



TICKET TO WORK & WORK INCENTIVES ADVISORY PANEL



December 18, 2003

Jo Anne B. Barnhart, Commissioner
Social Security Administration
500 Virginia Ave SW, Suite 850
International Trade Commission Building
Washington, DC 20254

Dear Commissioner Barnhart:

I am writing you on behalf of the Ticket to Work and Work Incentives Advisory Panel in response to the Notice of Proposed Rule Making (NPRM) on the Reinstatement of Entitlement to Disability Benefits (Expedited Reinstatement or EXR) published in the Federal Register on October 27, 2003. The Panel generally supports these proposed regulations and commends the Social Security Administration for their clarity and overall policy direction. The Panel believes these proposed rules closely follow the language authorizing the EXR provision in the Ticket to Work and Work Incentives Improvement Act of 1999, but has concerns in two areas of the NPRM. The first relates to the interaction between the Ticket Program and EXR and the second is an issue of clarity regarding the definition of "special circumstances" in sections 404.1592e and 416.999c.

The principal concern of the Panel regarding the NPRM is that the Ticket to Work Program is not mentioned at all, nor is it mentioned in the Program Operations Manual System section on EXR. It is the Panel's understanding from conversations with SSA officials that an SSDI beneficiary or SSI recipient is eligible for a new Ticket immediately upon having their benefits reinstated pursuant to this section. However, this policy is not spelled out anywhere in writing. The lack of written policy may result in confusion for beneficiaries, SSA staff, and service providers which could result in lower participation in the Ticket Program by people who use EXR. The Panel urges SSA to explicitly state that a person who is reinstated pursuant to 20 CFR Part 404 or 416 is eligible for a new Ticket immediately.

The Panel is very pleased that SSA chose to include the option of allowing a person to apply for EXR under special circumstances. The Panel believes that a person may be receiving a variety of disability related services and supports which are critical to work and the loss of a job that created access to these supports should allow him or her to be eligible for EXR. In the preamble to the regulations and the proposed regulations themselves in sections 404.1592e and 416.999c, only specialized transportation is listed as an example of a special circumstance. The Panel encourages the agency to expand the list of examples of special circumstances so that beneficiaries, claims representatives and services providers will understand that transportation is not the only support that might allow someone to meet this requirement. Some examples that could be used include, community supports, nearby medical support such as dialysis, proximity to a licensed group home, or physical accessibility of the workplace (this can be especially problematic in rural areas where many job sites are not accessible).

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The Panel has other significant concerns with the Expedited Reinstatement provisions that require either further study or statutory change. These include, but are not limited to, the 24 month initial reinstatement period and its relation to the use of other work incentives, the requirement that applicants for EXR must undergo a medical review; and the widely held misconception that EXR means an automatic reinstatement of entitlement to benefits when a former beneficiary loses earnings from work for any reason. The Panel is currently studying these issues and plans to issue recommendations regarding statutory changes to these provisions to Congress in their Annual Report.

Thank you for your consideration of these comments from the Panel.

Sincerely,



Sarah Wiggins Mitchell, Chair

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