

## § 410.706

Workers' Compensation Programs for review, or if more than one claim has been filed with the Secretary of Labor by the same claimant, such claims shall be merged and processed with the first claim filed with the Office of Workers' Compensation Programs.

### § 410.706 Effect of the Social Security Administration determination of entitlement.

Under section 435 of the BLBRA of 1977 a determination of entitlement made by the Social Security Administration under this subpart G is binding on the Office of Workers' Compensation Programs as an initial determination of eligibility.

### § 410.707 Hearings and appeals.

The review of any determination made by the Social Security Administration of a claim under this subpart will be made by the Office of Workers' Compensation Programs. If the Social Security Administration does not approve the claim following its review under this subpart, the claim will be referred to the Office of Worker's Compensation Programs, and the Office of Workers' Compensation Programs will automatically review the claim. The Office of Workers' Compensation Programs will provide an opportunity for the claimant to submit additional evidence if it is needed to approve the claim. See § 410.704(e)(2) of this subpart. If the Social Security Administration approves the claim but the claimant disagrees with any part of the Social Security Administration's determination, he or she may request the Office of Workers' Compensation Programs to review the Social Security Administration's determination. See § 410.704 (e)(1) of this subpart.

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AUTHORITY: Secs. 702(a)(5) and 1148 of the Social Security Act (42 U.S.C. 902(a)(5) and 1320b-19); sec. 101(b)-(e), Public Law 106-170, 113 Stat. 1860, 1873 (42 U.S.C. 1320b-19 note).

SOURCE: 66 FR 67420, Dec. 28, 2001, unless otherwise noted.

### Subpart A—Introduction

#### §411.100 Scope.

The regulations in this part 411 relate to the provisions of section 1148 of the Social Security Act which establishes the Ticket to Work and Self-Sufficiency Program (hereafter referred to as the “Ticket to Work program”). The regulations in this part are divided into ten subparts:

- (a) Subpart A explains the scope of this part, explains the purpose and manner of implementation of the Ticket to Work program, and provides definitions of terms used in this part.
- (b) Subpart B contains provisions relating to the ticket under the Ticket to Work program.
- (c) Subpart C contains provisions relating to the suspension of continuing disability reviews for disabled beneficiaries who are considered to be using a ticket.
- (d) Subpart D contains provisions relating to the use of one or more program managers to assist us in the administration of the Ticket to Work program.
- (e) Subpart E contains provisions relating to employment networks in the Ticket to Work program.

(f) Subpart F contains provisions relating to State vocational rehabilitation agencies’ participation in the Ticket to Work program.

(g) Subpart G contains provisions relating to individual work plans in the Ticket to Work program.

(h) Subpart H contains provisions establishing employment network payment systems.

(i) Subpart I contains provisions that establish a procedure for resolving disputes under the Ticket to Work program.

(j) Subpart J contains provisions explaining how the implementation of the Ticket to Work program affects alternate participants under the programs for payments for vocational rehabilitation services under subpart V of part 404 and subpart V of part 416 of this chapter.

#### §411.105 What is the purpose of the Ticket to Work program?

The purpose of the Ticket to Work program is to expand the universe of service providers available to individuals who are entitled to Social Security benefits based on disability or eligible for Supplemental Security Income (SSI) benefits based on disability or blindness in obtaining the services necessary to find, enter and retain employment. Expanded employment opportunities for these individuals also will increase the likelihood that these individuals will reduce their dependency on Social Security and SSI cash benefits.

#### §411.115 Definitions of terms used in this part.

As used in this part:

- (a) *The Act* means the Social Security Act, as amended.
- (b) *Commissioner* means the Commissioner of Social Security.
- (c) *Cost reimbursement payment system* means the provisions for payment for vocational rehabilitation services under subpart V of part 404 and subpart V of part 416 of this chapter.
- (d) *Disabled beneficiary* means a title II disability beneficiary or a title XVI disability beneficiary.
- (e) *Employment network* or *EN* means a qualified public or private entity that has entered into an agreement with us

to serve under the Ticket to Work program and that assumes responsibility for the coordination and delivery of employment services, vocational rehabilitation services, or other support services to beneficiaries assigning tickets to it. The rules on employment networks are described in subpart E of this part (§§ 411.300–411.330). A State vocational rehabilitation agency may choose, on a case-by-case basis, to function as an employment network with respect to a beneficiary under the Ticket to Work program. The rules on State vocational rehabilitation agencies' participation in the Ticket to Work program are described in subpart F of this part (§§ 411.350–411.435).

(f) *Employment plan* means an individual work plan described in paragraph (i) of this section, or an individualized plan for employment described in paragraph (j) of this section. When used in subpart J of this part, “employment plan” also means a “similar document” referred to in §§ 404.2114(a)(2) and 416.2214(a)(2) of this chapter under which an alternate participant under the programs for payments for vocational rehabilitation services (described in subpart V of part 404 and subpart V of part 416 of this chapter) provides services to a disabled beneficiary under those programs.

(g) *Federal SSI cash benefits* means a “Supplemental Security Income benefit under title XVI” based on blindness or disability as described in paragraphs (m) and (r) of this section.

(h) *I, my, you, or your* means the disabled beneficiary.

(i) *Individual work plan* or *IWP* means an employment plan under which an employment network (other than a State vocational rehabilitation agency) provides services to a disabled beneficiary under the Ticket to Work program. An individual work plan must be developed under, and meet the requirements of, the rules in subpart G of this part (§§ 411.450–411.470).

(j) *Individualized plan for employment* or *IPE* means an employment plan under which a State vocational rehabilitation agency provides services to individuals with disabilities (including beneficiaries assigning tickets to it under the Ticket to Work program) under a State plan approved under title

I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*). An individualized plan for employment must be developed under, and meet the requirements of, 34 CFR 361.45 and 361.46.

(k) *Program manager* or *PM* means an organization in the private or public sector that has entered into a contract with us to assist us in administering the Ticket to Work program. The rules on the use of one or more program managers to assist us in administering the program are described in subpart D of this part (§§ 411.230–411.250).

(l) *Social Security disability benefits* means the benefits described in paragraph (q) of this section.

(m) *State vocational rehabilitation agency* or *State VR agency* means a State agency administering or supervising the administration of the State plan approved under title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*). In those States that have one agency that provides VR services to non-blind individuals and another agency that provides services to blind individuals, this term refers to either State agency.

(n) *Supplemental Security Income benefit under title XVI* means a cash benefit under section 1611 or 1619(a) of the Act, and does not include a State supplementary payment, administered Federally or otherwise.

(o) *Ticket* means a document described in § 411.120 which the Commissioner may issue to disabled beneficiaries for participation in the Ticket to Work program.

(p) *Ticket to Work program* or *program* means the Ticket to Work and Self-Sufficiency Program under section 1148 of the Act.

(q) *Title II disability beneficiary* means an individual entitled to disability insurance benefits under section 223 or to monthly insurance benefits under section 202 of the Act based on such individual's disability as defined in section 223(d) of the Act. (See § 404.1505 of this chapter.) An individual is a title II disability beneficiary for each month for which such individual is entitled to such benefits.

(r) *Title XVI disability beneficiary* means an individual eligible for Supplemental Security Income benefits

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under title XVI on the basis of blindness (within the meaning of section 1614(a)(2) of the Act) (see §§416.981 and 416.982 of this chapter) or disability (within the meaning of section 1614(a)(3) of the Act) (see §416.905 of this chapter). An individual is a title XVI disability beneficiary for each month for which such individual is eligible for such benefits.

(s) *VR cost reimbursement option* means an arrangement under which your ticket is not assigned to the State VR agency but you do receive services pursuant to an individualized plan for employment where the State VR agency has chosen to receive payment under the cost reimbursement payment system.

(t) *We* or *us* means the Social Security Administration.

[66 FR 67420, Dec. 28, 2001, as amended at 73 FR 29333, May 20, 2008]

### Subpart B—Tickets Under the Ticket to Work Program

#### §411.120 What is a ticket under the Ticket to Work program?

(a) A ticket under the Ticket to Work program is a document which provides evidence of the Commissioner's agreement to pay, under the rules in subpart H of this part, an employment network (EN) or a State VR agency to which a disabled beneficiary's ticket is assigned, for providing employment services, vocational rehabilitation services, and other support services to the beneficiary.

(b) The left side of the ticket includes the beneficiary's name, ticket number, claim account number, and the date we issued the ticket. The ticket number is 12 characters and comprises the beneficiary's own social security number, the letters "TW," and a number (1, 2, etc.) in the last position signifying that this is the first ticket, second ticket, etc., that the beneficiary has received.

(c) The right side of the ticket includes the signature of the Commissioner of Social Security and provides a description of the Ticket to Work program. The description of the program will tell you how you may offer the ticket to an EN or State VR agen-

cy. The description will also tell you how the EN provides services to you.

[66 FR 67420, Dec. 28, 2001, as amended at 73 FR 29333, May 20, 2008]

#### §411.125 Who is eligible to receive a ticket under the Ticket to Work program?

(a) You will be eligible to receive a Ticket to Work in a month in which—

(1) You are age 18 or older and have not attained age 65; and

(2)(i)(A) You are a title II disability beneficiary (other than a beneficiary receiving benefit payments under §404.316(c), §404.337(c), §404.352(d), or §404.1597a of this chapter); and

(B) You are in current pay status for monthly title II cash benefits based on disability (see subpart E of part 404 of this chapter for our rules on non-payment of title II benefits); or

(ii)(A) You are a title XVI disability beneficiary (other than a beneficiary receiving disability or blindness benefit payments under §416.996 or §416.1338 of this chapter);

(B) If you are an individual described in §416.987(a)(1) of this chapter, you are eligible for benefits under title XVI based on disability under the standard for evaluating disability for adults following a redetermination of your eligibility under §416.987 of this chapter; and

(C) Your monthly Federal cash benefits based on disability or blindness under title XVI are not suspended (see subpart M of part 416 of this chapter for our rules on suspension of title XVI benefit payments).

(b) You will not be eligible to receive more than one ticket during any period during which you are either—

(1) Entitled to title II benefits based on disability (see §§404.316(b), 404.337(b) and 404.352(b) of this chapter for when entitlement to title II disability benefits ends); or

(2) Eligible for title XVI benefits based on disability or blindness and your eligibility has not terminated (see subpart M of part 416 of this chapter for our rules on when eligibility for title XVI benefits terminates).

(c) If your entitlement to title II benefits based on disability ends and/or your eligibility for title XVI benefits

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based on disability or blindness terminates as described in § 411.155(b)(1) or (2), you will be eligible to receive a new ticket in a month in which—

(1) Your entitlement to title II benefits based on disability is reinstated under section 223(i) of the Act, or your eligibility for title XVI benefits based on disability or blindness is reinstated under section 1631(p) of the Act; and

(2) You meet the requirements of paragraphs (a)(1) and (2) of this section.

[66 FR 67420, Dec. 28, 2001, as amended at 73 FR 29339, May 20, 2008]

### **§ 411.130 How will we distribute tickets under the Ticket to Work program?**

If you are eligible to receive a ticket under § 411.125, we will send a ticket to you by mail.

[73 FR 29339, May 20, 2008]

### **§ 411.135 What do I do when I receive a ticket?**

Your participation in the Ticket to Work program is voluntary. When you receive your ticket, you are free to choose when and whether to assign it (see § 411.140 for information on assigning your ticket). If you want to participate in the program, you can take your ticket to any EN you choose or to your State VR agency. You may choose either to assign your ticket to an EN by signing an individual work plan (see §§ 411.450 through 411.470) or receive services from your State VR agency by entering into and signing an individualized plan for employment. If the State VR agency provides services to you, it will decide whether to accept your ticket. If it accepts your ticket, you will have assigned your ticket to the State VR agency and it will receive payment as an EN. If the State VR agency decides to be paid under the cost reimbursement payment system, you have not assigned your ticket and you may assign your ticket after the State VR agency has closed your case.

[73 FR 29339, May 20, 2008]

### **§ 411.140 When may I assign my ticket and how?**

(a) You may assign your ticket during a month in which you meet the requirements of § 411.125(a)(1) and (a)(2).

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You may assign your ticket during the 90-day period after your case is closed by a State VR agency that elected the VR cost reimbursement option (see § 411.171(d)), without meeting the requirements of § 411.125(a)(2). You may assign your ticket to any EN which is serving under the program and is willing to provide you with services, or you may assign your ticket to a State VR agency acting as an EN if you are eligible to receive VR services under 34 CFR 361.42. You may not assign your ticket to more than one provider of services (*i.e.*, an EN or a State VR agency) at a time. You may not assign your ticket until after the State VR agency has closed your case if you are receiving VR services pursuant to an individualized plan for employment from a State VR agency which has elected the VR cost reimbursement option. You also may not assign your ticket to a State VR agency if that VR agency previously served you and elected the VR cost reimbursement option and closed your case.

(b)(1) In determining which EN you want to work with, you may discuss your rehabilitation and employment plans with as many ENs in your area as you wish. You also may discuss your rehabilitation and employment plans with the State VR agency.

(2) You can obtain a list of the approved ENs in your area from the program manager (PM) we have enlisted to assist in the administration of the Ticket to Work program. (See § 411.115(k) for a definition of the PM.)

(c) If you choose to work with an EN serving under the program, both you and the EN of your choice need to agree upon an individual work plan (IWP) (see § 411.115(i) for a definition of an IWP). If you choose to work with a State VR agency, you must develop an individualized plan for employment (IPE) and your State VR counselor must agree to the terms of the IPE, according to the requirements established in 34 CFR 361.45 and 361.46. (See § 411.115(j) for a definition of an IPE.) The IWP or IPE outlines the services necessary to assist you in achieving your chosen employment goal.

(d) In order for you to assign your ticket to an EN or State VR agency

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acting as an EN, all of the following requirements must be met:

(1)(i) If you decide to work with an EN, you and a representative of the EN must agree to and sign an IWP; or

(ii) If you decide to work with a State VR agency, you and a representative of the State VR agency must agree to and sign both an IPE and a form that provides the information described in §411.385(a)(1), (2) and (3).

(2) You must be eligible to assign your ticket under the rules in paragraph (a) of this section.

(3) A representative of the EN must submit a copy of the signed IWP to the PM, or a representative of the State VR agency, acting as an EN, must submit the completed and signed form (as described in §411.385(a) and (b)) to the PM.

(4) The PM must receive the copy of the IWP or receive the required form, as appropriate.

(e) If all of the requirements in paragraph (d) of this section are met, we will consider your ticket assigned to the EN or State VR agency acting as an EN. The effective date of the assignment of your ticket will be the first day on which the requirements of paragraphs (d)(1) and (2) of this section are met. See §§411.160 through 411.225 for an explanation of how assigning your ticket may affect medical reviews that we conduct to determine if you are still disabled under our rules.

[66 FR 67420, Dec. 28, 2001, as amended at 73 FR 29339, May 20, 2008]

### **§411.145 When can my ticket be taken out of assignment?**

(a) If you assigned your ticket to an EN or a State VR agency acting as an EN, you may take your ticket out of assignment for any reason. You must notify the PM in writing that you wish to take your ticket out of assignment. The ticket will be no longer assigned to that EN or State VR agency acting as an EN, effective with the first day of the month following the month in which you notify the PM in writing that you wish to take your ticket out of assignment. You will be sent a notice informing you that your ticket is no longer assigned to that EN or State VR agency. You may reassign your ticket under the rules in §411.150.

