

fittings of the front, middle, and rear spars; and corrective actions if necessary.

As published, that NPRM specifies an incorrect Docket No. (*i.e.*, FAA-2005-20403) throughout preamble and the regulatory text of the AD. The correct Docket No. is FAA-2005-22403.

No other part of the regulatory information has been changed; therefore, the NPRM is not republished in the **Federal Register**.

The last date for submitting comments to the NPRM remains October 14, 2005.

### § 39.13 [Corrected]

In the **Federal Register** of September 14, 2005, on page 54318, in the first column, paragraph 2. of PART 39—AIRWORTHINESS DIRECTIVES of NPRM, Docket No. FAA-2005-22403, Directorate Identifier 2005-NM-144-AD is corrected to read as follows:

\* \* \* \* \*

**Bombardier, Inc. (Formerly de Havilland, Inc.):** Docket No. FAA-2005-22403; Directorate Identifier 2005-NM-144-AD.

\* \* \* \* \*

Issued in Renton, Washington, on September 26, 2005.

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 05-19558 Filed 9-29-05; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2005-22402; Directorate Identifier 2005-NM-133-AD]

RIN 2120-AA64

#### **Airworthiness Directives; Sabreliner Model NA-265, NA-265-20, NA-265-30, NA-265-40, NA-265-50, NA-265-60, NA-265-65, NA-265-70, and NA-265-80 Series Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Notice of proposed rulemaking (NPRM); correction.

**SUMMARY:** The FAA is correcting a typographical error in an NPRM that was published in the **Federal Register** on September 14, 2005 (70 FR 54318). The error resulted in an incorrect Docket No. The NPRM applies to certain Sabreliner Model NA-265, NA-265-20, NA-265-30, NA-265-40, NA-265-50, NA-265-60, NA-265-65, NA-265-70, and NA-265-80 series airplanes. The

NPRM would require repetitive inspections for discrepancies in the front and rear spars of the wing in the area of the wing center section, and in the lugs on the rear spar and wing trailing edge panel rib, and corrective actions if necessary. The NPRM also would require inspections for fuel leaks of the front and rear spars of the wing, and for discrepancies in the front and rear spars of the wing in the area of the wing center section, and in the lugs on the rear spar and wing trailing edge panel rib; and related investigative and corrective actions, if necessary.

**FOR FURTHER INFORMATION CONTACT:** T.N. Baktha, Aerospace Engineer, Airframe Branch, ACE-118W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946-4155; fax (316) 946-4407.

**SUPPLEMENTARY INFORMATION:** On September 6, 2005, the FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain Sabreliner Model NA-265, NA-265-20, NA-265-30, NA-265-40, NA-265-50, NA-265-60, NA-265-65, NA-265-70, and NA-265-80 series airplanes. That NPRM was published in the **Federal Register** on September 14, 2005 (70 FR 54318). That NPRM proposed to require repetitive inspections for discrepancies in the front and rear spars of the wing in the area of the wing center section, and in the lugs on the rear spar and wing trailing edge panel rib, and corrective actions if necessary. That NPRM also proposed to require repetitive inspections for fuel leaks of the front and rear spars of the wing, and for discrepancies in the front and rear spars of the wing in the area of the wing center section, and in the lugs on the rear spar and wing trailing edge panel rib; and related investigative and corrective actions, if necessary.

As published, that NPRM specifies an incorrect Docket No. (*i.e.*, FAA-2005-20402) throughout preamble and the regulatory text of the AD. The correct Docket No. is FAA-2005-22402.

No other part of the regulatory information has been changed; therefore, the NPRM is not republished in the **Federal Register**.

The last date for submitting comments to the NPRM remains October 31, 2005.

### § 39.13 [Corrected]

In the **Federal Register** of September 14, 2005, on page 54320, in the third column, paragraph 2. of PART 39—AIRWORTHINESS DIRECTIVES of NPRM, Docket No. FAA-2005-22402,

Directorate Identifier 2005-NM-133-AD is corrected to read as follows:

\* \* \* \* \*

**Sabreliner Corporation:** Docket No. FAA-2005-22402; Directorate Identifier 2005-NM-133-AD.

\* \* \* \* \*

Issued in Renton, Washington, on September 26, 2005.

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 05-19557 Filed 9-29-05; 8:45 am]

BILLING CODE 4910-13-P

## SOCIAL SECURITY ADMINISTRATION

### 20 CFR Part 411

RIN 0960-AF89

#### **Amendments to the Ticket to Work and Self-Sufficiency Program**

**AGENCY:** Social Security Administration.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** We are proposing to revise our regulations for the Ticket to Work and Self-Sufficiency Program (Ticket to Work program), authorized by the Ticket to Work and Work Incentives Improvement Act of 1999. The Ticket to Work program provides beneficiaries with disabilities expanded options for access to employment services, vocational rehabilitation services, and other support services. We are proposing to make revisions to the current rules to improve the overall effectiveness of the program in assisting beneficiaries to maximize their economic self-sufficiency through work opportunities. These revisions are based on our vision of the future direction of the Ticket to Work program, our experience using the current rules, and recommendations made by a number of commenters on the program.

**DATES:** To be sure your comments are considered, we must receive them by December 29, 2005.

**ADDRESSEES:** You may give us your comments by: using our Internet site facility (*i.e.*, Social Security Online) at <http://policy.ssa.gov/erm/Rules+Open+To+Comment> or the Federal eRulemaking Portal: <http://www.regulations.gov>; e-mail to [regulations@ssa.gov](mailto:regulations@ssa.gov); by telefax to (410) 966-2830; or letter to the Commissioner of Social Security, P.O. Box 17703, Baltimore, MD 21235-7703. You may also deliver them to the Office of Regulations, Social Security Administration, 107 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235-6401, between 8 a.m. and 4:30

p.m. on regular business days. Comments are posted on our Internet site or you may also inspect the comments on regular business days by making arrangements with the contact person shown in the preamble.

Electronic Version: The electronic file of this document is available on the date of publication in the **Federal Register** at <http://www.gpoaccess.gov/fr/index.html>.

