

## §411.510

### §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]

## 20 CFR Ch. III (4–1–10 Edition)

### §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.

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**§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.