(b) If your EN goes out of business or is no longer approved to participate as an EN in the Ticket to Work program, the PM will take your ticket out of assignment with that EN. The ticket will no longer be assigned to that EN effective on the first day of the month following the month in which the EN goes out of business or is no longer approved to participate in the Ticket to Work program. You will be sent a notice informing you that your ticket is no longer assigned to that EN. In addition, if your EN is no longer willing or able to provide you with services, or if your State VR agency acting as an EN stops providing services to you because you have been determined to be ineligible for VR services under 34 CFR 361.42, the EN or State VR agency acting as an EN may ask the PM to take your ticket out of assignment with that EN or State VR agency. The ticket will no longer be assigned to that EN or State VR agency acting as an EN effective on the first day of the month following the month in which the EN or State VR agency acting as an EN makes a request to the PM that the ticket be taken out of assignment. You will be sent a notice informing you that your ticket is no longer assigned to that EN or State VR agency acting as an EN. You may reassign your ticket under the rules in §411.150.

(c) For information about how taking a ticket out of assignment may affect medical reviews that we conduct to determine if you are still disabled under our rules, see §§411.171(c) and 411.220.

[73 FR 29339, May 20, 2008]

### **§411.150 Can I reassign my ticket?**

(a) If you previously assigned your ticket and your ticket is no longer assigned (see §411.145), you may reassign your ticket, unless you are receiving benefit payments under §404.316(c), §404.337(c), §404.352(d) or §404.1597a of this chapter, or you are receiving disability or blindness benefit payments under §416.996 or §416.1338 of this chapter (the provisions of paragraph (b)(3) of this section notwithstanding). If you previously assigned your ticket to an EN, you may reassign your ticket to a different EN which is serving under the program and is willing to provide you with services, or you may reassign

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your ticket to a State VR agency acting as an EN if you are eligible to receive VR services under 34 CFR 361.42. If you previously assigned your ticket to a State VR agency acting as an EN, you may reassign your ticket to an EN which is serving under the program and is willing to provide you with services, or to another State VR agency acting as an EN if you are eligible to receive VR services under 34 CFR 361.42.

(b) In order for you to reassign your ticket to an EN or State VR agency, all of the following requirements must be met:

(1) Your ticket must be unassigned. If your ticket is assigned to an EN or a State VR agency, you must first tell the PM in writing that you want to take your ticket out of assignment (see § 411.145).

(2)(i) You and a representative of the new EN must agree to and sign a new IWP; or

(ii) If you wish to reassign your ticket to a State VR agency, you and a representative of the State VR agency must agree to and sign both an IPE and a form that provides the information described in § 411.385(a)(1), (2) and (3).

(3) You must meet the requirements of § 411.125(a)(1) and (2) on or after the day you and a representative of the new EN sign your IWP or you and a representative of the State VR agency sign your IPE and the required form. You may reassign your ticket within 90 days of the effective date your ticket was no longer assigned, without meeting the requirements of § 411.125(a)(2).

(4) A representative of the EN must submit a copy of the signed IWP to the PM or a representative of the State VR agency must submit the completed and signed form (as described in § 411.385(a) and (b)) to the PM.

(5) The PM must receive the copy of the IWP or received the required form, as appropriate.

(c) If all of the requirements in paragraphs (a) and (b) of this section are met, we will consider your ticket reassigned to the new EN or State VR agency. The effective date of the reassignment of your ticket will be the first day on which the requirements of paragraphs (a) and (b)(1), (2) and (3) of this section are met. See §§ 411.160 through 411.225 for an explanation of

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how reassigning your ticket may affect medical reviews that we conduct to determine if you are still disabled under our rules.

[66 FR 67420, Dec. 28, 2001, as amended at 73 FR 29340, May 20, 2008]

### § 411.155 When does my ticket terminate?

(a) Your ticket will terminate if and when you are no longer eligible to participate in the Ticket to Work program. If your ticket terminates, you may not assign or reassign it to an EN or State VR agency. We will not pay an EN (including a State VR agency) for milestones or outcomes achieved in or after the month in which your ticket terminates (see § 411.525(c)). Your eligibility to participate in the Ticket to Work program will end, and your ticket will terminate, in the earliest of the following months:

(1) The month in which your entitlement to title II benefits based on disability ends for reasons other than your work activity or earnings, or the month in which your eligibility for benefits under title XVI based on disability or blindness terminates for reasons other than your work activity or earnings, whichever is later;

(2) If you are entitled to widow's or widower's insurance benefits based on disability (see §§ 404.335 and 404.336 of this chapter), the month in which you attain full retirement age;

(3) If you are eligible for benefits under title XVI based on disability or blindness, the month following the month in which you attain age 65; or

(4) The month after the month in which your outcome payment period ends (see § 411.500(b)).

(b) The rules in paragraph (c) of this section apply in determining when your eligibility to participate in the Ticket to Work program will end and your ticket will terminate if—

(1) You were not a concurrent title II/title XVI disability beneficiary, and your entitlement to title II benefits based on disability ends or your eligibility for title XVI benefits based on disability or blindness terminates because of your work activity or earnings; or

(2) You were a concurrent title II/title XVI disability beneficiary and—

(i) Your entitlement to title II benefits based on disability ends because of work activity or earnings and your eligibility for title XVI benefits based on disability or blindness terminates for any reason; or

(ii) Your eligibility for title XVI benefits based on disability or blindness terminates because of your work activity or earnings and your entitlement to title II benefits based on disability ends for any reason.

(c) For purposes of paragraph (b) of this section, the ticket which you received in connection with the previous period during which you were either entitled to title II benefits based on disability or eligible for title XVI benefits based on disability or blindness (as described in §411.125(b)) will terminate, and your eligibility to participate in the Ticket to Work program based on that ticket will end, in the earliest of the following months:

(1) If we make a final determination or decision that you are not entitled to have title II benefits based on disability reinstated under section 223(i) of the Act or eligible to have title XVI benefits based on disability or blindness reinstated under section 1631(p) of the Act, the month in which we make that determination or decision;

(2) If we make a final determination or decision that you are not entitled to title II benefits based on disability or eligible for title XVI benefits based on disability or blindness after you file an application for benefits, the month in which we make that determination or decision;

(3) The month you attain retirement age (as defined in section 216(l) of the Act);

(4) The month in which you die;

(5) The month in which you become entitled to a title II benefit that is not based on disability or eligible for a title XVI benefit that is not based on disability or blindness;

(6) The month in which you again become entitled to title II benefits based on disability, or eligible for title XVI benefits based on disability or blindness, based on the filing of an application for such benefits;

(7) If your entitlement to title II benefits based on disability is reinstated under section 223(i) of the Act, or your

eligibility for title XVI benefits based on disability or blindness is reinstated under section 1631(p) of the Act, the month in which you are eligible to receive a new ticket under §411.125(c); or

(8) The month after the month in which your outcome payment period ends (see §411.500(b)).

[66 FR 67420, Dec. 28, 2001, as amended at 73 FR 29340, May 20, 2008]

### Subpart C—Suspension of Continuing Disability Reviews for Beneficiaries Who Are Using a Ticket

#### INTRODUCTION

#### §411.160 What does this subpart do?

(a) This subpart explains our rules about continuing disability reviews for disability beneficiaries who are participating in the Ticket to Work program.

(b) Continuing disability reviews are reviews that we conduct to determine if you are still disabled under our rules (see §§404.1589, 416.989 and 416.989a of this chapter for the rules on when we may conduct continuing disability reviews). For the purposes of this subpart, continuing disability reviews include the medical reviews we conduct to determine if your medical condition has improved (see §§404.1594 and 416.994 of this chapter), but not any review to determine if your disability has ended under §404.1594(d)(5) of this chapter because you have demonstrated your ability to engage in substantial gainful activity (SGA), as defined in §§404.1571–404.1576 of this chapter.

#### §411.165 How does using a ticket under the Ticket to Work program affect my continuing disability reviews?

We periodically review your case to determine if you are still disabled under our rules. However, we will not begin a continuing disability review during the period in which you are using a ticket. Sections 411.170 and 411.171 describe when the period of using a ticket begins and ends. You must meet certain requirements for us to consider you to be using a ticket.

[66 FR 67420, Dec. 28, 2001, as amended at 73 FR 29340, May 20, 2008]

**§411.166 Glossary of terms used in this subpart.**

(a) *Using a ticket* means you have assigned a ticket to an Employment Network (EN) or a State VR agency that has elected to serve you as an EN, and you are making timely progress toward self-supporting employment as defined in §411.180; or you have a ticket that would otherwise be available for assignment and are receiving VR services pursuant to an individualized plan for employment (IPE) and the State VR agency has chosen to be paid for these services under the cost reimbursement payment system, and you are making timely progress toward self-supporting employment as defined in §411.180. (See §411.171 for when the period of using a ticket ends.)

(b) *Timely progress toward self-supporting employment* means you have completed the specified goals of work and earnings, or completed the specified post-secondary education credits at an educational institution (see §411.167) in pursuit of a degree or certificate, or completed specified course requirements for a vocational or technical training program at an educational institution consisting of a technical, trade or vocational school (see §411.167), or completed a certain percentage of the work requirement and a certain percentage of the post-secondary education requirement or vocational or technical training requirement and the sum of the two percentages equals 100 or more (see §411.180(c)), or obtained a high school diploma or General Education Development (GED) certificate in the applicable progress certification period as described in §411.180.

(c) *Timely progress guidelines* mean the guidelines we use to determine if you are making timely progress toward self-supporting employment (see §411.180).

(d) *Progress certification period* means any 12-month progress certification period described in §411.180(b).

(e) *Progress review* means the reviews the PM conducts to determine if you are meeting the timely progress guidelines described in §411.180. We explain the method for conducting progress reviews in §411.200.

(f) *Extension period* is a period of up to 90 days during which you may reassign a ticket without being subject to continuing disability reviews. You may be eligible for an extension period if the ticket is in use and no longer assigned to an EN or State VR agency acting as an EN (see §411.220).

(g) *Inactive status* is a status in which you may place your ticket if you are temporarily or otherwise unable to make timely progress toward self-supporting employment during a progress certification period. See §411.192 for the rules on placing your ticket in inactive status and on reactivating your ticket.

(h) *Variance tolerance* means the margin of flexibility whereby we will consider you to have met the requirement for completing a specified amount of post-secondary credit hours in an educational degree or certification program or the course requirements in a vocational or technical training program under §411.180 in the applicable progress certification period if your completion of credit hours or course requirements in this period is within 10% of the goal. Figures representing the number of credit hours required for the first and second progress certification periods as described in §411.180 will be rounded by dropping any fractions. Under the variance tolerance, we also will consider you to have met the requirements in an applicable progress certification period if you complete a certain percentage of the work requirement and a certain percentage of the post-secondary education requirement or vocational or technical training requirement in the period and the sum of the two percentages is within 10% of the goal. See §411.180(a) and (c).

(i) *VR cost reimbursement option* means an arrangement under which your ticket is not assigned to the State VR agency but you do receive services pursuant to an individualized plan for employment where the State VR agency has chosen to receive payment under the cost reimbursement payment system.

(j) *VR cost reimbursement status* means the status of your ticket under the arrangement described in paragraph (i) of this section. The period during which

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your ticket is in VR cost reimbursement status begins on the date described in §411.170(b) and ends on the date your case is closed by the State VR agency.

[73 FR 29340, May 20, 2008]

### **§411.167 What is an educational institution or a technical, trade or vocational school?**

(a) *Educational institution* means a school (including a technical, trade, or vocational school), junior college, college or university that is: operated or directly supported by the United States; operated or directly supported by any State or local government or by a political subdivision of any State or local government; or approved by a State agency or subdivision of the State, or accredited by a State-recognized or nationally recognized accrediting body.

(b) *Technical, trade or vocational school* is an educational institution that is approved by a State agency or subdivision of the State or accredited by a State-recognized or nationally recognized accrediting body to provide technical, trade or vocational training.

(c) *State-recognized accrediting body* means an entity designated or recognized by a State as the proper authority for accrediting schools, colleges or universities.

(d) *Nationally recognized accrediting body* means an entity determined to be such by the U.S. Department of Education.

(e) *Approval by a State agency or subdivision of the State* includes approval of a school, college or university as an educational institution, or approval of one or more of the courses offered by a school, college or university.

[73 FR 29341, May 20, 2008]

### **§411.170 When does the period of using a ticket begin?**

(a) The period of using a ticket begins on the effective date of the assignment of your ticket to an EN or State VR agency under §411.140.

(b) If you have a ticket that would otherwise be available for assignment and are receiving VR services pursuant to an individualized plan for employment (IPE) and the State VR agency

has elected the VR cost reimbursement option, the period of using a ticket begins on the later of—

(1) The effective date of your IPE; or

(2) The first day your ticket would otherwise have been assignable if you had not been receiving services from a State VR agency that elected the VR cost reimbursement option.

[73 FR 29341, May 20, 2008]

### **§411.171 When does the period of using a ticket end?**

The period of using a ticket ends with the earliest of the following—

(a) The last day of the month before the month in which the ticket terminates as a result of one of the events listed in §411.155 (see §411.155(a)(4) and (c)(8) for when your ticket terminates if your outcome payment period ends);

(b) The day before the effective date of a decision under §411.200 or §411.205 that you are no longer making timely progress toward self-supporting employment;

(c) The last day of the 90-day extension period which begins with the first day of the first month in which your ticket is no longer assigned to an EN or State VR agency acting as an EN (see §411.145), unless you reassign your ticket within the 90-day extension period (see §411.220 for an explanation of the 90-day extension period); or

(d) If your ticket was in VR cost reimbursement status as described in §411.166(j), the 90th day following the date the State VR agency closes your case, unless you assign your ticket during this 90-day period.

[73 FR 29341, May 20, 2008]

### **§411.175 What if a continuing disability review is begun before my ticket is in use?**

(a) If we begin a continuing disability review before the date on which your ticket is in use, you may still assign the ticket and receive services from an EN or a State VR agency acting as an EN under the Ticket to Work program, or you may still receive services from a State VR agency that elects the VR cost reimbursement option. However,

we will complete the continuing disability review. If in this review we determine that you are no longer disabled, in most cases you will no longer be eligible to receive benefit payments. However, if your ticket was in use before we determined that you are no longer disabled, in certain circumstances you may continue to receive benefit payments (see §§404.316(c), 404.337(c), 404.352(d), and 416.1338 of this chapter). If you appeal the decision that you are no longer disabled, you may also choose to have your benefits continued pending reconsideration and/or a hearing before an administrative law judge on the cessation determination (see §§404.1597a and 416.996 of this chapter).

(b) The date on which we begin the continuing disability review is the date on the notice we send you that tells you that we are beginning to review your disability case.