**FOR FURTHER INFORMATION CONTACT:** Greg Zwitch, SSA Regulations Officer, Social Security Administration, 107 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235-6401, e-mail to [regulations@ssa.gov](mailto:regulations@ssa.gov), or telephone (410) 965-1887 or TTY (410) 966-5609 for information about these rules. For information on eligibility or filing for benefits, call our national toll-free number 1-800-772-1213 or TTY 1-800-325-0778, or visit our Internet site, Social Security Online, <http://www.socialsecurity.gov>.

**Note:** We plan to hold a series of town meetings to obtain additional input on these proposed changes. These meetings, which will be open to the public, will be announced in the **Federal Register** in advance. To ensure your comments are considered, please provide written comments by the date mentioned in **DATES**, using the method shown in **ADDRESSEES**.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

*The Ticket to Work and Work Incentives Improvement Act of 1999*

Public Law 106-170 established the Ticket to Work program on December 17, 1999. This law represented an historic milestone in that it was the first time that Congress explicitly recognized that while many people receiving disability benefits from Social Security want to work, and are able to work, they face a number of significant barriers that prevent them from reaching their goals. Congress established the Ticket to Work program to provide Social Security beneficiaries "real choice in obtaining the services and technology that they need to find, enter, and maintain employment" by expanding the universe of service providers.

Under the Ticket to Work program, the Commissioner of Social Security (the Commissioner) may issue a ticket to Social Security Disability Insurance (SSDI) beneficiaries and to disabled or blind Supplemental Security Income (SSI) recipients ("beneficiaries"). In this voluntary program, each beneficiary who receives a Ticket to Work has the option of using his or her ticket to obtain services from a provider known as an employment network (EN) or from

a State vocational rehabilitation (VR) agency. ENs may choose to whom they provide services. When the beneficiary and an EN or State VR agency agree to work together under the program, the EN or State VR agency will provide, without charge to the beneficiary, employment services, vocational rehabilitation services, and other support services to assist the beneficiary in obtaining or regaining and ultimately maintaining self-supporting employment. If the beneficiary achieves certain work outcomes, we will pay the EN or State VR agency.

The SSDI and SSI programs serve a diverse population of individuals with disabilities. Our beneficiaries are comprised of people from various age groups with different impairments, levels of education, work experience, and capacities for working. While many cannot work at all on a sustained basis, others may be able to work part-time or full-time with reasonable accommodations and/or ongoing supports. This view is consistent with the assumptions underlying the Americans with Disabilities Act. As we develop our return to work initiatives, we are also mindful that the unique needs of every beneficiary cannot be met by one program.

On July 27th 2005, the Commissioner announced publication of a notice of proposed rule making in the **Federal Register** which set out her plan to improve our disability determination process. As part of our plans to improve this process, we intend to conduct several demonstration projects aimed at helping people who want to work do so. These projects advance the President's New Freedom Initiative and provide work incentives and opportunities earlier in the disability determination process. Thus, the Ticket to Work program, is an important part of a comprehensive SSA initiative dedicated to helping people with disabilities who want to work do so to their fullest capabilities.

##### *The Current Ticket to Work Regulations*

Public Law 106-170 directs the Commissioner to periodically review EN payment systems to ensure that they provide adequate incentives for ENs to assist beneficiaries. Based on three years of experience administering the program, we are proposing a number of revisions to our current rules. We believe that these proposed changes will significantly enhance beneficiary choice and improve the likelihood that beneficiaries will receive the most effective combination of services.

#### **Issues Addressed in These Proposed Rules**

##### *State Participation and Beneficiary Choice*

Subpart F of the current Ticket to Work rules (20 CFR 411.350-411.435) explains how State VR agencies participate in the Ticket to Work program. With respect to a beneficiary who holds a ticket, a State VR agency may elect, on a case-by-case basis, to participate in the program as an EN. If the State VR agency does so, it will be paid under an EN payment system it elects pursuant to section 1148(h) of the Social Security Act (the Act). With respect to a beneficiary that the State VR agency does not elect to serve as an EN, the State VR agency shall be paid for services provided to that beneficiary under the cost reimbursement payment system applicable under section 222(d) of the Act and section 1615(d) and (e) of the Act. Under our current rules, if the State VR agency elects to be paid for services under the cost reimbursement system, the beneficiary's ticket must be assigned to the State VR agency in order for that agency to be paid through that system. In addition, when the State VR agency is paid under the cost reimbursement system with respect to a ticket, our rules preclude any subsequent payment to an EN or a VR agency serving as an EN with respect to the same ticket. In September 2002, we clarified some of these rules in "Transmittal 17" to the Vocational Rehabilitation Providers Handbook (chapter 12). This transmittal added background information and procedures for State VR agencies to follow regarding the Ticket to Work program. If these proposed rules become final, we will issue new procedures to replace Transmittal 17.

We have received many comments that our current policy, which precludes further use of a ticket if VR reimbursement has been paid, is too restrictive and does not allow our beneficiaries to take advantage of the full potential of the Ticket to Work program. After considering our experience in implementing the program, we agree. In order to expand the opportunities for beneficiaries under this program, we propose to make changes to the rules in subpart F to provide that a beneficiary's ticket need not be assigned to a State VR agency in order for the VR agency to be paid under the cost reimbursement payment system. We also propose changes in subpart C to provide that, in such cases when the beneficiary is receiving services from a State VR agency that has chosen to be paid under the cost

reimbursement payment system, the beneficiary will be considered to be “using a ticket” as described in that subpart. This means that the beneficiary will be afforded protection from the initiation of a continuing disability review while receiving services from a State VR agency, provided that all the related provisions regarding timely progress are met.

We also propose to make a related change that would allow for payment to an EN under a Ticket to Work payment system and to a State VR agency under the cost reimbursement payment system with respect to the same beneficiary. We believe that these changes would greatly expand beneficiary choice and enable beneficiaries to take advantage of a more effective combination of services from both a VR agency and an EN. For example, the State VR agency could provide the initial, intensive rehabilitation services, and an EN could follow up by providing the ongoing support many individuals, particularly those with psychiatric and cognitive impairments, need to maintain their work efforts. We do not, however, permit a beneficiary to assign a ticket to an EN while a State VR agency is continuing to provide services.

