disability insurance (SSDI) and Supplemental Security Income (SSI) -- have experienced huge growth over the last decade. From 1986 to 1995, the number of individuals receiving benefits on account of disability rose almost 70 percent, to 7.5 million. Also, new Social Security disability awardees are, on average, younger and younger, and will therefore spend more of their lives on the disability rolls.

The General Accounting Office (GAO) recently reported that opportunities and incentives for rehabilitation and return to productive employment do not currently exist. Of the 6.6 million working-age people receiving SSDI or SSI benefits in 1995, only 4 percent were even referred for rehabilitation -- and only 6,238, or less than one tenth of one percent, were successfully rehabilitated. GAO estimates that if only an additional 1 percent of the 6.6 million working-age people receiving disability benefits were to leave the rolls by returning to work, an estimated \$3 billion could be saved in subsequent years.

"This isn't fair to disabled recipients, who will face a life of dependency and denied opportunity. It is time we let Social Security and SSI recipients who are disabled know we care enough to invest in their future. It's time to help persons with disabilities return to work," Bunning said.

DESCRIPTION OF H.R. 4230 AS INTRODUCED:

The "Rehabilitation and Return to Work Opportunity Act of 1996" will help workers who are disabled by providing every opportunity for those who want to return to work. SSDI and SSI recipients will no longer be limited to using State vocational rehabilitation agencies for services, but will be able to choose whether to receive rehabilitation services from private, non-profit or State rehabilitation providers.

Disabled recipients will have a choice of providers who will be certified by the Social Security Administration (SSA) to provide rehabilitation services to those who are disabled. This will give individuals with disabilities choices as consumers and a greater say in how and where they receive rehabilitation assistance. In addition, Medicare coverage will be continued for 5 years, with Medicare serving as the primary insurer for disabled individuals hired by employers with fewer than 100 employees. And employers who hire SSDI or SSI disability recipients will be eligible for a one-year tax credit for the employer share of FICA taxes.

The legislation creates a Commission of rehabilitation experts to oversee the implementation of a new outcome-based rehabilitation program designed to move recipients from dependency to self-sufficiency. The program would create:

- o A competitive system utilizing networks of service providers;
- o A straight-forward incremental fee structure for providers that caps overall costs at certain milestones of service;
- o Criteria for SSA to contract out the administration of the new system; and
- o A voucher-type system to maximize consumer choice and limit costs.

To ensure that individuals with severe disabilities receive the best quality services, the bill creates standards, including review by consumer organizations, that must be met before a rehabilitation provider can serve SSDI or SSI recipients.

"These are all features that persons with disabilities, rehabilitation providers, and small businesses agree are necessary for a successful return-to-work effort. I look forward to hearing comments from all of these constituencies so that in the next Congress, we can provide real opportunity to return to productive employment and self sufficiency to persons who are disabled," Bunning concluded.

The full text of H.R. 4230 may be obtained by accessing the U.S. House of Representatives homepage at: <http://www.house.gov>