[66 FR 67420, Dec. 28, 2001, as amended at 73 FR 29341, May 20, 2008]

**§411.180 What is timely progress toward self-supporting employment?**

(a) *General.* We consider you to be making timely progress toward self-supporting employment when you show progress as described below toward the ability to work at levels which will reduce your dependence on Social Security disability benefits or SSI benefits. We will also consider you to be making timely progress when you obtain a high school diploma or GED certificate in the first 12-month progress certification period, or if you show progress as described below toward obtaining an educational degree or certificate or vocational or technical training that will enhance your ability to return to work. In addition, if you complete a certain percentage of the work requirement and a certain percentage of the post-secondary education requirement or vocational or technical training requirement in the applicable progress certification period under the guidelines below, and the sum of the two percentages equals 100 or more, we will consider you to have met the timely progress requirements for purposes of the progress review conducted at the end of the 12-month progress certification period. For example, if you com-

plete 33.3 percent of the work requirement during the first 12-month progress certification period as described in paragraph (c)(1)(i) of this section (*i.e.*, one month of work with earnings equal to or greater than the amount representing a trial work service month), and complete 66.7 percent of the requisite credit hours in an educational program during this period as described in paragraph (c)(1)(iii) of this section (*i.e.*, 40 percent of the post-secondary credit hours that are considered to represent an academic year of full-time study), we will consider you to have met the timely progress requirements for purposes of the progress review conducted at the end of the first 12-month progress certification period. In addition, we will apply the variance tolerance described in §411.166(h) in determining whether you have met the requirements in paragraph (c)(1)(iii), (iv) or (v), paragraph (c)(2)(ii), (iii) or (iv), paragraph (c)(3)(iii) or (v), paragraph (c)(4)(ii) or (iii), or paragraph (c)(5)(ii) or (iii) of this section.

(b) *12-month progress certification periods.* The first 12-month progress certification period begins with the month following the month in which you first assigned your ticket, or with the month beginning after the date described in §411.170(b) if you have a ticket that would otherwise be available for assignment and are receiving VR services under an IPE from a State VR agency which has chosen the VR cost reimbursement option. Any subsequent 12-month progress certification period will begin with the month following the end of the previous 12-month progress certification period. In computing any 12-month progress certification period, we do not count any month during which—

(1) Your ticket is not assigned to an EN or State VR agency acting as an EN and is not in VR cost reimbursement status (as described in §411.166(j)); or

(2) Your ticket is in inactive status (see §411.192).

(c) *Guidelines.* We will determine if you are making timely progress toward self-supporting employment by using the following guidelines:

(1) During the first 12-month progress certification period, you must be making timely progress as follows:

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(i) You must have worked in at least three months within this 12-month period and have earnings in each of those three months that are equal to or greater than the amount representing a trial work service month (see §404.1592(b) of this chapter); or

(ii) You must have obtained a high school diploma or GED certificate within this 12-month period; or

(iii) You must have been enrolled in a two- or four-year degree or certification program at an educational institution and have completed 60 percent of the post-secondary credit hours that are considered to represent an academic year of full-time study in the program by the end of this 12-month period; or

(iv) You must have been enrolled in a vocational or technical training program at an educational institution consisting of a technical, trade or vocational school and have completed 60 percent of the course requirements that are considered to represent a year of full-time study in the program by the end of this 12-month period; or

(v) You must have completed a percentage of the required number of months of work and earnings described in paragraph (c)(1)(i) of this section and a percentage of the specified amount of post-secondary credit hours or course requirements required under paragraph (c)(1)(iii) or (iv) of this section within this 12-month period so that the sum of the two percentages equals 100 or more.

(2) During the second 12-month progress certification period, at the conclusion of 24 months of ticket use, you must be making timely progress as follows:

(i) You must have worked in at least six months within this 12-month period and have earnings in each of those six months that are equal to or greater than the amount representing a trial work service month (see §404.1592(b) of this chapter); or

(ii) You must have been enrolled in a two- or four-year degree or certification program at an educational institution and have completed an additional 75 percent of the post-secondary credit hours that are considered to represent an academic year of full-time

study in the program by the end of this 12-month period; or

(iii) You must have been enrolled in a vocational or technical training program at an educational institution consisting of a technical, trade or vocational school and have completed an additional 75 percent of the course requirements that are considered to represent a year of full-time study in the program by the end of this 12-month period; or

(iv) You must have completed a percentage of the required number of months of work and earnings described in paragraph (c)(2)(i) of this section and a percentage of the specified amount of post-secondary credit hours or course requirements required under paragraph (c)(2)(ii) or (iii) of this section within this 12-month period so that the sum of the two percentages equals 100 or more.

(3) During the third 12-month progress certification period, at the conclusion of 36 months of ticket use, you must be making timely progress as follows:

(i) You must have worked in at least nine months within this 12-month period and have gross earnings from employment (or net earnings from self-employment as defined in §404.1080 of this chapter) in each of those nine months that are more than the SGA threshold amount specified in §404.1574(b)(2) of this chapter; or

(ii) You must have completed the course work and earned a degree or certificate from a two-year degree or certification program at an educational institution by the end of this 12-month period; or

(iii) You must have been enrolled in a four-year degree or certification program at an educational institution and completed additional post-secondary credit hours that are considered to represent an academic year of full-time study in the program by the end of this 12-month period; or

(iv) You must have been enrolled in a vocational or technical training program at an educational institution consisting of a technical, trade or vocational school and have completed the course requirements of the program by the end of this 12-month period; or

(v) You must have completed a percentage of the required number of months of work and earnings described in paragraph (c)(3)(i) of this section and a percentage of the specified amount of post-secondary credit hours required under paragraph (c)(3)(iii) of this section within this 12-month period so that the sum of the two percentages equals 100 or more.

(4) During the fourth 12-month progress certification period, at the conclusion of 48 months of ticket use, you must be making timely progress as follows:

(i) You must have worked in at least nine months within this 12-month period and have gross earnings from employment (or net earnings from self-employment as defined in §404.1080 of this chapter) in each of those nine months that are more than the SGA threshold amount specified in §404.1574(b)(2) of this chapter; or

(ii) You must have been enrolled in a four-year degree or certification program at an educational institution and completed additional post-secondary credit hours that are considered to represent an academic year of full-time study in the program by the end of this 12-month period; or

(iii) You must have completed a percentage of the required number of months of work and earnings described in paragraph (c)(4)(i) of this section and a percentage of the specified amount of post-secondary credit hours required under paragraph (c)(4)(ii) of this section within this 12-month period so that the sum of the two percentages equals 100 or more.

(5) During the fifth 12-month progress certification period, at the conclusion of 60 months of ticket use, you must be making timely progress as follows:

(i) You must have worked in at least six months within this 12-month period and have earnings in each of those six months that preclude payment of Social Security disability benefits and Federal SSI cash benefits; or

(ii) You must have been enrolled in a four-year degree or certification program at an educational institution and either completed additional post-secondary credit hours that are considered to represent an academic year of full-time study in the program or com-

pleted the course work and earned a degree or certificate from the program by the end of this 12-month period; or

(iii) You must have completed a percentage of the required number of months of work and earnings described in paragraph (c)(5)(i) of this section and a percentage of the specified amount of post-secondary credit hours required under paragraph (c)(5)(ii) of this section within this 12-month period so that the sum of the two percentages equals 100 or more.

(6) During the sixth 12-month progress certification period, at the conclusion of 72 months of ticket use, you must be making timely progress as follows:

(i) You must have worked in at least six months within this 12-month period and have earnings in each of those six months that preclude payment of Social Security disability benefits and Federal SSI cash benefits; or

(ii) You must have completed the course work and earned a degree or certificate from a four-year degree or certification program at an educational institution by the end of this 12-month period.

(7) During all subsequent 12-month progress certification periods, you must have worked in at least six months within the 12-month period and have earnings in each of those six months that preclude payment of Social Security disability benefits and Federal SSI cash benefits.

[73 FR 29341, May 20, 2008]

**§411.192 What choices do I have if I am unable to make timely progress toward self-supporting employment?**

(a) If you report to the PM that you are temporarily or otherwise unable to make timely progress toward self-supporting employment during a progress certification period, the PM will give you the choice of placing your ticket in inactive status or, if applicable, taking your ticket out of assignment with the EN or State VR agency acting as an EN. The choice of placing your ticket in inactive status applies whether your ticket is assigned or in VR cost reimbursement status (as described in §411.166(j)).

(b) You may place your ticket in inactive status at any time by submitting a written request to the PM asking that your ticket be placed in inactive status. Your ticket will be placed in inactive status beginning with the first day of the month following the month in which you make your request. You are not considered to be using a ticket during months in which your ticket is in inactive status. Therefore, you will be subject to continuing disability reviews during those months. The months in which your ticket is in inactive status do not count toward the time limitations for making timely progress toward self-supporting employment.

(c) You may reactivate your ticket and return to in-use status if your ticket is still assigned to an EN or State VR agency acting as an EN. You may also reactivate your ticket and return to in-use status if you have a ticket which would otherwise be available for assignment, you were receiving services under an IPE from a State VR agency which chose the VR cost reimbursement option, and your VR case has not been closed by the State VR agency. You may reactivate your ticket by submitting a written request to the PM. Your ticket will be reactivated beginning with the first day of the month following the month in which the PM receives your request. The progress certification period will resume counting from the last month of in-use status, and the next progress review will be due when the progress certification period has been completed. Earnings from work, obtaining a high school diploma or GED certificate, or completion of post-secondary education credits in a two- or four-year degree or certification program or course requirements in a vocational or technical training program, as described in § 411.180, during the period your ticket is in inactive status may be counted toward meeting the requirements for the next progress review.

(d) You may take your ticket out of assignment under § 411.145(a) at any time.

[73 FR 29343, May 20, 2008]

**§ 411.200 How will the PM conduct my progress reviews?**

The PM will conduct a progress review at the end of each 12-month progress certification period.

(a) The PM will first review the available administrative records to determine if you completed the work requirements as specified in § 411.180 in the applicable progress certification period.

(b) If the administrative records do not indicate that you met the work requirements, the PM will contact either you or your EN or State VR agency to request additional information to determine if you completed the work requirements or have met the educational or training requirements as specified in § 411.180 in the applicable progress certification period.

(c) If the PM finds that you completed the work requirements or met the educational or training requirements as specified in § 411.180 in the applicable progress certification period, the PM will find that you are making timely progress toward self-supporting employment. On the basis of that finding, we will consider you to be making timely progress toward self-supporting employment until your next scheduled progress review.

(d) If the PM finds that you did not complete the work requirements or meet the educational or training requirements as specified in § 411.180 in the applicable progress certification period, the PM will find that you are not making timely progress toward self-supporting employment. If the PM makes such a finding, the PM will send a written notice of the decision to you at your last known address. This notice will explain the reasons for the decision and inform you of the right to ask us to review the decision. This decision will be effective 30 days after the date on which the PM sends the notice of the decision to you, unless you request that we review the decision under § 411.205.

[73 FR 29343, May 20, 2008]

**§411.205 What if I disagree with the PM's decision about whether I am making timely progress toward self-supporting employment?**

If you disagree with the PM's decision, you may request that we review the decision. You must make the request before the 30th day after the date on which the PM sends the notice of its decision to you. We will consider you to be making timely progress toward self-supporting employment until we make a decision. We will send a written notice of our decision to you at your last known address. If we decide that you are no longer making timely progress toward self-supporting employment, our decision will be effective on the date on which we send the notice of the decision to you.

**FAILURE TO MAKE TIMELY PROGRESS**

**§411.210 What happens if I do not make timely progress toward self-supporting employment?**

(a) *General.* If it is determined that you are not making timely progress toward self-supporting employment, we will find that you are no longer using a ticket. If this happens, you will once again be subject to continuing disability reviews. However, you may continue participating in the Ticket to Work program. Your EN (including a State VR agency which is serving you as an EN) also may receive any milestone or outcome payments for which it is eligible under §411.500 *et seq.* If you are working with a State VR agency which elected payment under the cost reimbursement payment system, your State VR agency may receive payment for which it is eligible under the cost reimbursement payment system (see subparts F and H of this part).

(b) *Re-entering in-use status.* If you failed to meet the timely progress guidelines for a 12-month progress certification period and you believe that you have now met the applicable requirements for that progress certification period as described in §411.180, you may request that you be reinstated to in-use status. In order to do so, you must submit a written request to the PM asking that you be reinstated to in-use status and you must provide evidence showing that you have met the

applicable requirements for the progress certification period. The PM will decide whether you have satisfied the applicable requirements for the progress certification period and may be reinstated to in-use status. If the PM determines you have met the applicable requirements for the progress certification period, you will be reinstated to in-use status, provided that your ticket is assigned to an EN or State VR agency acting as an EN or in VR cost reimbursement status (as described in §411.166(j)). See paragraph (c) of this section for when your reinstatement to in-use status will be effective. The month after you are reinstated to in-use status, your next 12-month progress certification period will begin.

(c) *Decisions on re-entering in-use status.* (1) After you have submitted a written request to the PM asking that you be reinstated to in-use status, the PM will decide whether you have satisfied the applicable requirements in this section for re-entering in-use status. The PM will send a written notice of the decision to you at your last known address. The notice will explain the reasons for the decision and inform you of the right to ask us to review the decision. If the PM decides that you have satisfied the requirements for re-entering in-use status (including the requirement that your ticket be assigned to an EN or State VR agency acting as an EN or in VR cost reimbursement status), you will be reinstated to in-use status effective with the date on which the PM sends the notice of the decision to you. If the PM decides that you have not satisfied the requirements for re-entering in-use status, you may request that we review the decision under paragraph (c)(2) of this section.

(2) If you disagree with the PM's decision, you may request that we review the decision. You must make the request before the 30th day after the date on which the PM sends the notice of its decision to you. We will send you a written notice of our decision at your last known address. If we decide that you have satisfied the requirements for re-entering in-use status (including the requirement that your ticket be assigned to an EN or State VR agency

acting as an EN or in VR cost reimbursement status), you will be reinstated to in-use status effective with the date on which we send the notice of the decision to you.

[66 FR 67420, Dec. 28, 2001, as amended at 73 FR 29343, May 20, 2008]

#### THE EXTENSION PERIOD

#### § 411.220 What if my ticket is no longer assigned to an EN or State VR agency?

(a) If your ticket was once assigned to an EN or State VR agency acting as an EN and is no longer assigned, you are eligible for an extension period of up to 90 days to reassign your ticket. You are eligible for an extension period if your ticket is in use and no longer assigned because—

(1) You retrieved your ticket because you were dissatisfied with the services being provided (see § 411.145(a)) or because you relocated to an area not served by your previous EN or State VR agency; or

(2) Your EN went out of business, is no longer approved to participate as an EN in the Ticket to Work program, or is no longer willing or able to provide you with services as described in § 411.145(b), or your State VR agency stopped providing services to you as described in § 411.145(b).

(b) During the extension period, the ticket will still be considered to be in use. This means that you will not be subject to continuing disability reviews during this period.

(c) Time spent in the extension period will not count toward the time limitations for the timely progress guidelines.

(d) The extension period—

(1) Begins on the first day on which the ticket is no longer assigned (see § 411.145); and

(2) Ends 90 days after it begins or when you assign your ticket to a new EN or State VR agency, whichever is sooner.

(e) If you do not assign your ticket by the end of the extension period, the ticket will no longer be in use and you will once again be subject to continuing disability reviews.