We propose to make related changes in subparts B and F with regard to ticket assignment. We provide that a

beneficiary may not assign a ticket to a State VR agency if a State VR agency has provided the beneficiary with services and received payment under the cost reimbursement system with respect to the services provided to the beneficiary. We are making this change to ensure that State VR agencies do not potentially receive payments under both payment systems for the same beneficiary, which would provide an unfair advantage over ENs.

Also in subpart F, we propose to explain the limited payment option in instances where a beneficiary is receiving services from a State VR agency before the beneficiary has a ticket. In these cases, the State VR agency will be limited to the cost reimbursement payment system.

*Employment Network Payment Systems*

The rules for EN payment systems are set out in subpart H of part 411 (20 CFR §§ 411.500 through 411.597). Currently § 411.597(a) states, “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.”

The question of whether the current Ticket to Work program provides an

adequate incentive for ENs to assist beneficiaries has been studied extensively. In an evaluation of the Ticket to Work program by Mathematica Policy Research (MPR) in February 2004, MPR reports that despite aggressively marketing the Ticket to Work program to over 50,000 organizations, only about 1000 non-state providers have signed up as ENs and only a few hundred are actively participating. Over time, organizations have become more reluctant to join the Ticket to Work program as service providers. The overall number of service providers in the program remains low, with retention a major challenge. The financial viability of ENs remains uncertain as ENs report losing money on Ticket to Work operations.

Furthermore, the Ticket to Work and Work Incentives Advisory Panel (TWWIAP) and a number of witnesses testifying before the Subcommittee on Social Security of the House Committee on Ways and Means have noted that the current design of the EN payment systems (see chart I) remains a major reason for limited EN and beneficiary participation. They have stressed that it is crucial to increase payments to ENs earlier in the process, because it is more resource-intensive to assist most beneficiaries to obtain jobs.

CHART I.—CURRENT EN PAYMENT METHOD

Outcome achieved when	Percent of PCB*	SSI ticket-holder	SSDI ticket-holder
<b>Outcome—Payment Method</b>			
Outcome Payments:			
Social Security disability benefits and Federal SSI cash benefits are not payable to the individual because of work or earnings .....	40	<sup>1</sup> \$204	<sup>1</sup> \$347
Total Outcome Payments Available (60 payments) .....		12,240	20,820

<sup>1</sup> Per month.

Milestone	Must occur before the first Outcome payment month, and is achieved when the beneficiary works	Percent of PCB*	SSI ticket-holder	SSDI ticket-holder
<b>Outcome—Milestone Payment Method</b>				
1 .....	1 calendar month above gross SGA .....	34	\$173	\$295
2 .....	3 calendar months above gross SGA in a 12-month period .....	68	347	590
3 .....	7 calendar months above gross SGA in a 12-month period .....	136	694	1,181
4 .....	12 calendar months above gross SGA in a 15-month period .....	170	867	1,476
	Total of the 4 Milestone Payments Available .....		2,081	3,542
+60 (reduced) Outcome Payments.	Social Security disability benefits and Federal SSI cash benefits are not payable to the individual because of work or earnings. Each Outcome Payment made to an EN is reduced by an amount equal to 1/60th of the total Milestone Payments made to that EN.	34	Depending on the number of milestones achieved, outcome payments could range from \$138–\$173 SSI Ticket Holder, \$236–\$295 SSDI Ticket Holder.	

Milestone	Must occur before the first Outcome payment month, and is achieved when the beneficiary works	Percent of PCB*	SSI ticket-holder	SSDI ticket-holder
Total Available .....	Added together, the 4 milestone payments plus 60 available months of reduced outcome payments, should equal about 85% of the Outcome Payment System.	.....	10,361	17,702

\* The Payment Calculation base (PCB) is the national average disability benefit payable under each of the Social Security Administration's two disability programs. PCB for 2005 is based on the Social Security Administration formulas for 2004. Each December the Social Security Administration will calculate two PCBs and post them to its "work" Web site, <http://www.ssa.gov/work>. PCB for 2005: \$868.20 for SSDI and \$510.23 for SSI. *Individual payments have been rounded to the nearest whole dollar.* For further explanation of the Final Regulations for the Social Security Administration Ticket to Work Program, please visit [www.socialsecurity.gov/regulations](http://www.socialsecurity.gov/regulations).

In addition, at our request, the Disability Research Institute of the University of Illinois at Urbana-Champaign convened an Advisory Group on the Adequacy of Incentives (AOI Advisory Group) in April 2003. Consistent with section 1148(h)(5)(C) of the Act, the AOI Advisory Group provided recommendations regarding the adequacy of incentives. That section requires that particular attention be paid to: individuals with disabilities with a need for ongoing support and services; those with a need for high-cost accommodations; those who earn a sub-minimum wage; and those who work and receive partial cash benefits. Accordingly, we have decided to propose changes to subpart H that are intended to create a greater financial incentive for EN participation.

First, under the current outcome-milestone payment system, the current regulations provide that an EN's total potential payment is approximately 85 percent of the total that would have been potentially payable under the outcome payment system for the same beneficiary. We are proposing to increase the total potential payment under the outcome-milestone payment system to 90 percent of the total. By increasing the total potential payment, we believe that we will increase the incentive for small or undercapitalized providers to participate as ENs in the program.

Second, the AOI Advisory Group recommended a payment approach that recognizes that the steps leading to maximizing self-sufficiency are incremental and may be interrupted periodically, but over time the benefits of increasing work activity are significant. Beneficiaries face multiple barriers to employment such as: A lack of access to training and employment services, loss of ongoing employment supports, loss of employment, etc. We are proposing a three-phased payment

system that parallels the steps beneficiaries take toward self-sufficiency.

Phase 1 represents the beneficiaries initial efforts at employment. Phase 1 is modeled on the Trial Work period provided for SSDI beneficiaries. Four milestones will be paid when the beneficiary works for a period of time at the trial work earnings level. Phase 1 Milestones are the only payments that will be the same for both SSI and SSDI beneficiaries, based on the higher SSDI payment calculation base. This addresses the concern that the initial phase is the most expensive for the EN to provide services and without equal payments SSI beneficiaries would have difficulty accessing Phase 1 services. The Trial Work earnings requirement (\$590/mo. for 2005) represents a significant work and earnings milestone for beneficiaries as well as an attainable payment point for ENs.

Phase 2 represents a significant additional step toward self-sufficiency with increased earnings. We anticipate that some beneficiaries will progress to Phase 2, increasing work hours and earnings to above the SGA level (\$830 for 2005). We propose, as the AOI Advisory Group recommended, to encourage the use of work incentives during this second phase by making payments to ENs based on gross earnings before adjustments for work incentives. We anticipate that SSI beneficiaries will take longer to complete phase 2, 18 months instead of 11 months for SSDI beneficiaries, due to lower levels of work experience prior to entering the rolls.

The final phase is the Outcome payment period where ENs will provide services to support retention of employment after the beneficiary leaves the SSA rolls. We used the SSDI extended period of eligibility (EPE) as the template for the 36 month Outcome payment period for SSDI beneficiaries.

SSI beneficiaries, having less work experience and often more significant disabilities, may need a longer Outcome payment period compared to SSDI beneficiaries. Therefore, we are leaving the SSI Outcome period at 60 months. This has the additional positive effect of roughly equalizing the total Ticket payments for SSI and SSDI beneficiaries. This addresses the concern expressed by the AOI Advisory Group that total payment amounts be equalized in order to remove any financial disincentive for ENs to serve SSI beneficiaries.

Finally, our proposed rule will increase the overall percentage of the payment calculation base which is allocated for Ticket payments from 40% to 67%. Both the AOI Advisory Group and the TWWIAP expressed concerns that current funding levels are inadequate to support the consumer driven employment service model that Congress envisioned in the Ticket to Work legislation. Congress explicitly permitted the Commissioner to review and adjust the 40% funding level set in the Act. The 40% funding level proved inadequate to attract sufficient ENs to the marketplace to allow for adequate access to services and consumer choice. We believe that a combination of: (1) Increasing overall funding; (2) reducing the differential between Outcome and Outcome-Milestone payments; (3) equalizing funding between SSDI and SSI; (4) increasing Milestone payments; and (5) providing a shorter timeframe for payments to ENs serving SSDI beneficiaries will increase the incentive for small or undercapitalized providers to participate as ENs. The resulting increased EN participation will improve beneficiary access to services and quality providers. The proposed payment rates are presented in charts II through IV using the 2005 Payment Calculation base.

CHART II.—PROPOSED OUTCOME—MILESTONE PAYMENT TABLE  
[2005 figures for illustration only]

Payment type	Beneficiary earnings	SSDI amount of payment	Title SSI amount of payment
Phase 1 (120% of SSDI PCB) *			
Milestone 1 .....	\$295 for two weeks work .....	\$1,042	\$1,042
Milestone 2 .....	\$590/mo. × 3 months work (cumulative) .....	\$1,042	\$1,042
Milestone 3 .....	\$590/mo. × 6 months work (cumulative) .....	\$1,042	\$1,042
Milestone 4 .....	\$590/mo. × 9 months work (cumulative) .....	\$1,042	\$1,042
Total Phase 1 .....	.....	\$4,168	\$4,168
Phase 2 (36% of PCB)	Gross Earnings > \$830.		
SSDI Milestones 1–11 .....	.....	\$313 × 11 = \$3,443	
SSI Milestones 1–18 .....	.....		\$184 × 18 = \$3,312
Total Phase 1 + 2 Milestones .....	.....	\$7,611 *	\$7,480 *
Outcome Payments (36% of PCB).			
SSDI = 1–36 .....	>\$830/and monthly cash benefit not payable ..	\$313 × 36 = \$11,268	
SSI = 1–60 .....	Sufficient earnings for federal cash benefits = "0".	.....	\$184 × 60 = \$11,040
Total milestone and outcome payments.	.....	\$18,879	\$18,520

\* A Lump sum milestone is the remaining total milestones unpaid if the outcome period is reached before all the milestones are achieved. This can be any number of the remaining milestones and is paid after the first outcome payment is achieved.

CHART III.—PROPOSED OUTCOME ONLY TABLE—SSDI AND CONCURRENT  
[2005 figures for illustration only]

Payment type	Beneficiary earnings	SSDI amount of monthly payment	SSDI total payments
Outcome payments 1–36 (67% of PCB) .....	>\$830.00/and monthly cash benefit not payable.	\$582.00	\$20,952

CHART IV.—PROPOSED OUTCOME ONLY TABLE—SSI ONLY  
[2005 figures for illustration only]

Payment type	Beneficiary earnings	SSI amount of monthly payment	SSI total payments
Outcome payments 1–60 (67% of PCB) .....	Earnings sufficient to "0" out SSI federal cash benefit.	\$342.00	\$20,520

*Definitions and amounts:* PCB payment calculation base—average benefits payable in calendar year, each title has its own base (2005 SSDI = \$868.20, SSI = \$510.23)  
Phase 1 Milestones = 120% of PCB \*  
Phase 2 milestones = 36% of PCB  
Outcome payments (out-mile) = 36% of PCB  
Outcome only payment = 67% of PCB (Rounding is to the nearest dollar amount) 2005 SGA = \$830, 2005 TWP = \$590

\* For Phase 1 Milestones ONLY, the payments are calculated for both SSI and SSDI beneficiaries using the higher SSDI Payment Calculation Base (PCB). This is intended to remove any disincentive to serve SSI beneficiaries during the initial high cost phase of

services. All other payments are calculated based on a percentage of the Payment Calculation Base (PCB) for the respective program (SSI or SSDI).

*Ticket Eligibility for Beneficiaries Whose Conditions May Medically Improve*

The TWWIAP, in its July 26, 2001 report to the Commissioner, recommended that "[a]ll SSI and SSDI adult disability beneficiaries, including those with a Medical Improvement Expected (MIE) designation, should be eligible to participate in the Ticket program" and "sixteen (16) and seventeen (17) year-old beneficiaries, including those with an MIE designation, should be eligible to participate in the Ticket program." The TWWIAP reiterated these

recommendations in its August 2002 and May 2003 Annual Reports to Congress and to the President. Furthermore, the Government Accountability Office (GAO) in its July 2003 report entitled "Social Security Disability: Reviews of Beneficiaries' Disability Status Require Continued Attention to Achieve Timeliness and Cost-Effectiveness," observed that our "rationale for delaying [for three years] issuance of a ticket to beneficiaries expected to medically improve, based on the premise that they will regain their capacity to return to work without SSA assistance, is not well-supported by program experience." We agree with most of these recommendations and have proposed changes to the ticket eligibility rules set

out under subpart B to allow beneficiaries with an MIE designation to be eligible for a ticket without first requiring a continuing disability review to be conducted.