[66 FR 67420, Dec. 28, 2001, as amended at 73 FR 29344, May 20, 2008]

#### § 411.225 What if I reassign my ticket after the end of the extension period?

(a) *General.* You may reassign your ticket after the end of the extension period under the conditions described in § 411.150. If you reassign your ticket after the end of the extension period, you will be reinstated to in-use status beginning on the day on which the reassignment of your ticket is effective under § 411.150(c).

(b) *Time limitations for the timely progress guidelines.* Any month during which your ticket is not assigned and not in VR cost reimbursement status (as described in § 411.166(j)), either during or after the extension period, will not count toward the time limitations for the timely progress guidelines.

(c) *If you reassign your ticket after the end of the extension period.* If you reassign your ticket after the end of the extension period, the period comprising the remaining months in the applicable 12-month progress certification period will begin with the first month beginning after the day on which the reassignment of your ticket is effective under § 411.150(c).

[66 FR 67420, Dec. 28, 2001, as amended at 73 FR 29344, May 20, 2008]

#### § 411.226 How will SSA determine if I am meeting the timely progress guidelines if I assign my ticket prior to July 21, 2008?

(a) If you assigned your ticket to an EN or State VR agency prior to July 21, 2008, we will determine which 12-month progress certification period in § 411.180 you are in as of July 21, 2008 using the rules in paragraph (a)(1) of this section. We will not conduct a progress review at the end of that progress certification period. We will conduct a progress review at the end of your next progress certification period as explained in paragraph (a)(2) of this section.

(1) We will consider you to be in the first or a subsequent 12-month progress certification period under § 411.180 as of July 21, 2008. We will determine your applicable 12-month progress certification period and the number of months remaining in that period as of July 21, 2008 by counting all months

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during which your ticket was assigned and in use during the period—

(i) Beginning with the month following the month in which you first assigned your ticket under the rules in effect prior to July 21, 2008; and

(ii) Ending with the close of June 2008.

(2) We will use the timely progress guidelines in § 411.180(c) beginning with your next 12-month progress certification period. At the conclusion of that progress certification period, we will conduct a progress review to determine whether you are making timely progress toward self-supporting employment using the guidelines in § 411.180(c) that apply in that period.

(b) Prior to the conclusion of your applicable 12-month progress certification period determined under paragraph (a)(1) of this section, we will send you a notice telling you that we will not conduct a progress review at the end of that progress certification period, and that we will conduct a progress review at the conclusion of your next 12-month progress certification period using the guidelines in § 411.180(c). We will tell you in the notice when this next 12-month progress certification period will begin and will describe the specific timely progress guidelines you must meet in this 12-month period.

(c) Subsequent 12-month progress certification periods will follow the rules in § 411.180.

(d) If, on June 30, 2008, your ticket is in use and assigned to a State VR agency which chose to be paid for services it provides to you under the cost reimbursement payment system, your period of using a ticket may continue under the rules in this subpart, including the rules in paragraphs (a), (b) and (c) of this section. While your ticket may still be considered in-use for the purpose of the suspension of continuing disability reviews, it will no longer be considered assigned to that State VR agency effective July 21, 2008. You may assign your ticket after the State VR agency has closed your case.

[73 FR 29344, May 20, 2008]

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### Subpart D—Use of One or More Program Managers To Assist in Administration of the Ticket to Work Program

#### § 411.230 What is a PM?

A program manager (PM) is an organization in the private or public sector that has entered into a contract to assist us in administering the Ticket to Work program. We will use a competitive bidding process to select one or more PMs.

#### § 411.235 What qualifications are required of a PM?

A PM must have expertise and experience in the field of vocational rehabilitation or employment services.

#### § 411.240 What limitations are placed on a PM?

A PM is prohibited from directly participating in the delivery of employment services, vocational rehabilitation services, or other support services to beneficiaries with tickets in the PM's designated service delivery area. A PM is also prohibited from holding a financial interest in an employment network (EN) or service provider that provides services under the Ticket to Work program in the PM's designated service delivery area.

#### § 411.245 What are a PM's responsibilities under the Ticket to Work program?

A PM will assist us in administering the Ticket to Work program by conducting the following activities:

(a) *Recruiting, recommending, and monitoring ENs.* A PM must recruit and recommend for selection by us public and private entities to function as ENs under the program. A PM is also responsible for monitoring the ENs operating in its service delivery area. Such monitoring must be done to the extent necessary and appropriate to ensure that adequate choices of services are made available to beneficiaries with tickets. A PM may not limit the number of public or private entities being recommended to function as ENs.

(b) *Facilitating access by beneficiaries to ENs.* A PM must assist beneficiaries with tickets in accessing ENs.

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(1) A PM must establish and maintain lists of the ENs available to beneficiaries with tickets in its service delivery area and make these lists generally available to the public.

(2) A PM must ensure that all information provided to beneficiaries with tickets about ENs is in accessible formats. For purposes of this section, accessible format means by media that is appropriate to a particular beneficiary's impairment(s).

(3) A PM must take necessary measures to ensure that sufficient ENs are available and that each beneficiary under the Ticket to Work program has reasonable access to employment services, vocational rehabilitation services, and other support services. The PM shall ensure that services such as the following are available in each service area, including rural areas: case management, work incentives planning, supported employment, career planning, career plan development, vocational assessment, job training, placement, follow-up services, and other services that we may require in an agreement with a PM.

(4) A PM must ensure that each beneficiary with a ticket is allowed to change ENs. When a change in the EN occurs, the PM must reassign the ticket based on the choice of the beneficiary.

(c) *Facilitating payments to ENs.* A PM must facilitate payments to the ENs in its service delivery area. Subpart H explains the EN payment systems and the PM's role in administering these systems.

(1) A PM must maintain documentation and provide regular assurances to us that payments to an EN are warranted. The PM shall ensure that an EN is complying with the terms of its agreement and applicable regulations.

(2) Upon the request of an EN, the PM shall make a determination of the allocation of the outcome or milestone payments due to an EN based on the services provided by the EN when a beneficiary has been served by more than one EN.

(d) *Administrative requirements.* A PM will perform such administrative tasks as are required to assist us in administering and implementing the Ticket to Work program. Administrative

tasks required for the implementation of the Program may include, but are not limited to:

(1) Reviewing individual work plans (IWPs) submitted by ENs for ticket assignment. These reviews will be conducted to ensure that the IWPs meet the requirements of §411.465. (The PM will not review individualized plans for employment developed by State VR agencies and beneficiaries.)

(2) Reviewing amendments to IWPs to ensure that the amendments meet the requirements in §411.465.

(3) Ensuring that ENs only refer an individual to a State VR agency for services pursuant to an agreement regarding the conditions under which such services will be provided.

(4) Resolving a dispute between an EN and a State VR agency with respect to agreements regarding the conditions under which services will be provided when an individual is referred by an EN to a State VR agency for services.

### EVALUATION OF PROGRAM MANAGER PERFORMANCE

#### §411.250 How will SSA evaluate a PM?

(a) We will periodically conduct a formal evaluation of the PM. The evaluation will include, but not be limited to, an assessment examining the following areas:

- (1) Quality of services;
- (2) Cost control;
- (3) Timeliness of performance;
- (4) Business relations; and
- (5) Customer satisfaction.

(b) Our Project Officer will perform the evaluation. The PM will have an opportunity to comment on the evaluation, and then the Contracting Officer will determine the PM's final rating.

(c) These performance evaluations will be made part of our database on contractor past performance to which any Federal agency may have access.

(d) Failure to comply with the standards used in the evaluation may result in early termination of our agreement with the PM.

## Subpart E—Employment Networks

### §411.300 What is an EN?

An employment network (EN) is any qualified entity that has entered into

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an agreement with us to function as an EN under the Ticket to Work program and assume responsibility for the coordination and delivery of employment services, vocational rehabilitation services, or other support services to beneficiaries who have assigned their tickets to that EN.

### § 411.305 Who is eligible to be an EN?

Any qualified agency or instrumentality of a State (or political subdivision thereof) or a private entity that assumes responsibility for the coordination and delivery of services under the Ticket to Work program to disabled beneficiaries is eligible to be an EN. A single entity or an association of or consortium of entities combining their resources is eligible to be an EN. The entity may provide these services directly or by entering into an agreement with other organizations or individuals to provide the appropriate services or other assistance that a beneficiary with a ticket may need to find and maintain employment that reduces dependency on disability benefits. ENs may include, but are not limited to:

(a) Any public or private entity, including charitable and religious organizations, that can provide directly, or arrange for other organizations or entities to provide, employment services, vocational rehabilitation services, or other support services.

(b) State agencies administering or supervising the administration of the State plan approved under title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*) may choose, on a case-by-case basis, to be paid as an EN under the payment systems described in subpart H of this part. For the rules on State VR agencies' participation in the Ticket to Work program, see subpart F of this part. The rules in this subpart E apply to entities other than State VR agencies.

(c) One-stop delivery systems established under subtitle B of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2841 *et seq.*).

(d) Alternate participants currently operating under the authority of section 222(d)(2) of the Social Security Act.

(e) Organizations administering Vocational Rehabilitation Services

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Projects for American Indians with Disabilities authorized under section 121 of part C of title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 750 *et seq.*).

(f) Public or private schools that provide VR or employment services, conduct job training programs, or make services or programs available that can assist students with disabilities in acquiring specific job skills that lead to employment. This includes transition programs that can help students acquire work skills.

(g) Employers that offer job training or other support services or assistance to help individuals with disabilities obtain and retain employment or arrange for individuals with disabilities to receive relevant services or assistance.

### § 411.310 How does an entity other than a State VR agency apply to be an EN and who will determine whether an entity qualifies as an EN?

(a) An entity other than a State VR agency applies by responding to our Request for Proposal (RFP), which we published in the Commerce Business Daily and which is available online through the Federal government's electronic posting system (<http://www.eps.gov>). This RFP also is available through SSA's website, <http://www.ssa.gov/work>. Since recruitment of ENs will be an ongoing process, the RFP is open and continuous. The entity must respond in a format prescribed in the RFP announcement. In its response, the entity must assure SSA that it is qualified to provide employment services, vocational rehabilitation services, or other support services to disabled beneficiaries, either directly or through arrangements with other entities.

(b) The PM will solicit service providers and other qualified entities to respond to the RFP on an ongoing basis. (See § 411.115(k) for a definition of the PM.) The PM will conduct a preliminary review of responses to the RFP from applicants located in the PM's service delivery area and make recommendations to the Commissioner regarding selection. The Commissioner will decide which applicants will be approved to serve as ENs under the program.

(c) State VR agencies must comply with the requirements in subpart F of this part to participate as an EN in the Ticket to Work program. (See §§411.360ff).

(d) One-stop delivery systems established under subtitle B of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2811 *et seq.*) may participate in the Ticket to Work program as ENs and do not need to respond to the RFP. However, in order to participate in the Ticket to Work program, the one-stop delivery system must enter into an agreement with the Commissioner to be an EN and must maintain compliance with general and specific selection criteria as described in §411.315 in order to remain an EN.

(e) Organizations administering Vocational Rehabilitation Services Projects for American Indians with Disabilities authorized under section 121 of part C of title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 741), may participate in the Ticket to Work program as ENs and do not need to respond to the RFP. However, in order to participate in the Ticket to Work program, the organization administering the project must enter into an agreement with the Commissioner to be an EN and must maintain compliance with general and specific selection criteria as described in §411.315 in order to remain an EN.

[66 FR 67420, Dec. 28, 2001, as amended at 73 FR 29344, May 20, 2008]

**§411.315 What are the minimum qualifications necessary to be an EN?**

To serve as an EN under the Ticket to Work program, an entity must meet and maintain compliance with both general selection criteria and specific selection criteria.

(a) The general criteria include:

(1) having systems in place to protect the confidentiality of personal information about beneficiaries seeking or receiving services;

(2) being accessible, both physically and programmatically, to beneficiaries seeking or receiving services (examples of being programmatically accessible include the capability of making documents and literature available in alternate media including Braille, recorded formats, enlarged print, and electronic

media; and insuring that data systems available to clients are fully accessible for independent use by persons with disabilities);

(3) not discriminating in the provision of services based on a beneficiary's age, gender, race, color, creed, or national origin;

(4) having adequate resources to perform the activities required under the agreement with us or the ability to obtain them;

(5) complying with the terms and conditions in the agreement with us, including delivering or coordinating the delivery of employment services, vocational rehabilitation services, and other support services; and

(6) implementing accounting procedures and control operations necessary to carry out the Ticket to Work program.

(b) The specific criteria that an entity must meet to qualify as an EN include:

(1)(i) Using staff who are qualified under applicable certification, licensing, or registration standards that apply to their profession including certification or accreditation by national accrediting or certifying organizations; or

(ii) Using staff that are otherwise qualified based on education or experience, such as by using staff with experience or a college degree in a field related to the services the EN wants to provide, such as vocational counseling, human relations, teaching, or psychology; and

(2) Taking reasonable steps to assure that if any medical and related health services are provided, such medical and health related services are provided under the formal supervision of persons licensed to prescribe or supervise the provision of these services in the State in which the services are performed.

(c) Any entity must have applicable certificates, licenses or other credentials if such documentation is required by State law to provide vocational rehabilitation services, employment services or other support services.

(d) We will not use the following as an EN:

(1) any entity that has had its license, accreditation, certification, or registration suspended or revoked for

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reasons concerning professional competence or conduct or financial integrity;

(2) any entity that has surrendered a license, accreditation, certification, or registration with a disciplinary proceeding pending; or

(3) any entity that is precluded from Federal procurement or non-procurement programs.

(e) One-stop delivery systems established under subtitle B of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2811 *et seq.*) are qualified to be ENs. A one-stop delivery system must enter into an agreement with the Commissioner to be an EN and must maintain compliance with general and specific selection criteria of this section and § 411.305 in order to remain an EN.

(f) Organizations administering Vocational Rehabilitation Services Projects for American Indians with Disabilities authorized under section 121 of part C of title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 741), are qualified to be ENs. An organization administering such a project must enter into an agreement with the Commissioner to be an EN and must maintain compliance with general and specific selection criteria of this section and § 411.305 in order to remain an EN.

[66 FR 67420, Dec. 28, 2001, as amended at 73 FR 29344, May 20, 2008]

**§ 411.320 What are an EN's responsibilities as a participant in the Ticket to Work program?**

An EN must—

(a) Enter into an agreement with us.  
(b) Serve a prescribed service area. The EN must designate the geographic area in which it will provide services. This will be designated in the EN's agreement with us.

(c) Provide services directly, or enter into agreements with other entities to provide employment services, vocational rehabilitation services, or other support services to beneficiaries with tickets.

(d) Ensure that employment services, vocational rehabilitation services, and other support services provided under the Ticket to Work program are provided under appropriate individual work plans (IWP).

(e) Elect a payment system at the time of signing an agreement with us (see § 411.505).

(f) Develop and implement each IWP in partnership with each beneficiary receiving services in a manner that affords the beneficiary the opportunity to exercise informed choice in selecting an employment goal and specific services needed to achieve that employment goal. Each IWP must meet the requirements described in § 411.465.

**§ 411.321 Under what conditions will SSA terminate an agreement with an EN due to inadequate performance?**

We will terminate our agreement with an EN if it does not comply with the requirements under §§ 411.320, § 411.325, or the conditions in the agreement between SSA and the EN, including minimum performance standards relating to beneficiaries achieving self-supporting employment and leaving the benefit rolls.