#### *Other Changes We Propose to Make*

In subpart A, we propose to remove the rules on how we are phasing in implementation of the Ticket to Work program, because we already have implemented the program on a nationwide basis.

In subpart E, we are adding a new requirement, that an employment network report to the Program Manager each time it requests to take a ticket out of assignment.

#### *Additional Matters for Comment*

We invite comments from the public on four additional issues. The first issue is whether a beneficiary should be eligible for more than one ticket in a period of entitlement for SSDI or SSI benefits. Our current rules provide for only one ticket for each period of entitlement. Since we published our current rules, we have received a number of comments regarding this provision. These comments have noted that in order to sustain gainful employment, many beneficiaries require ongoing support services beyond the period of time over which Outcome or Outcome-Milestone payments are made. For example, beneficiaries with physical disabilities may require indefinitely specialized transportation services to get to and from the worksite, and thus would benefit from a longer period of eligibility for the Ticket to Work program.

The second issue is whether and how we should simplify the definition of "using a ticket" under the Ticket to Work program. Ticket-in-use status ensures that we will not initiate a medical continuing disability review (CDR). In the preamble to our current rules regarding the suspension of CDRs, we indicated that we sought to balance two important needs. First, we sought to define using a ticket in a way that minimizes the disincentive brought on by the fear of having benefits terminated upon return to work. Second, we need to maintain the integrity of the program by ensuring that beneficiaries who have medically improved do not continue to receive disability benefits for an undue length of time. Maintaining this balance remains our goal.

Because we only recently have begun, through the Program Manager, to conduct the reviews to determine if beneficiaries who have assigned their tickets are meeting the timely progress requirements, we do not have enough

information on which to base any changes to our regulations. For this reason we are soliciting comments on how we might revise the timely progress requirements consistent with the intent of legislation. Currently beneficiaries with Tickets assigned must have 3 months of work activity at the SGA level in the third year their Ticket is assigned to maintain Ticket-in-use status. This requirement increases to six months in the fourth and fifth years. We specifically are interested in receiving comments on the wisdom of this work requirement in cases where the State VR agency is providing a beneficiary a secondary or post-secondary education. For example, should we modify or remove the increasing levels of work activity currently required to meet ticket "in use" status for beneficiaries enrolled as full-time students.

The third issue is whether the evidence requirements for EN payment are unnecessarily burdensome. The current rules require ENs to submit primary evidence of work and earnings, such as a pay stub. ENs report that they are unable to comply with our evidence requirements in certain situations where they believe themselves to be eligible for milestone or outcome payments. These situations occur when the EN cannot obtain the required documentation because the ticket user and/or the employer are unavailable and/or uncooperative, or when the available evidence does not satisfy our requirements.

The proposed accelerated outcome payment period would reduce this administrative burden for SSDI beneficiaries, because ENs would be required to obtain evidence for the shorter 36-month outcome payment period rather than the current 60 month period. We are currently considering ways to further relieve this burden. For example, we could reverse the timing of payments so that we would pay ENs based on a presumption (if other criteria are met) and do a reconciliation when the earnings information is available to SSA that might result in the EN repaying monies not due.

The fourth issue is whether there are any circumstances under which SSA should pay both Phase 1 and Phase 2 milestones to an EN for beneficiaries who assign their ticket after we have made a payment to the State VR agency under the cost reimbursement payment system. The proposed regulations provide for payment of only Phase 2 milestones in this situation. Our intent in that section was to create an incentive for EN's to partner with VR to provide ongoing support in order to maintain work at or above the SGA

level. We are inviting comment on the circumstances under which paying Phase 1 milestones would increase the likelihood the beneficiary would achieve self-sufficiency, for example when the beneficiary lost their job subsequent to the VR reimbursement payment.

#### **Issues and Recommendations Not Included in this Regulation**

The Ticket to Work program is now operating in all States and territories. We will continually assess and evaluate the program to determine what additional changes are needed to enhance its effectiveness. We will continue to ensure that the Ticket to Work program is an effective component of our overall strategy for improving work opportunities for people with disabilities.

Because of the relative infancy of the program and slow growth in participation, we have been impeded in the collection of objective information on EN and beneficiary experiences. The proposal discussed in this section requires further analysis before we can make a confident determination as to its efficacy and propose additional program modifications.

#### **Ticket Eligibility for Beneficiaries Who Are Ages 16 and 17**

We also have considered recommendations regarding the current and potential effects of the Ticket to Work program on youths with disabilities. In the current regulations, we concluded that "participation in an employment plan under the Ticket to Work program could interfere with their pursuit of an education, completion of which many believe should be the primary focus and goal for school-age youth." We also concluded that it would be premature to offer tickets to SSI beneficiaries who received payments prior to age 18, and who have since attained age 18 but have not undergone a redetermination of their eligibility under the adult standard.

After carefully reviewing this issue, we continue to believe that it would be inappropriate to offer tickets to these groups for the reasons previously stated. In the alternative, we have developed a youth transition strategy to help young disabled SSDI and SSI beneficiaries' transition to adulthood by maximizing their economic self-sufficiency. We plan to accomplish this goal by offering and testing a variety of new approaches to meet the needs of young beneficiaries and their families. For example, we have implemented a Youth Transition Demonstration project where six states are developing service delivery systems

to assist youth with disabilities to successfully transition from school. In addition, on June 24, 2005, we published final regulations governing the continuation of benefits when a beneficiary's impairment has medically improved (70 FR 36494). These rules continue benefits to SSI students age 18 through 21 who do not meet the adult disability standard at age 18 as long as they are participating in an individualized education program (IEP) developed under the Individuals with Disabilities Education Act (IDEA) before their disability under the SSI program ended. We believe that our youth transition strategy will provide enhanced opportunities for youth to fully participate in the workforce, without interfering with their education.