**§ 411.325 What reporting requirements are placed on an EN as a participant in the Ticket to Work program?**

An EN must:

(a) Report to the PM in writing each time the EN accepts a ticket for assignment or the EN no longer wants a ticket assigned to it;

(b) Submit a copy of each signed IWP to the PM;

(c) Submit to the PM copies of amendments to a beneficiary's IWP;

(d) Submit to the PM a copy of any agreement the EN has established with a State VR agency regarding the conditions under which the State VR agency will provide services to beneficiaries who are referred by the EN under the Ticket to Work program;

(e) Submit information to assist the PM conducting the reviews necessary to assess a beneficiary's timely progress towards self-supporting employment to determine if a beneficiary is using a ticket for purposes of suspending continuing disability reviews (see subpart C of this part);

(f) Report to the PM the specific outcomes achieved with respect to specific services the EN provided or secured on behalf of beneficiaries whose tickets it accepted for assignment. Such reports

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shall conform to a national model prescribed by us and shall be submitted to the PM at least annually;

(g) Provide a copy of its most recent annual report on outcomes to each beneficiary considering assigning a ticket to it and assure that a copy of its most recent report is available to the public while ensuring that personal information on beneficiaries is kept confidential;

(h) Meet our financial reporting requirements. These requirements will be described in the agreements between ENs and the Commissioner, and will include submitting a financial report to the program manager on an annual basis;

(i) Collect and record such data as we shall require, in a form prescribed by us; and

(j) Adhere to all requirements specified in the agreement with the Commissioner and all regulatory requirements in this part 411.

[66 FR 67420, Dec. 28, 2001, as amended at 73 FR 29345, May 20, 2008]

### §411.330 How will SSA evaluate an EN's performance?

(a) We will periodically review the results of the work of each EN to ensure effective quality assurance in the provision of services by ENs.

(b) In conducting such a review, we will solicit and consider the views of the individuals the EN serves and the PM which monitors the EN.

(c) ENs must make the results of these periodic reviews available to disabled beneficiaries to assist them in choosing among available ENs.

## Subpart F—State Vocational Rehabilitation Agencies' Participation

### PARTICIPATION IN THE TICKET TO WORK PROGRAM

### §411.350 Must a State VR agency participate in the Ticket to Work program?

A State VR agency may elect, but is not required, to participate in the Ticket to Work program as an EN. The State VR agency may elect on a case-by-case basis to participate in the Ticket to Work program as an EN, or it

may elect to provide services to beneficiaries under the VR cost reimbursement option. (See §411.115(s) for a definition of the VR cost reimbursement option.)

[73 FR 29345, May 20, 2008]

### §411.355 What payment options does a State VR agency have?

(a) The Ticket to Work program provides different payment options that are available to a State VR agency for providing services to disabled beneficiaries who have a ticket. A State VR agency participates in the program in one of two ways when providing services to a particular disabled beneficiary under the program. On a case-by-case basis, the State VR agency may participate either—

(1) As an employment network (EN); or

(2) Under the cost reimbursement payment system (see subpart V of part 404 and subpart V of part 416 of this chapter).

(b) When the State VR agency serves a beneficiary with a ticket as an EN, the State VR agency will use the EN payment system it has elected for this purpose, either the outcome payment system or the outcome-milestone payment system (described in subpart H of this part). The State VR agency will have periodic opportunities to change the payment system it uses when serving as an EN.

(c) The State VR agency may seek payment only under its elected EN payment system whenever it serves as an EN. When serving a beneficiary who does not have a ticket that can be assigned pursuant to §411.140, the State VR agency may seek payment only under the cost reimbursement payment system.

[66 FR 67420, Dec. 28, 2001, as amended at 73 FR 29345, May 20, 2008]

### §411.365 How does a State VR agency notify us about its choice of a payment system for use when functioning as an EN?

(a) The State VR agency must send us a letter telling us which EN payment system it will use when it functions as an EN with respect to a beneficiary who has a ticket.

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(b) The director of the State agency administering or supervising the administration of the State plan approved under title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*), or the director's designee must sign the State VR agency's letter described in paragraph (a) of this section.

[66 FR 67420, Dec. 28, 2001, as amended at 73 FR 29345, May 20, 2008]

### **§411.375 Does a State VR agency continue to provide services under the requirements of the State plan approved under title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*), when functioning as an EN?**

Yes. The State VR agency must continue to provide services under the requirements of the State plan approved under title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*), even when functioning as an EN.

#### TICKET STATUS

### **§411.380 What does a State VR agency do if the State VR agency wants to determine whether a person seeking services has a ticket?**

A State VR agency can contact the Program Manager (PM) to determine if a person seeking VR services has a ticket and, if so, whether the ticket may be assigned to the State VR agency (see §411.140) or reassigned to the State VR agency (see §411.150). (See §411.115(k) for a definition of the PM.)

### **§411.385 What does a State VR agency do if a beneficiary who is eligible for VR services has a ticket that is available for assignment or reassignment?**

(a) Once the State VR agency determines that a beneficiary is eligible for VR services, the beneficiary and a representative of the State VR agency must agree to and sign the individualized plan for employment (IPE) required under section 102(b) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 722(b)). The State VR agency must submit the following information to the PM in order for the beneficiary's ticket to be considered in use:

(1) A statement that an IPE has been agreed to and signed by both the bene-

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fiary and a representative of the State VR agency;

(2) A statement of the vocational goal outlined in the beneficiary's IPE; and

(3) A statement of the State VR agency's selection of the payment system (either the cost reimbursement payment system or the previously elected EN payment system) under which the State VR agency will seek payment for providing services to the beneficiary.

(b) This information must be submitted to the PM in a format prescribed by us and must include the signatures of both the beneficiary, or a representative of the beneficiary, and a representative of the State VR agency.

[66 FR 67420, Dec. 28, 2001, as amended at 73 FR 29345, May 20, 2008]

### **§411.390 What does a State VR agency do if a beneficiary to whom it is already providing services has a ticket that is available for assignment?**

If a beneficiary who is receiving services from the State VR agency under an existing IPE becomes eligible for a ticket that is available for assignment, the State VR agency must submit the information required in §411.385(a) to the PM. We require this information in order for the beneficiary's ticket to be considered in use. If a beneficiary who is receiving services from the State VR agency under an existing IPE becomes eligible for a ticket that is available for assignment, the State VR agency is limited to the cost reimbursement payment system, unless both the beneficiary and the State VR agency agree to have the ticket assigned to the State VR agency.

[73 FR 29345, May 20, 2008]

### **§411.395 Is a State VR agency required to provide periodic reports?**

(a) For cases where a State VR agency provided services functioning as an EN, the State VR agency will be required to prepare periodic reports on the specific outcomes achieved with respect to the specific services the State VR agency provided to or secured for disabled beneficiaries whose tickets it accepted for assignment. These reports must be submitted to the PM at least annually.

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(b) Regardless of the payment method selected, a State VR agency must submit information to assist the PM conducting the reviews necessary to assess a beneficiary's timely progress toward self-supporting employment to determine if a beneficiary is using a ticket for purposes of suspending continuing disability reviews (see §§ 411.190, 411.195 and 411.200).

### REFERRALS BY EMPLOYMENT NETWORKS TO STATE VR AGENCIES

#### **§ 411.400 Can an EN to which a beneficiary's ticket is assigned refer the beneficiary to a State VR agency for services?**

Yes. An EN may refer a beneficiary it is serving under the Ticket to Work program to a State VR agency for services. However, a referral can be made only if the State VR agency and the EN have an agreement that specifies the conditions under which services will be provided by the State VR agency. This agreement must be in writing and signed by the State VR agency and the EN prior to the EN referring any beneficiary to the State VR agency for services.

### AGREEMENTS BETWEEN EMPLOYMENT NETWORKS AND STATE VR AGENCIES

#### **§ 411.405 When does an agreement between an EN and the State VR agency have to be in place?**

Each EN must have an agreement with the State VR agency prior to referring a beneficiary it is serving under the Ticket to Work program to the State VR agency for specific services.

#### **§ 411.410 Does each referral from an EN to a State VR agency require its own agreement?**

No. The agreements between ENs and State VR agencies should be broad-based and apply to all beneficiaries who may be referred by the EN to the State VR agency for services, although an EN and a State VR agency may want to enter into an individualized agreement to meet the needs of a single beneficiary.

#### **§ 411.415 Who will verify the establishment of agreements between ENs and State VR agencies?**

The PM will verify the establishment of these agreements. Each EN is required to submit a copy of the agreement it has established with the State VR agency to the PM.

#### **§ 411.420 What information should be included in an agreement between an EN and a State VR agency?**

The agreement between an EN and a State VR agency should state the conditions under which the State VR agency will provide services to a beneficiary when the beneficiary is referred by the EN to the State VR agency for services. Examples of this information include-

- (a) Procedures for making referrals and sharing information that will assist in providing services;
- (b) A description of the financial responsibilities of each party to the agreement;
- (c) The terms and procedures under which the EN will pay the State VR agency for providing services; and
- (d) Procedures for resolving disputes under the agreement.

#### **§ 411.425 What should a State VR agency do if it gets an attempted referral from an EN and no agreement has been established between the EN and the State VR agency?**

The State VR agency should contact the EN to discuss the need to establish an agreement. If the State VR agency and the EN are not able to negotiate acceptable terms for an agreement, the State VR agency should notify the PM that an attempted referral has been made without an agreement.

#### **§ 411.430 What should the PM do when it is informed that an EN has attempted to make a referral to a State VR agency without an agreement being in place?**

The PM will contact the EN to explain that a referral cannot be made to the State VR agency unless an agreement has been established that sets out the conditions under which services will be provided when a beneficiary's ticket is assigned to the EN and the EN is referring the beneficiary to the State VR agency for specific services.

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RESOLVING DISPUTES ARISING UNDER AGREEMENTS BETWEEN EMPLOYMENT NETWORKS AND STATE VR AGENCIES

**§411.435 How will disputes arising under the agreements between ENs and State VR agencies be resolved?**

Disputes arising under agreements between ENs and State VR agencies must be resolved using the following steps:

(a) When procedures for resolving disputes are spelled out in the agreement between the EN and the State VR agency, those procedures must be used.

(b) If procedures for resolving disputes are not included in the agreement between the EN and the State VR agency and procedures for resolving disputes under contracts and inter-agency agreements are provided for in State law or administrative procedures, the State procedures must be used to resolve disputes under agreements between ENs and State VR agencies.

(c) If procedures for resolving disputes are not spelled out in the agreement or in State law or administrative procedures, the EN or the State VR agency may request that the PM recommend a resolution to the dispute.

(1) The request must be in writing and include:

- (i) a copy of the agreement;
- (ii) information on the issue(s) in dispute; and
- (iii) information on the position of both the EN and the State VR agency regarding the dispute.

(2) The PM has 20 calendar days after receiving a written request to recommend a resolution to the dispute. If either the EN or the State VR agency does not agree with the PM's recommended resolution to the dispute, the EN or the State VR agency has 30 calendar days after receiving the PM's recommendation to request a decision by us on the matter in dispute.

**Subpart G—Requirements For Individual Work Plans**

**§411.450 What is an Individual Work Plan?**

An individual work plan (IWP) is a required written document signed by an employment network (EN) (other

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than a State VR agency) and a beneficiary, or a representative of a beneficiary, with a ticket. It is developed and implemented in partnership when a beneficiary and an EN have come to a mutual understanding to work together to pursue the beneficiary's employment goal under the Ticket to Work program.

**§411.455 What is the purpose of an IWP?**

The purpose of an IWP is to outline the specific employment services, vocational rehabilitation services and other support services that the EN and beneficiary have determined are necessary to achieve the beneficiary's stated employment goal. An IWP provides written documentation for both the EN and beneficiary. Both parties should develop and implement the IWP in partnership. The EN shall develop and implement the plan in a manner that gives the beneficiary the opportunity to exercise informed choice in selecting an employment goal. Specific services needed to achieve the designated employment goal are discussed and agreed to by both parties.

**§411.460 Who is responsible for determining what information is contained in the IWP?**

The beneficiary and the EN share the responsibility for determining the employment goal and the specific services needed to achieve that employment goal. The EN will present information and options in a way that affords the beneficiary the opportunity to exercise informed choice in selecting an employment goal and specific services needed to achieve that employment goal.

**§411.465 What are the minimum requirements for an IWP?**

- (a) An IWP must include at least—
  - (1) A statement of the vocational goal developed with the beneficiary, including, as appropriate, goals for earnings and job advancement;
  - (2) A statement of the services and supports necessary for the beneficiary to accomplish that goal;
  - (3) A statement of any terms and conditions related to the provision of these services and supports;

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(4) A statement that the EN may not request or receive any compensation for the costs of services and supports from the beneficiary;

(5) A statement of the conditions under which an EN may amend the IWP or terminate the relationship;

(6) A statement of the beneficiary's rights under the Ticket to Work program, including the right to retrieve the ticket at any time if the beneficiary is dissatisfied with the services being provided by the EN;

(7) A statement of the remedies available to the beneficiary, including information on the availability of advocacy services and assistance in resolving disputes through the State Protection and Advocacy (P&A) System;

(8) A statement of the beneficiary's rights to privacy and confidentiality regarding personal information, including information about the beneficiary's disability;

(9) A statement of the beneficiary's right to seek to amend the IWP (the IWP can be amended if both the beneficiary and the EN agree to the change); and

(10) A statement of the beneficiary's right to have a copy of the IWP made available to the beneficiary, including in an accessible format chosen by the beneficiary.

(b) The EN will be responsible for ensuring that each IWP contains this information.

### §411.470 When does an IWP become effective?

(a) An IWP becomes effective if the following requirements are met—

(1) It has been signed by the beneficiary or the beneficiary's representative, and by a representative of the EN;

(2)(i) The beneficiary is eligible to assign his or her ticket under §411.140(a); or

(ii) The beneficiary is eligible to reassign his or her ticket under §411.150(a) and (b); and

(3) A representative of the EN submits a copy of the signed IWP to the PM and the PM receives the copy of the IWP.

(b) If all of the requirements in paragraph (a) of this section are met, the IWP will be effective on the first day on which the requirements of para-

graphs (a)(1) and (a)(2) of this section are met.

## Subpart H—Employment Network Payment Systems

### §411.500 Definitions of terms used in this subpart.

(a) *Payment calculation base* means for any calendar year—

(1) In connection with a title II disability beneficiary (including a concurrent title II/title XVI disability beneficiary), the average monthly disability insurance benefit payable under section 223 of the Act for months during the preceding calendar year to all beneficiaries who are in current pay status for the month for which the benefit is payable; and

(2) In connection with a title XVI disability beneficiary (who is not concurrently a title II disability beneficiary), the average monthly payment of Supplemental Security Income (SSI) benefits based on disability payable under title XVI (excluding State supplementation) for months during the preceding calendar year to all beneficiaries who—

(i) Have attained age 18 but have not attained age 65;

(ii) Are not concurrent title II/title XVI beneficiaries; and

(iii) Are in current pay status for the month for which the payment is made.