**Regulatory Procedures**

*Clarity of These Proposed Rules*

Executive Order 12866, as amended by Executive Order 13258, requires each agency to write all rules in plain language. In addition to your substantive comments on these proposed rules, we invite your comments on how to make these proposed rules easier to understand.

For example:

- Have we organized the material to suit your needs?
- Are the requirements in the rules clearly stated?
- Do the rules contain technical language or jargon that is not clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rules easier to understand?

- Would more (but shorter) sections be better?

- Could we improve clarity by adding tables, lists, or diagrams?

- What else could we do to make the rules easier to understand?

*Executive Order 12866*

We have consulted with the Office of Management and Budget and have determined that these proposed rules meet the criteria for an economically significant regulatory action under Executive Order 12866, as amended by Executive Order 13258. The Office of the Chief Actuary estimates that these proposed rules, if finalized, will result in increased program outlays resulting (in millions of dollars) over the next 10 years.

Fiscal year	SSDI	SSI	Medicare	Medicaid	Total
2006 .....	\$4	\$7	.....	.....	\$11
2007 .....	27	14	\$7	\$1	48
2008 .....	98	8	22	4	132
2009 .....	212	10	43	11	276
2010 .....	266	18	62	23	369
2011 .....	305	19	78	36	438
2012 .....	330	37	93	47	507
2013 .....	338	32	110	52	532
2014 .....	331	26	126	53	536
2015 .....	313	19	141	55	528
Totals:					
2006–10 .....	607	57	134	38	835
2006–15 .....	2,223	190	682	283	3,377

*Regulatory Flexibility Act*

We certify that these proposed rules would not have a significant economic impact on a substantial number of small entities because they would primarily affect only individuals and those entities that voluntarily enter into a contractual agreement with us. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

*Federalism*

We have reviewed these proposed rules under the threshold criteria of Executive Order 13132, "Federalism," and determined that they do not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Public Law 106–170 established the Ticket to Work program that will complement the existing State VR program. These

proposed rules will also complement the existing State vocational rehabilitation program.

*Paperwork Reduction Act*

These proposed rules contain reporting requirements as shown in the following table. A 1-hour placeholder burden is being assigned to the specific reporting requirement(s) contained in these rules that are cleared through our current Ticket to Work and Self-Sufficiency Program Regulations; OMB Control Number 0960–0644.

Section	Annual number of responses	Frequency of response	Average burden per response (minutes)	Estimated annual burden (hours)
411.145(a); 411.190 .....	.....	.....	.....	1
411.325(a) .....	96	1	5	8
411.140(d)(3); 411.365(a); 411.385; and 411.390 .....	.....	.....	.....	1
411.575 .....	.....	.....	.....	1
Total .....	.....	.....	.....	11

An Information Collection Request has been submitted to OMB for clearance. We are soliciting comments on the burden estimate; the need for the

information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize the burden on respondents, including the use of

automated collection techniques or other forms of information technology. Comments should be submitted and/or faxed to the Office of Management and

Budget at the following address/  
number: Office of Management and  
Budget, Attn: Desk Officer for SSA, New  
Executive Office Building, Room 10230,  
725 17th St., NW., Washington, DC  
20530. Fax Number: 202-395-6974.

Comments can be received for up to  
60 days after publication of this notice  
and will be most useful if received  
within 30 days of publication. To  
receive a copy of the OMB clearance  
package, you may call the SSA Reports  
Clearance Officer on 410-965-0454.

## References

The sources we consulted while  
developing these proposed rules are  
cited in the preamble text. These  
references are included in the  
rulemaking record for these proposed  
rules and are available for inspection by  
interested individuals by making  
arrangements with the contact person  
shown in this preamble.

Vocational Rehabilitation Providers  
Handbook, *Transmittal 17* (available at:  
<http://www.ssa.gov/regulations/program-resources.htm>)

Ticket to Work and Work Incentives  
Advisory Panel, *Annual Report to the  
President and Congress: Year Three, May  
2003* (available at: [http://www.ssa.gov/work/panel/panel\\_documents/reports.html](http://www.ssa.gov/work/panel/panel_documents/reports.html))

Ticket to Work and Work Incentives  
Advisory Panel, *Annual Report to the  
President and Congress: Year Two, August  
2002* (available at: [http://www.ssa.gov/work/panel/panel\\_documents/reports.html](http://www.ssa.gov/work/panel/panel_documents/reports.html))

Ticket to Work and Work Incentives  
Advisory Panel, *Advice Report to the  
Commissioner of the Social Security  
Administration: Design Issues Related to  
the Adequacy of Incentives Study*, (June 18,  
2002) (available at: [http://www.ssa.gov/work/panel/panel\\_documents/reports.html](http://www.ssa.gov/work/panel/panel_documents/reports.html))

Ticket to Work and Work Incentives  
Advisory Panel, *Advice Report to the  
Commissioner of the Social Security  
Administration on the Notice of Proposed  
Rulemaking for the Ticket to Work and Self  
Sufficiency Program* (July 26, 2001)  
(available at: [http://www.ssa.gov/work/panel/panel\\_documents/reports.html](http://www.ssa.gov/work/panel/panel_documents/reports.html))

Government Accountability Office, "Social  
Security Disability: Reviews of  
Beneficiaries' Disability Status Require  
Continued Attention to Achieve Timeliness  
and Cost-Effectiveness," GAO-03-662  
(July 24, 2003) (available at: <http://www.gao.gov/highlights/d03662high.pdf>)

Government Accountability Office, "SSA  
Disability: Other Programs May Provide  
Lessons for Improving Return-to-Work  
Efforts", GAO-01-153 (January 12, 2001)  
(available at: <http://www.gao.gov/new.items/d01153.pdf>)

Disability Research Institute, Adequacy of  
Incentives Advisory Group,  
*Recommendations for Improving  
Implementation of the Ticket to Work and*

*Self-Sufficiency Program (Regulatory and  
Administrative Changes)* (Interim Report  
No. 1) (September 2003) (available at:  
<http://www.dri.uiuc.edu/research/p03-08h/default.htm>)

Mathematica Policy Research, *Evaluation of  
the Ticket to Work Program; Initial  
Evaluation Report*, (February 2004)  
(available at: <http://www.mathematica-mpr.com/publications/PDFs/evalttw.pdf>)

These references are included in the  
rulemaking record for these proposed  
rules and are available for inspection by  
interested individuals either at the  
websites listed or by making  
arrangements with the contact person  
shown in this preamble.