(b) *Outcome payment period* means a period of 36 months for a title II disability beneficiary or a period of 60 months for a title XVI disability beneficiary who is not concurrently a title II disability beneficiary, not necessarily consecutive, for which Social Security disability benefits and Federal SSI cash benefits are not payable to the beneficiary because of the performance of substantial gainful activity (SGA) or by reason of earnings from work activity. The outcome payment period begins with the first month, ending after the date on which the ticket was first assigned to an EN (or to a State VR agency acting as an EN), for which such benefits are not payable to the beneficiary because of SGA or by reason of earnings from work activity. The outcome payment period ends as follows:

(1) For a title II disability beneficiary (including a concurrent title II/title XVI disability beneficiary), the outcome payment period ends with the 36th month, consecutive or otherwise, ending after the date on which the ticket was first assigned to an EN (or to a State VR agency acting as an EN), for which Social Security disability benefits and Federal SSI cash benefits are not payable to the beneficiary because of earnings from work activity (except as provided for in § 411.551).

(2) For a title XVI disability beneficiary who is not concurrently a title II disability beneficiary, the outcome payment period ends with the 60th month, consecutive or otherwise, ending after the date on which the ticket was first assigned to an EN (or to a State VR agency acting as an EN), for which Federal SSI cash benefits are not payable to the beneficiary by reason of earnings from work activity (except as provided for in § 411.551).

(c) *Outcome payment system* is a system providing a schedule of payments to an EN (or a State VR agency acting as an EN) for each month, during an individual's outcome payment period, for which Social Security disability benefits and Federal SSI cash benefits are not payable to the individual because of work or earnings.

(d) *Outcome payment* means the payment for an outcome payment month.

(e) *Outcome payment month* means a month, during the beneficiary's outcome payment period, for which Social Security disability benefits and Federal SSI cash benefits are not payable to the beneficiary because of work or earnings.

(f) *Outcome-milestone payment system* is a system providing a schedule of payments to an EN (or State VR agency acting as an EN) that includes, in addition to any outcome payments which may be made during the individual's outcome payment period, payments for completion by a title II or title XVI disability beneficiary of up to four Phase 1 milestones; and up to eleven Phase 2 milestones for a title II disability beneficiary or a concurrent beneficiary or up to eighteen Phase 2 milestones for a title XVI disability beneficiary who is not a concurrent title II disability beneficiary.

(1) *Phase 1 milestones* are based on the beneficiary achieving a level of earnings that reflects initial efforts at self-supporting employment. They are based on the earnings threshold that we use to establish a trial work period service month as defined in § 404.1592(b) of this chapter. We use this threshold amount as defined in § 404.1592(b) of this chapter in order to measure whether the beneficiary's earnings level meets the milestone objective.

(2) *Phase 2 milestones* are based on the beneficiary achieving a level of earnings that reflects substantial efforts at self-supporting employment. They are based on the earnings threshold that we use to determine if work activity is SGA. We use the SGA earnings threshold amount in § 404.1574(b)(2) of this chapter. We use the SGA threshold amounts in order to measure whether the beneficiary's gross earnings level meets the milestone objective.

(g) *Transition case* is a case where milestones or outcomes had been attained before July 21, 2008 (that is, the work required to meet such a milestone or outcome had been completed by that date). Section 411.551 explains how subsequent payments will be made to the EN (or State VR agency acting as an EN) on a transition case.

(h) *Reconciliation payment* is a final payment equal to the milestone payments that are unpaid when the beneficiary enters the outcome payment period before all the milestone payments are paid (see §§ 411.525(c) and 411.536).

[66 FR 67420, Dec. 28, 2001, as amended at 73 FR 29345, May 20, 2008]

#### § 411.505 How is an EN paid?

An EN (including a State VR agency acting as an EN) can elect to be paid under either the outcome payment system or the outcome-milestone payment system. The EN will elect a payment system at the time the EN enters into an agreement with us. (For State VR agencies, see § 411.365.) The EN (or State VR agency) may periodically change its elected EN payment system as described in § 411.515.

[73 FR 29346, May 20, 2008]

**§ 411.510 How is the State VR agency paid under the Ticket to Work program?**

(a) The State VR agency's payment choices are described in § 411.355.

(b) The State VR agency's decision to serve the beneficiary must be communicated to the program manager (PM). (See § 411.115(k) for a definition of the PM.) At the same time, the State VR agency must notify the PM of its selected payment system for that beneficiary.

(c) If a beneficiary who is receiving services from the State VR agency under an existing IPE becomes eligible for a ticket that is available for assignment, the State VR agency is limited to the cost reimbursement payment system, unless both the beneficiary and the State VR agency agree to have the ticket assigned to the State VR agency (see § 411.390).

[66 FR 67420, Dec. 28, 2001, as amended at 73 FR 29346, May 20, 2008]

**§ 411.515 Can the EN change its elected payment system?**

(a) Yes. Any change by an EN in its elected EN payment system will apply to beneficiaries who assign their ticket to the EN after the EN's change in election becomes effective. A change in the EN's election will become effective with the first day of the month following the month in which the EN notifies us of the change. For beneficiaries who already assigned their ticket to the EN under the EN's earlier elected payment system, the EN's earlier elected payment system will continue to apply. These rules also apply to a change by a State VR agency in its elected EN payment system for cases in which the State VR agency serves a beneficiary as an EN.

(b) After an EN (or a State VR agency) first elects an EN payment system, the EN (or State VR agency) can choose to make one change in its elected payment system in each calendar year (January–December) thereafter. The first EN payment system election constitutes the only election an EN may make for that calendar year.

[66 FR 67420, Dec. 28, 2001, as amended at 73 FR 29346, May 20, 2008]

**§ 411.520 How are beneficiaries whose tickets are assigned to an EN affected by a change in that EN's elected payment system?**

A change in an EN's (or State VR agency's) elected payment system has no effect upon the beneficiaries who have assigned their ticket to the EN (or State VR agency).

**§ 411.525 What payments are available under each of the EN payment systems?**

(a) For payments for outcome payment months, both EN payment systems use the payment calculation base as defined in § 411.500(a)(1) or (a)(2), as appropriate.

(1)(i) Under the outcome payment system, we can pay up to 36 outcome payments to the EN (or State VR agency acting as an EN) for a title II disability beneficiary (including a concurrent title II/title XVI disability beneficiary). We can pay up to 60 outcome payments to the EN (or State VR agency acting as an EN) for a title XVI disability beneficiary who is not concurrently a title II disability beneficiary. For each month during the beneficiary's outcome payment period for which Social Security disability benefits and Federal SSI cash benefits are not payable to the beneficiary because of the performance of SGA or by reason of earnings from work activity, the EN (or the State VR agency acting as an EN) is eligible for a monthly outcome payment. Payment for an outcome payment month under the outcome payment system is equal to 67% of the payment calculation base for the calendar year in which such month occurs, rounded to the nearest whole dollar (see § 411.550).

(ii) If a disabled beneficiary's entitlement to Social Security disability benefits ends (see §§ 404.316(b), 404.337(b) and 404.352(b) of this chapter) or eligibility for SSI benefits based on disability or blindness terminates (see § 416.1335 of this chapter) because of the performance of SGA or by reason of earnings from work activity, we will consider any month after the month with which such entitlement ends or eligibility terminates to be a month for which Social Security disability benefits and Federal SSI cash benefits

are not payable to the individual because of work or earnings if—

(A) The individual has gross earnings from employment (or net earnings from self-employment as defined in §416.1110(b) of this chapter) in that month that are more than the SGA threshold amount in §404.1574(b)(2) of this chapter (or in §404.1584(d) of this chapter for an individual who is statutorily blind); and

(B) The individual is not entitled to any monthly benefits under title II or eligible for any benefits under title XVI for that month.

(2) Under the outcome-milestone payment system:

(i) We can pay the EN (or State VR agency acting as an EN) for up to four Phase 1 milestones attained within the required earnings period for a title II or title XVI disability beneficiary who has assigned his or her ticket to the EN (or State VR agency acting as an EN). The first Phase 1 milestone is met when a beneficiary has worked in a month and earned at least 50% of the amount of earnings considered to represent a trial work period service month as defined in §404.1592(b) of this chapter. The second Phase 1 milestone is met after a beneficiary has worked for three months within a six-month period and has gross earnings in each of those three months equal to or greater than a trial work period service amount as defined in §404.1592(b) of this chapter. The third Phase 1 milestone is met after a beneficiary has worked for a total of six months within a twelve-month period and had gross earnings in each of those six months equal to a trial work period service amount as defined in §404.1592(b) of this chapter. The fourth Phase 1 milestone is met after a beneficiary has worked a total of nine months within an 18-month period and had gross earnings in each of those nine months equal to a trial work period service amount as defined in §404.1592(b) of this chapter and the EN has substantially completed the services agreed to in the IWP/IPE, including any amendments. Earnings used to meet the first, second or third Phase 1 milestone may be counted again when determining if a later Phase 1 milestone is met, provided the earlier earn-

ings fall within the relevant time period for meeting the later milestone.

(ii) We can also pay the EN (or State VR agency acting as an EN) up to eleven Phase 2 milestones achieved by a title II disability beneficiary (including a concurrent title II/title XVI disability beneficiary) or up to eighteen Phase 2 milestones achieved by a title XVI disability beneficiary (who is not concurrently a title II disability beneficiary) who has assigned his or her ticket to the EN (or State VR agency acting as an EN). A Phase 2 milestone is met for each calendar month in which the beneficiary has worked and has gross earnings from employment (or net earnings from self-employment as defined in §404.1080 of this chapter) in that month that are more than the SGA threshold amount as defined in §404.1574 of this chapter.

(iii) We pay available milestone payments in sequence except when the beneficiary's outcome period begins before the beneficiary has achieved all Phase 1 and Phase 2 milestones. Example: The individual, in the first month of employment after assigning the ticket, earns above the SGA level. Despite having exceeded trial work period level earnings and earned above the SGA level as required for Phase 2 payments in paragraph (a)(2)(ii) of this section, based on the individual's earning we would pay the EN the sequentially available milestone, which in this case would be Phase 1, milestone 1.

(iv) In addition to the milestone payments, monthly outcome payments can be paid to the EN (or State VR agency acting as an EN) during the outcome payment period.

(b) The outcome-milestone payment system is designed so that the total payments to the EN (or the State VR agency acting as an EN) for a beneficiary are less than the total amount that would have been paid if the EN were paid under the outcome payment system. Under the outcome-milestone payment system, the total payment to the EN (or the State VR agency acting as an EN) is about 90% of the total that would have been potentially payable under the outcome payment system for the same beneficiary.

(c) Except as provided in §411.536 (reconciliation payments) the milestones for which payments may be made must occur prior to the beginning of the beneficiary's outcome payment period.

(d) We will pay an EN (or State VR agency acting as an EN) to which the beneficiary has assigned a ticket for milestones or outcomes achieved only in months prior to the month in which the ticket terminates (see §411.155). We will not pay a milestone or outcome payment to an EN (or State VR agency acting as an EN) based on a beneficiary's work or earnings activity in or after the month in which the ticket terminates.

(e) If a title XVI disability beneficiary becomes entitled to title II benefits after we authorize the first milestone or outcome payment, we will continue to calculate the EN payments using title XVI payment calculation base under the outcome payment system on the basis of paragraph (a)(1)(i) and under the outcome-milestone payment system on the basis of paragraph (a)(2). This applies even if the title XVI eligibility is subsequently terminated and the person becomes only a title II beneficiary.

[66 FR 67420, Dec. 28, 2001, as amended at 73 FR 29346, May 20, 2008]

**§411.535 Under what circumstances will milestones be paid?**

(a)(1)(i) Under the outcome-milestone payment system, an EN (or a State VR agency acting as an EN) can earn up to four Phase 1 milestone payments for serving beneficiaries whose gross earnings were less than the trial work level in each of the 18 months before the ticket was first assigned to an EN. All work and earnings counted toward reaching the four Phase 1 milestones must occur after the ticket is assigned and before the beginning of the beneficiary's outcome payment period (see §411.500(f)) except as provided in §411.536 (reconciliation payments).

(ii) Significant work activity prior to ticket assignment will limit the availability of Phase 1 milestone payments. The PM will make this assessment of work activity prior to the first ticket assignment on each ticket, irrespective of the EN's chosen payment system, in

order to determine how many milestone payments may be available for serving an individual in the Ticket to Work program. The first Phase 1 milestone payment is not available to be made to an EN if the beneficiary has worked above the trial work level in the calendar month prior to the first ticket assignment on each ticket in the Ticket to Work program. The second Phase 1 milestone payment is not available if the beneficiary has worked above the trial work level in three of the six months prior to the first ticket assignment on each ticket in the Ticket to Work program. The third Phase 1 milestone is not available if the beneficiary has worked above the trial work level in six of the twelve months prior to the first ticket assignment on each ticket in the Ticket to Work program. The fourth Phase 1 milestone is not available if the beneficiary has worked above the trial work level in nine of the 18 months prior to the first ticket assignment on each ticket in the Ticket to Work program.

(iii) If a beneficiary had a ticket that otherwise was available for assignment and chose to receive services under an IPE from a State VR agency that elected the VR cost reimbursement option, payment of Phase 1 milestones to an EN or a different VR agency acting as an EN with respect to the same ticket is precluded if the State VR Agency that elected the VR cost reimbursement option achieved an employment outcome (as described in 34 CFR 361.56) before case closure. An EN or a different VR agency acting as an EN can be paid Phase 2 milestones as described in paragraph (2) of this section with respect to this ticket.

(2) Under the outcome-milestone payment system, an EN can receive up to eleven Phase 2 milestone payments for work by a title II disability beneficiary (including a concurrent title II/title XVI disability beneficiary), or up to eighteen Phase 2 milestone payments for work by a title XVI disability beneficiary. Earnings prior to the first assignment of the ticket in the Ticket to Work program are not taken into account when determining whether sufficient earnings exist for payment of Phase 2 milestones.

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(3) If the beneficiary's outcome payment period begins before the beneficiary has achieved all Phase 1 and Phase 2 milestones, then we will pay the EN a final payment in accordance with §411.536 (reconciliation payments) to account for unpaid milestone payments that had been available when the ticket was first assigned.

(b) An EN can be paid for a milestone only if the milestone is attained after a beneficiary has assigned his or her ticket to the EN. See §411.575 for other milestone payment criteria.

[66 FR 67420, Dec. 28, 2001, as amended at 73 FR 29347, May 20, 2008]

### **§411.536 Under what circumstances can we make a reconciliation payment under the outcome-milestone payment system?**

When the beneficiary's outcome payment period begins before the beneficiary has attained all Phase 1 and Phase 2 milestones, we will pay the EN (or a State VR agency acting as an EN) a reconciliation payment. The reconciliation payment will equal the total amount of the milestone payments that were available with respect to that ticket, when the ticket was first assigned, but that have not yet been paid. The reconciliation payment will be based on the payment calculation base for the calendar year in which the first month of the beneficiary's outcome period occurs, rounded to the nearest whole dollar. The payment will be made after an EN has qualified for 12 outcome payments. Where multiple ENs had the ticket assigned at some time, the PM will apply the rule under §411.560 to determine the allocation of the reconciliation payment.

[73 FR 29347, May 20, 2008]

### **§411.540 How are the payment amounts calculated for each of the milestones?**

(a) For both title II disability beneficiaries and title XVI disability beneficiaries, the payment amount for each

of the Phase 1 milestone payments is equal to 120% of the payment calculation base for title II (as defined in §411.500(a)(1)) for the calendar year in which the month of attainment of the milestone occurs, rounded to the nearest whole dollar.