(Catalog of Federal Domestic Program Nos.  
96.001, Social Security—Disability  
Insurance; 96.002, Social Security—  
Retirement Insurance; 96.004, Social  
Security—Survivors Insurance; and 96.006,  
Supplemental Security Income)

## List of Subjects in 20 CFR Part 411

Administrative practice and  
procedure, Blind, Disability benefits,  
Old-Age, Survivors, and Disability  
Insurance, Reporting and recordkeeping  
requirements, Social Security,  
Supplemental Security Income, Public  
Assistance programs, Vocational  
Rehabilitation.

Dated: September 26, 2005.

**Jo Anne B. Barnhart,**  
*Commissioner of Social Security.*

For the reasons set out in the  
preamble, we are proposing to amend  
subparts A, B, C, E, F and H of part 411  
of chapter III of title 20 of the Code of  
Federal Regulations as set forth below:

## PART 411—THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM

1. Revise the authority citation for  
part 411 to read as follows:

**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), Pub. L. 106-170,  
113 Stat. 1860, 1873 (42 U.S.C. 1320b-19  
note).

### Subpart A—[Amended]

#### § 411.110 [Removed]

2. Remove § 411.110.

### Subpart B—[Amended]

3. In § 411.120, revise paragraphs (b)  
and (c) to read as follows:

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

\* \* \* \* \*

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

4. In § 411.125 remove paragraph  
(a)(3) and revise paragraph (a)(2)(ii)(C)  
to read as follows:

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

(a) \* \* \*  
(2) \* \* \*  
(ii) \* \* \*

(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).

\* \* \* \* \*

5. Revise § 411.130 to read as follows:

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

We will give a ticket to you if you are  
eligible to receive a ticket under  
§ 411.125.

6. Revise § 411.135 to read as follows:

#### § 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  
to assign your ticket to an EN by signing  
an individual work plan (see §§ 411.450  
through 411.470). Alternately, you may  
choose to take your ticket and 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 State VR  
services end.

7. In § 411.140, revise paragraphs (a),  
(d) introductory text, (d)(3), and the first



sentence of paragraph (e) to read as follows:

**§ 411.140 When can 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). You may also assign your ticket during the 90 day period your ticket is considered in use after State VR services end (see § 411.171(c)(2) and (d)(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. 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 if you are receiving VR services pursuant to an individualized plan for employment and the State VR agency has chosen the cost reimbursement payment system. You also may not assign your ticket to a State VR agency if a State VR agency has provided you services and received payment under the cost reimbursement payment system with respect to the services provided to you (see § 411.585(b)).

\* \* \* \* \*

(d) In order for you to assign your ticket to an EN or State VR agency acting as an EN, all the following requirements must be met:

\* \* \* \* \*

(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.

\* \* \* \* \*

(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.

\* \* \* \* \*

8. In § 411.145, revise the section as follows:

**§ 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 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 be no longer 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 be no longer 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.

9. In § 411.150, revise the section heading and the third and fourth sentences of paragraph (a) and add a new fifth sentence to paragraph (a), and revise paragraph (b)(3) to read as follows:

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

(a) \* \* \* 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 your ticket to a State VR agency acting as an EN. If you previously assigned your ticket to a State VR agency, you may reassign your ticket to another State VR agency acting as an EN or to an EN which is serving under the program and is willing to provide you with services. You may not reassign your ticket to a State VR agency if we previously made payment to a State VR under the cost reimbursement payment system with respect to you, and you were considered to be "using a ticket" while you received services from the State VR agency.

(b) \* \* \*

(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).

\* \* \* \* \*

10. In § 411.155, revise paragraphs (a)(2) and (a)(3), and add a new paragraph (a)(4) to read as follows:

**§ 411.155 When does my ticket terminate?**

(a) \* \* \*

(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)).

\* \* \* \* \*

**Subpart C—[Amended]**

11. In § 411.165, revise the section heading and the second sentence to read as follows:

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

\* \* \* However, we will not begin a continuing disability review during the period in which you are using a ticket.

\* \* \* \* \*

12. Amend § 411.166 by revising the second sentence of paragraph (b), adding a new sentence between the first and second sentences in paragraph (d), revising the second sentence in paragraph (g), and revising paragraph (h) to read as follows:

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

\* \* \* \* \*

(b) \* \* \* You may be eligible for an extension period if the ticket is in use and no longer assigned to an Employment Network (EN) or State VR agency acting as an EN (see § 411.220).

\* \* \* \* \*

(d) \* \* \* If you have a ticket which is available for assignment and are receiving VR services pursuant to an individualized plan for employment and the state VR agency has chosen the cost reimbursement payment system, the term "initial 24-month period" means the 24-month period that begins

with the month following the month described in § 411.170(b). \* \* \*

\* \* \* \* \*

(g) \* \* \* We do not count any month during which your ticket is not assigned to an EN or State VR agency acting as an EN, or any month outside of the period during which you have a ticket which would otherwise be available for assignment and are receiving services from state VR agency that has chosen the cost reimbursement payment system.

(h) *Using a ticket means:* (1) You have assigned a ticket to an EN or a State VR agency that has elected to serve you as an EN and are making timely progress toward self-supporting employment as defined in § 411.180ff. (See § 411.171 for a discussion of when the period of using a ticket ends) or

(2) You have a ticket that would otherwise be available for assignment and are receiving VR services pursuant to an individualized plan for employment and the state VR agency has chosen to be paid, with respect to services that it provides to you, under the cost reimbursement payment system. You must also be making timely progress as defined in § 411.180ff.

13. Remove the undesignated centered heading before § 411.170.

14. Revise § 411.170 to read as follows:

**§ 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 and the state VR agency has chosen the cost reimbursement payment system, 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 the State VR agency under cost-reimbursement.