(b) The payment amount for each of the Phase 2 milestones:

(1) For title II disability beneficiaries (including concurrent title II/title XVI disability beneficiaries) is equal to 36% of the payment calculation base as defined in §411.500(a)(1) for the calendar year in which the month of attainment of the milestone occurs, rounded to the nearest whole dollar;

(2) For title XVI beneficiaries (who are not concurrently title II disability beneficiaries) is equal to 36% of the payment calculation base as defined in §411.500(a)(2) for the calendar year in which the month of attainment of the milestone occurs, rounded to the nearest whole dollar.

[73 FR 29347, May 20, 2008]

### **§411.545 How are the outcome payments calculated under the outcome-milestone payment system?**

The amount of each monthly outcome payment under the outcome-milestone payment system is calculated as follows:

(a) For title II disability beneficiaries (including concurrent title II/title XVI disability beneficiaries), an outcome payment is equal to 36 percent of the payment calculation base as defined in §411.500(a)(1) for the calendar year in which the month occurs, rounded to the nearest whole dollar;

(b) For title XVI disability beneficiaries (who are not concurrently title II/title XVI disability beneficiaries), an outcome payment is equal to 36% of the payment calculation base as defined in §411.500(a)(2) for the calendar year in which the month occurs, rounded to the nearest whole dollar.

(c) The following chart provides an example of how an EN could receive milestone and outcome payments:

OUTCOME-MILESTONE PAYMENT TABLE  
 CHART I—NEW OUTCOME-MILESTONE PAYMENT TABLE  
 [2008 figures for illustration only]

Payment type	Beneficiary earnings	Title II amount of payment	Title XVI amount of payment
Phase 1 (120% of Title II PCB)			
Milestone 1 .....	\$335/mo. \$670/mo. × 3 mo. work in a 6-month period.	\$1,177 .....	\$1,177
Milestone 2 .....	\$1,177 .....	\$1,177.	
Milestone 3 .....	\$670/mo. × 6 mo. work in a 12-month period.	\$1,177 .....	\$1,177
Milestone 4 .....	\$670/mo. × 9 mo. work in an 18-month period.	\$1,177 .....	\$1,177
Total Phase 1 milestones.		\$4,708 .....	\$4,708
Phase 2 (36% of PCB) .....	Gross Earnings>SGA		
Title II milestones 1–11 .....	\$353 × 11=\$3,883		
Title XVI milestones 1–18 .....	\$203 × 18 = \$3,654.		
Total Phase 1 + 2 .....	\$8,591 .....	\$8,362.	
Title II = 1–36 .....	Outcome payments (36% of PCB). Monthly cash benefit not payable due to SGA.	\$353 × 36 = \$12,708	
Title XVI = 1–60 .....	Sufficient earnings for federal cash benefits = "0".	203 × 60 = \$12,180.	
Total milestone and outcome payments.	\$21,299 .....	\$20,542.	

*Definitions and amounts:* Payment Calculation Base (PCB)—The average title II disability insurance benefit payable under section 223 of the Social Security Act for all beneficiaries for months during the preceding calendar year; and the average payment of supplemental security income benefits based on disability payable under title XVI (excluding State supplementation) for months during the preceding calendar year to all beneficiaries who have attained 18 years of age but have not attained 65 years of age. (2008 title II = \$981.17, title XVI = \$563.35).

Gross earnings requirements for Phase 1 are based on Trial Work level amounts.

For Phase 1 milestones only, the payments are calculated for both title XVI and title II beneficiaries using the higher title II payment calculation base. All other payments are based on a percentage of the Payment Calculation Base (PCB) for the respective program (title XVI or title II). See §411.535 for a discussion of the circumstances under which we will pay milestones.

- Phase 1 milestones = 120% of PCB.
- Phase 2 milestones = 36% of PCB.

Outcome payments (under the outcome-milestone payment system) = 36% of PCB Earnings used to meet the first, second, or third Phase 1 milestone may be counted again when determining if a later milestone is met, provided the earlier earnings fall within the relevant time period for meeting the later Phase 1 milestone (see 411.525(a)(2) for the relevant time period for each milestone).

[73 FR 29348, May 20, 2008]

**§411.550 How are the outcome payments calculated under the outcome payment system?**

The amount of each monthly outcome payment under the outcome payment system is calculated as follows:

- (1) For title II disability beneficiaries (including concurrent title II/title XVI disability beneficiaries), an outcome payment is equal to 67% of the payment calculation base as defined in §411.500(a)(1) for the calendar year in which the month occurs, rounded to the nearest whole dollar;
- (2) For title XVI disability beneficiaries (who are not concurrently

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title II/title XVI disability beneficiaries), an outcome payment is equal to 67% of the payment calculation base as defined in §411.500(a)(2) for the calendar year in which the month occurs, rounded to the nearest whole dollar.

**CHART II.—NEW OUTCOME PAYMENT SYSTEM TABLE—TITLE II AND CONCURRENT**  
[2008 figures for illustration only]

Payment type	Beneficiary earnings	Title II amount of monthly outcome payment	Title II total outcome payments
Outcome payments 1–36 (67% of PCB) .....	Monthly cash benefit not payable due to SGA	\$657.00	\$23,652

**CHART III.—NEW OUTCOME PAYMENT SYSTEM TABLE—TITLE XVI ONLY**  
[2008 figures for illustration only]

Payment type	Beneficiary earnings	Title XVI amount of monthly outcome payment	Title XVI total outcome payments
Outcome payments 1–60 (67% of PCB) .....	Earnings sufficient to “0” out Federal SSI cash benefits.	\$377.00	\$22,620

NOTE: Outcome payment (outcome payment system) = 67% of PCB Individual payments are rounded to the nearest dollar amount.

- 2008 non-blind SGA level = \$940.
- 2008 Blind SGA = \$1570.
- 2008 TWP service amount = \$670.

[73 FR 29348, May 20, 2008]

**§411.551 How are EN payments calculated for transition cases pending on July 21, 2008?**

A *Transition case* is a case where a ticket had been assigned and milestones or outcomes had been attained as of June 30, 2008 (that is, the individual has completed the necessary work to trigger a milestone or outcome payment before July 21, 2008 regardless of whether the payment has actually been made). We will pay outcome and milestone payments at the rate in effect when the work leading to such outcome or milestone is attained. Since milestone and outcome payments are numbered and attained in sequence, the EN must request the final payment for which it expects payment under the prior rules before we can determine the number of the milestone or outcome payment that represents the first payment after July 21, 2008. In addition, for cases on which an EN has attained an outcome payment before July 21, 2008 we must know the sum of the amount paid on the ticket before we can determine the remaining amount that can be paid in outcome

payments on the ticket. Therefore, with respect to a ticket, we will only accept payment requests for milestones or outcomes attained under the prior rules until March 31, 2009 or until we make the first payment on the ticket under §411.525. Payments to an EN (or State VR agency acting as an EN) after July 21, 2008 on a transition case will be made as follows:

(a) The four milestones under the prior rules will be equated with the four Phase 1 milestones available under the rules after July 21, 2008. For example, if a beneficiary had attained milestone 1 under our prior rules (1 month above the gross SGA level, e.g., \$940 in 2008), then the next milestone to be achieved would be Phase 1 milestone 2 under these rules (work in three months with gross earnings in each of these months equal to a trial work period service month, e.g., \$670 in 2008).

(b) If the beneficiary had attained all four of the milestones under the prior rules, the next milestone to be achieved would be the first Phase 2 milestone (a calendar month in which the beneficiary has worked and has gross earnings from employment or net earnings from self-employment that are more than the substantial gainful activity threshold level, e.g., \$900 in 2007).

(c) The maximum number of outcome payments available to an EN with respect to a ticket for a transition case will be computed as follows:

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(1) First, we will compute the total dollar amount already paid or payable with respect to a ticket, including all outcome and milestone payments.

(2) Then, we will subtract the total dollar amount already paid from the total value of the ticket under the new rules for the year when these rules take effect. The total value of the ticket will be calculated based on the elected payment system for the beneficiary, *i.e.*, the outcome or the outcome-milestone payment system, and on the appropriate payment calculation base for either a title II disability beneficiary (including a concurrent title II and title XVI disability) or a title XVI disability beneficiary (see §§411.500 and 411.505). For accounting purposes, we will use the payment calculation base for 2008 and assume that all payments could be earned in that year in calculating the total value of the ticket.

(3) We then will divide this amount by the applicable outcome payment amount (whether title II or title XVI) payable for 2008 and round the result in accordance with customary rounding principles. The resulting number represents the number of outcome payments available to be paid with respect to the ticket. In no case can this number exceed 60.

[73 FR 29349, May 20, 2008]

### **§411.552 What effect will the subsequent entitlement to title II benefits have on EN payments for title XVI beneficiaries after they assign their ticket?**

If a beneficiary is only eligible for title XVI benefits when we authorize the first milestone or outcome for which an EN can be paid, but the beneficiary later becomes entitled to title II benefits, we will continue to make payments as though the beneficiary were only a title XVI beneficiary, up to the maximum number of milestone and outcome payments payable for that ticket for title XVI beneficiaries. If a beneficiary who is eligible for title XVI disability benefits becomes entitled to title II disability benefits before we authorize the first milestone or outcome payment, we will make payments to the EN pursuant to the rate, payment calculation base and number of pay-

ments available for title II beneficiaries, as described in this subpart.

[73 FR 29349, May 20, 2008]

### **§411.555 Can the EN keep the milestone and outcome payments even if the beneficiary does not achieve all outcome months?**

(a) Yes. The EN (or State VR agency acting as an EN) can keep each milestone and outcome payment for which the EN (or State VR agency acting as an EN) is eligible, even though the title II beneficiary does not achieve all 36 outcome months or the title XVI beneficiary does not achieve all 60 outcome months.

(b) Except as provided in paragraph (c) of this section, payments which we make or deny to an EN (or a State VR agency acting as an EN) may be subject to adjustment (including recovery, as appropriate) if we determine that more or less than the correct amount was paid. This may happen, for example, because we determine that the payment determination was in error or because of an allocation of payment under §411.560.

(c) If we determine that an overpayment or underpayment to an EN has occurred, we will notify the EN (or State VR agency acting as an EN) of the adjustment. We will not seek an adjustment if a determination or decision about a beneficiary's right to benefits causes an overpayment to the EN. Any dispute which the EN (or State VR agency) has regarding the adjustment may be resolved under the rules in §411.590(a) and (b).

[73 FR 29349, May 20, 2008]

### **§411.560 Is it possible to pay a milestone or outcome payment to more than one EN?**

It is possible for more than one EN (including a State VR agency acting as an EN) to receive payment based on the same milestone or outcome. If the beneficiary has assigned the ticket to more than one EN (or State VR agency acting as an EN) at different times, and more than one EN (or State VR agency) requests payment for the same milestone, outcome or reconciliation payment under its elected payment system, the PM will make a determination of the allocation of payment to

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each EN (or State VR agency acting as an EN). The PM will make this determination based upon the contribution of the services provided by each EN (or State VR agency acting as an EN) toward the achievement of the outcomes or milestones. Outcome and milestone payments will not be increased because the payments are shared between two or more ENs (including a State VR agency acting as an EN).

[73 FR 29350, May 20, 2008]

**§ 411.565 What happens if two or more ENs qualify for payment on the same ticket but have elected different EN payment systems?**

We will pay each EN (or State VR agency acting as an EN) according to its elected EN payment system in effect at the time the beneficiary assigned the ticket to the EN (or the State VR agency acting as an EN).

[73 FR 29350, May 20, 2008]

**§ 411.566 May an EN use outcome or milestone payments to make payments to the beneficiary?**

Yes, an EN may use milestone or outcome payments to make payments to a beneficiary.

[73 FR 29350, May 20, 2008]

**§ 411.570 Can an EN request payment from the beneficiary who assigned a ticket to the EN?**

No. Section 1148(b)(4) of the Act prohibits an EN from requesting or receiving compensation from the beneficiary for the services of the EN.

**§ 411.575 How does the EN request payment for milestones or outcome payment months achieved by a beneficiary who assigned a ticket to the EN?**

The EN (or State VR agency acting as an EN) will send its request for payment, evidence of the beneficiary's work or earnings, and other information to the PM. In addition, we or the PM may require a summary of the services provided as described in the IWP/IPE.

(a) *Milestone payments.* (1) We will pay the EN (or State VR agency acting as an EN) for milestones only if—

(i) The outcome-milestone payment system was the EN's (or State VR

agency's) elected payment system in effect at the time the beneficiary assigned a ticket to the EN (or the State VR agency acting as an EN);

(ii) The milestones occur prior to the outcome payment period (see § 411.500(b));

(iii) The requirements in § 411.535 are met; and

(iv) The ticket has not terminated for any of the reasons listed in § 411.155.

(2) The EN (or State VR agency acting as an EN) must request payment for each milestone attained by a beneficiary who has assigned a ticket to the EN (or State VR agency acting as an EN). The request must include evidence that the milestone was attained after ticket assignment and other information as we may require to evaluate the EN's (or State VR agency's) request. If the EN is requesting payment for months after the ticket is no longer assigned to it, the payment request shall include evidence that the services agreed to in the IWP/IPE were provided and those services contributed to the employment milestones or outcomes that the beneficiary attained in months after the ticket had been assigned to the EN. We do not have to stop monthly benefit payments to the beneficiary before we can pay the EN (or State VR agency acting as an EN) for milestones attained by the beneficiary.

(b) *Outcome payments.* (1) We will pay an EN (or State VR agency acting as an EN) an outcome payment for a month if—

(i)(A) Social Security disability benefits and Federal SSI cash benefits are not payable to the individual for that month due to work or earnings; or

(B) The requirements of § 411.525(a)(1)(ii) are met in a case where the beneficiary's entitlement to Social Security disability benefits has ended or eligibility for SSI benefits based on disability or blindness has terminated because of work activity or earnings; and

(ii) We have not already paid for 36 outcome payment months for a title II disability beneficiary (or a concurrent title II/title XVI disability beneficiary), or paid for 60 outcome payment months for a title XVI disability beneficiary who is not concurrently a

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title II disability beneficiary, on the same ticket; and

(iii) The ticket has not terminated for any of the other reasons listed in §411.155.

(2) The EN (or State VR agency acting as an EN) must request payment for outcome payment months. In its initial request, the EN (or State VR agency acting as an EN) must submit evidence of the beneficiary's work or earnings (e.g., a statement of monthly earnings from the employer or the employer's designated payroll preparer, or an unaltered copy of the beneficiary's pay stub). After we have started paying outcome payments to an EN (or State VR agency acting as an EN) based on evidence of the beneficiary's earnings, the EN (or State VR agency) must provide documentation of the beneficiary's continued work or earnings in such a manner or form and at such time or times as we may require. Exception: If the EN (or State VR agency) does not currently hold the ticket because it is assigned to another EN (or State VR agency), the EN (or State VR agency) must request payment, but is not required to submit evidence of the beneficiary's work or earnings. However, if the payment request is for work the beneficiary attained in a month in which the EN no longer held the ticket, the payment request should include evidence that the services agreed to in the IWP/IPE were provided and those services contributed to the beneficiary's work.

(c) *Evidence requirements for payment.* As primary evidence, we require original pay slips, or oral or written statements from an employer or the employer's designated payroll preparer. In lieu of primary evidence, we accept two sources of secondary evidence, such as photocopies of pay slips, a signed beneficiary statement, State unemployment records or federal/state tax returns. The evidence must be clear and legible and include the beneficiary's name, gross earnings or net earnings from self employment, pay date and pay period of wages or monthly net earnings of self-employment earnings.

[66 FR 67420, Dec. 28, 2001, as amended at 73 FR 29350, May 20, 2008]

### **§411.580 Can an EN receive payments for milestones or outcome payment months that occur before the beneficiary assigns a ticket to the EN?**

No. An EN (or State VR agency acting as an EN) may be paid only for milestones or outcome payment months that are achieved after the month in which the ticket is assigned to the EN or State VR agency acting as an EN (except as provided for in §411.536).

[73 FR 29351, May 20, 2008]

### **§411.581 Can an EN receive milestone and outcome payments for months after a beneficiary takes his or her ticket out of assignment?**

Yes. If an individual whose ticket is assigned to an EN (or State VR agency acting as an EN) takes his or her ticket out of assignment (see §411.145), the EN (or State VR agency) can receive payments under its elected payment system for milestones or outcome payment months that occur after the ticket is taken out of assignment, provided the ticket has not terminated for any of the reasons listed in §411.155. The PM will make a determination about eligibility for a payment based upon the contribution of services provided by an EN toward the achievement of the outcome or milestones. See §411.560 for situations in which payment may be made to more than one EN or State VR agency based on the same milestone or outcome.

[73 FR 29351, May 20, 2008]

### **§411.582 Can a State VR agency receive payment under the cost reimbursement payment system if a continuous 9-month period of substantial gainful activity is completed after the ticket is assigned to an EN?**

Yes. If a State VR agency provides services to a beneficiary under 34 CFR part 361, and elects payment under the cost reimbursement payment system under subpart V of part 404 (or subpart V of part 416) of this chapter, the State VR agency can receive payment under the cost reimbursement payment system for services provided to the beneficiary if all the requirements under subpart V of part 404 (or subpart V of part 416) of this chapter and §411.585

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are met even when these requirements are met after the ticket has been assigned to the EN. The EN can be paid during this period in accordance with §§ 411.525 and 411.535.

[73 FR 29351, May 20, 2008]

### **§ 411.585 Can a State VR agency and an EN both receive payment for serving the same beneficiary?**

Yes. A State VR agency and an EN can both receive payment for serving the same beneficiary, but the ticket can only be assigned to one EN, including a State VR agency acting as an EN, at a time. It also cannot be assigned to an EN and placed in the VR cost reimbursement status at the same time.

(a) A State VR agency may act as an EN and serve a beneficiary. In this case, both the State VR agency acting as an EN and another EN may be eligible for payment based on the same ticket (see § 411.560).

(b) If a State VR agency is paid by us under the VR cost reimbursement option, such payment does not preclude payment by us to an EN or to another State VR agency acting as an EN under its elected EN payment system. A subsequent VR agency also may choose to be paid under the VR cost reimbursement option.

(c) If an EN or a State VR agency acting as an EN is paid by us under one of the EN payment systems, that does not preclude payment by us to a different State VR agency under the VR cost reimbursement option. The subsequent State VR agency also may choose to be paid under its elected EN payment system.

[73 FR 29351, May 20, 2008]

### **§ 411.590 What can an EN do if the EN disagrees with our decision on a payment request?**

(a) If an EN other than a State VR agency has a payment dispute with us, the dispute shall be resolved under the dispute resolution procedures contained in the EN's agreement with us.

(b) If a State VR agency serving a beneficiary as an EN has a dispute with us regarding payment under an EN payment system, the State VR agency may, within 60 days of receiving notice of our decision, request reconsideration in writing. The State VR agency must

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send the request for reconsideration to the PM. The PM will forward to us the request for reconsideration and a recommendation. We will notify the State VR agency of our reconsidered decision in writing.

(c) An EN (including a State VR agency) cannot appeal determinations we make about an individual's right to benefits (e.g. determinations that disability benefits should be suspended, terminated, continued, denied, or stopped or started on a different date than alleged). Only the beneficiary or applicant or his or her representative can appeal these determinations. See § 404.900 *et seq.* and 416.1400 *et seq.* of this chapter.

(d) Determinations or decisions we make about a beneficiary's right to benefits may cause payments we have already made to an EN (or denial of payment to an EN) to be incorrect, resulting in an underpayment or overpayment to the EN. If this happens, we will make any necessary adjustments to future payments (see § 411.555). See § 411.555(c) for when we will not make an adjustment in a case in which an overpayment results from a determination or decision we make about a beneficiary's right to benefits.) While an EN cannot appeal our determination about an individual's right to benefits, the EN may furnish any evidence the EN has which relates to the issue(s) to be decided on appeal if the individual appeals our determination.

[66 FR 67420, Dec. 28, 2001, as amended at 73 FR 29351, May 20, 2008]

### **§ 411.595 What oversight procedures are planned for the EN payment systems?**

We use audits, reviews, studies and observation of daily activities to identify areas for improvement. Internal reviews of our systems security controls are regularly performed. These reviews provide an overall assurance that our business processes are functioning as intended. The reviews also ensure that our management controls and financial management systems comply with the standards established by the Federal Managers' Financial Integrity Act and the Federal Financial Management Improvement Act. These reviews operate in accordance with the Office

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of Management and Budget Circulars A-123, A-127 and Appendix III to A-130. Additionally, our Executive Internal Control Committee meets periodically and provides further oversight of program and management control issues.

### §411.597 Will SSA periodically review the outcome payment system and the outcome-milestone payment system for possible modifications?

(a) Yes. We will periodically review the system of payments and their programmatic results to determine if they provide an adequate incentive for ENs to assist beneficiaries to enter the work force, while providing for appropriate economies.

(b) We will specifically review the limitation on monthly outcome payments as a percentage of the payment calculation base, the difference in total payments between the outcome-milestone payment system and the outcome payment system, the length of the outcome payment period, and the number and amount of milestone payments, as well as the benefit savings and numbers of beneficiaries going to work. We will consider altering the payment system conditions based upon the information gathered and our determination that an alteration would better provide for the incentives and economies noted above.

## Subpart I—Ticket to Work Program Dispute Resolution

### DISPUTES BETWEEN BENEFICIARIES AND EMPLOYMENT NETWORKS

### §411.600 Is there a process for resolving disputes between beneficiaries and ENs that are not State VR agencies?

Yes. After an IWP is signed, a process is available which will assure each party a full, fair and timely review of a disputed matter. This process has three steps.

(a) The beneficiary can seek a solution through the EN's internal grievance procedures.

(b) If the EN's internal grievance procedures do not result in an agreeable solution, either the beneficiary or the EN may seek a resolution from the PM. (See §411.115(k) for a definition of the PM.)

(c) If either the beneficiary or the EN is dissatisfied with the resolution proposed by the PM, either party may request a decision from us.

### §411.605 What are the responsibilities of the EN that is not a State VR agency regarding the dispute resolution process?

The EN must:

(a) Have grievance procedures that a beneficiary can use to seek a resolution to a dispute under the Ticket to Work program;

(b) Give each beneficiary seeking services a copy of its internal grievance procedures;

(c) Inform each beneficiary seeking services of the right to refer a dispute first to the PM for review, and then to us for a decision; and

(d) Inform each beneficiary of the availability of assistance from the State P&A system.

### §411.610 When should a beneficiary receive information on the procedures for resolving disputes?

Each EN that is not a State VR agency must inform each beneficiary seeking services under the Ticket to Work program of the procedures for resolving disputes when—

(a) The EN and the beneficiary complete and sign the IWP;

(b) Services in the beneficiary's IWP are reduced, suspended or terminated; and

(c) A dispute arises related to the services spelled out in the beneficiary's IWP or to the beneficiary's participation in the program.

### §411.615 How will a disputed issue be referred to the PM?

The beneficiary or the EN that is not a State VR agency may ask the PM to review a disputed issue. The PM will contact the EN to submit all relevant information within 10 working days. The information should include:

(a) A description of the disputed issue(s);

(b) A summary of the beneficiary's position, prepared by the beneficiary or a representative of the beneficiary, related to each disputed issue;

(c) A summary of the EN's position related to each disputed issue; and

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(d) A description of any solutions proposed by the EN when the beneficiary sought resolution through the EN's grievance procedures, including the reasons the beneficiary rejected each proposed solution.

**§ 411.620 How long does the PM have to recommend a resolution to the dispute?**

The PM has 20 working days to provide a written recommendation. The recommendation should explain the reasoning for the proposed resolution.

**§ 411.625 Can the beneficiary or the EN that is not a State VR agency request a review of the PM's recommendation?**

(a) Yes. After receiving the PM's recommendation, either the beneficiary or the EN may request a review by us. The request must be in writing and received by the PM within 15 working days of the receipt of the PM's recommendation for resolving the dispute.

(b) The PM has 10 working days to refer the request for a review to us. The request for a review must include:

- (1) A copy of the beneficiary's IWP;
- (2) Information and evidence related to the disputed issue(s); and
- (3) The PM's conclusion(s) and recommendation(s).

**§ 411.630 Is SSA's decision final?**

Yes. Our decision is final. If either the beneficiary or the EN that is not a State VR agency is unwilling to accept our decision, either has the right to terminate its relationship with the other.

**§ 411.635 Can a beneficiary be represented in the dispute resolution process under the Ticket to Work program?**

Yes. Both the beneficiary and the EN that is not a State VR agency may use an attorney or other individual of their choice to represent them at any step in the dispute resolution process. The P&A system in each State and U.S. Territory is available to provide assistance and advocacy services to beneficiaries seeking or receiving services under the Ticket to Work program, including assistance in resolving issues at any stage in the dispute resolution process.

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**DISPUTES BETWEEN BENEFICIARIES AND STATE VR AGENCIES**

**§ 411.640 Do the dispute resolution procedures of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*), apply to beneficiaries seeking services from the State VR agency?**

Yes. The procedures in the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*) apply to any beneficiary who has assigned a ticket to a State VR agency. ENs that are State VR agencies are subject to the provisions of the Rehabilitation Act. The Rehabilitation Act requires the State VR agency to provide each person seeking or receiving services with a description of the services available through the Client Assistance Program authorized under section 112 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 732). It also provides the opportunity to resolve disputes using formal mediation services or the impartial hearing process in section 102(c) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 722(c)). ENs that are not State VR agencies are not subject to the provisions of Title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*).

**DISPUTES BETWEEN EMPLOYMENT NETWORKS AND PROGRAM MANAGERS**

**§ 411.650 Is there a process for resolving disputes between ENs that are not State VR agencies and PMs, other than disputes on a payment request?**

Yes. Under the agreement to assist us in administering the Ticket to Work program, a PM is required to have procedures to resolve disputes with ENs that do not involve an EN's payment request. (See § 411.590 for the process for resolving disputes on EN payment requests.) This process must ensure that:

(a) The EN can seek a solution through the PM's internal grievance procedures; and

(b) If the PM's internal grievance procedures do not result in a mutually agreeable solution, the PM shall refer the dispute to us for a decision.

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### § 411.655 How will the PM refer the dispute to us?

The PM has 20 working days from the failure to come to a mutually agreeable solution with an EN to refer the dispute to us with all relevant information. The information should include:

- (a) A description of the disputed issue(s);
- (b) A summary of the EN's and PM's position related to each disputed issue; and
- (c) A description of any solutions proposed by the EN and PM when the EN sought resolution through the PM's grievance procedures, including the reasons each party rejected each proposed solution.

### § 411.660 Is SSA's decision final?

Yes. Our decision is final.

## Subpart J—The Ticket to Work Program and Alternate Participants Under the Programs For Payments For Vocational Rehabilitation Services

### § 411.700 What is an alternate participant?

An alternate participant is any public or private agency (other than a participating State VR agency described in §§ 404.2104 and 416.2204 of this chapter), organization, institution, or individual with whom the Commissioner has entered into an agreement or contract to provide VR services to disabled beneficiaries under the programs described in subpart V of part 404 and subpart V of part 416 of this chapter. In this subpart J, we refer to these programs as the programs for payments for VR services.

### § 411.705 Can an alternate participant become an EN?

In any State where the Ticket to Work program is implemented, each alternate participant whose service area is in that State will be asked to choose if it wants to participate in the program as an EN.

### § 411.710 How will an alternate participant choose to participate as an EN in the Ticket to Work program?

(a) When the Ticket to Work program is implemented in a State, each alternate participant whose service area is in that State will be notified of its right to choose to participate as an EN in the program in that State. The notification to the alternate participant will provide instructions on how to become an EN and the requirements that an EN must meet to participate in the Ticket to Work program.

(b) An alternate participant who chooses to become an EN must meet the requirements to be an EN, including—

- (1) Enter into an agreement with SSA to participate as an EN under the Ticket to Work program (see § 411.320);
- (2) Agree to serve a prescribed service area (see § 411.320);
- (3) Agree to the EN reporting requirements (see § 411.325); and
- (4) Elect a payment option under one of the two EN payment systems (see § 411.505).

### § 411.715 If an alternate participant becomes an EN, will beneficiaries for whom an employment plan was signed prior to implementation be covered under the Ticket to Work program payment provisions?

No. When an alternate participant becomes an EN in a State in which the Ticket to Work program is implemented, those beneficiaries for whom an employment plan was signed prior to the date of implementation of the program in the State, will continue to be covered for a limited time under the programs for payments for VR services (see § 411.730).

### § 411.720 If an alternate participant chooses not to become an EN, can it continue to function under the programs for payments for VR services?

Once the Ticket to Work program has been implemented in a State, the alternate participant programs for payments for VR services begin to be phased-out in that State. We will not pay any alternate participant under these programs for any services that are provided under an employment plan that is signed on or after the date

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of implementation of the Ticket to Work program in that State. If an employment plan was signed before that date, we will pay the alternate participant, under the programs for payments for VR services, for services provided prior to January 1, 2004 if all other requirements for payment under these programs are met. We will not pay an alternate participant under these programs for any services provided on or after January 1, 2004.

### **§411.725 If an alternate participant becomes an EN and it has signed employment plans, both as an alternate participant and an EN, how will SSA pay for services provided under each employment plan?**

We will continue to abide by the programs for payments for VR services in cases where services are provided to a beneficiary under an employment plan signed prior to the date of implementation of the Ticket to Work program in the State. However, we will not pay an alternate participant under these programs for services provided on or after January 1, 2004. For those employment plans signed by a beneficiary and the EN after implementation of the program in the State, the EN's elected EN payment system under the Ticket to Work program applies.

### **§411.730 What happens if an alternate participant signed an employment plan with a beneficiary before Ticket to Work program implementation in the State and the required period of substantial gainful activity is not completed by January 1, 2004?**

The beneficiary does not have to complete the nine-month continuous period of substantial gainful activity (SGA) prior to January 1, 2004, in order for the costs of the services to be payable under the programs for payments for VR services. The nine-month SGA period can be completed after January 1, 2004. However, SSA will not pay an alternate participant under these programs for the costs of any services provided after December 31, 2003.

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