15. Revise § 411.171 to read as follows:

**§ 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 month before the month in which the ticket terminates as a result of one of the events listed in § 411.155;

(b) The day before the effective date of a decision under in § 411.190, in § 411.195, in § 411.200 or in § 411.205

that you are no longer making timely progress toward self-supporting employment;

(c) The close of the three-month extension period which begins with 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 three-month extension period (see § 411.220 for an explanation of the three-month extension period).

(d) The close of the 90-day period specified in § 411.150(b)(3);

(e) If you are a title II beneficiary (or a concurrent beneficiary under title II and title XVI)—

(1) The 36th month for which an outcome payment is made to an EN (including a State VR agency acting as an EN) under subpart H of this part; or

(2) If the State VR agency elected payment under subpart V of part 404 (or subpart V of part 416) of this chapter, for services provided to you, the 90th day after the services end; or

(f) If you are a title XVI beneficiary—

(1) The 60th month for which an outcome payment is made to an EN (including a State VR agency acting as an EN) under subpart H of this part; or

(2) If the State VR agency elected payment under subpart V of part 416 of this chapter, for services provided to you, the 90th day after the services end.

16. In § 411.175, revise the section heading and the first and fourth sentences of paragraph (a) to read as follows:

**§ 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 to be paid under the cost reimbursement payment system. \* \* \* 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). \* \* \*

\* \* \* \* \*

17. Remove the undesignated centered heading before § 411.180.

18. In § 411.180, revise paragraph (b)(1) and the first sentence of paragraph (c)(1) to read as follows:

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

\* \* \* \* \*

(b) \* \* \*

(1) *Initial 24-month period* means that the 24-month period that begins with the month following the month in which you first assigned your ticket, or the first month you have a ticket that would otherwise be available for assignment and are receiving services under an IPE from if the state VR agency that has chosen the cost reimbursement payment system. (See §§ 411.220(e) and 411.225(c) for when a new initial 24-month period may be established for you). We do not count any month during which the ticket is not assigned to an EN or State VR agency acting as an EN, or any month in which you have a ticket which would otherwise be available for assignment and are receiving services from state VR agency that has chosen the cost reimbursement payment system.

\* \* \* \* \*

(c) *Guidelines.* \* \* \*

(1) During the initial 24-month period after you assign your ticket, or after you have a ticket which would otherwise be available for assignment and are receiving services under an IPE from a state VR agency that has chosen the cost reimbursement system, you must be actively participating in your plan.

\* \* \* \* \*

\* \* \* \* \*

19. In § 411.190, revise the first and third sentences of paragraph (a)(1) and the first sentence of paragraph (a)(2)(ii) to read as follows:

**§ 411.190 How is it determined if I am meeting the timely progress guidelines?**

(a) *During the initial 24-month period.*

(1) *General.* During the initial 24-month period you assigned your ticket, or after you have a ticket which would otherwise be available for assignment and are receiving services under an IPE from a state VR agency that has chosen the cost reimbursement system, you must be actively participating in your employment plan as defined in

§ 411.180(c). \* \* \* If you or your EN or State VR agency acting as an EN report to the PM that you are temporarily unable to participate or are not actively participating in your employment plan during the initial 24-month period you assigned your ticket, or during the initial 24-month period or after you have a ticket which would otherwise be available for assignment and are receiving services under an IPE from a state VR agency that has chosen the cost reimbursement system, the PM will give you the choice of placing your ticket in inactive status or resuming active participation in your employment plan.

(2) \* \* \*

(ii) If your ticket is still assigned to an EN or State VR agency, acting as an EN,

or you have a ticket which would otherwise be available for assignment and are receiving services under an IPE from a state VR agency that has chosen the cost reimbursement system, you may reactivate your ticket by submitting a written request to the PM. \* \* \*

**§ 411.191 [Removed]**

19. Remove § 411.191.

20. Revise § 411.210 paragraphs (b)(1)(ii), (b)(2)(ii), (b)(3)(ii), (b)(4)(ii), (b)(5)(ii), and the fourth sentences of both paragraphs (c)(1) and (c)(2) to read as follows:

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

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(ii) When you have satisfied this requirement, 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 you have a ticket which would otherwise be available for assignment and are receiving services under an IPE from a state VR agency that has chosen the cost reimbursement system. See paragraph (c) of this section for when your reinstatement to in-use status will be effective.

\* \* \* \* \*

(2) \* \* \*

(ii) When you have satisfied this requirement, 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 you have a ticket which would otherwise be available for assignment and are receiving services under an IPE from a state VR agency that has chosen the cost reimbursement system. See paragraph (c) of this section for when your reinstatement to in-use status will be effective.

\* \* \* \* \*

(3) \* \* \*

(ii) When you have satisfied this requirement, 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 you have a ticket which would otherwise be available for assignment and are receiving services under an IPE from a state VR agency that has chosen the cost reimbursement system. See paragraph (c) of this section for when your reinstatement to in-use status will be effective.

\* \* \* \* \*

(4) \* \* \*

(ii) When you have satisfied this requirement, 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 you have a ticket which would otherwise be available for assignment and are receiving services under an IPE from a state VR agency that has chosen the cost reimbursement system. See paragraph (c) of this section for when your reinstatement to in-use status will be effective.

\* \* \* \* \*

(5) \* \* \*

(ii) When you have satisfied this requirement, 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 you have a ticket which would otherwise be available for assignment and are receiving services under an IPE from a state VR agency that has chosen the cost reimbursement system. See paragraph (c) of this section for when your reinstatement to in-use status will be effective.

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \* 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 that you have a ticket which would otherwise be available for assignment and are receiving services under an IPE from a state VR agency that has chosen the cost reimbursement system), you will be reinstated to in-use status effective with the date on which the PM sends the notice of the decision to you. \* \* \*

(2) \* \* \* 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 you have a ticket which would otherwise be available for assignment and are receiving services under an IPE from a state VR agency that has chosen the cost reimbursement system), you will be reinstated to in-use status effective with the date on which we send the notice of the decision to you.

**Subpart E—[Amended]**

21. In § 411.325, revise paragraph (a) to read as follows:

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

\* \* \* \* \*

(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.

\* \* \* \* \*

**Subpart F—[Amended]**

22. Revise § 411.350 to read as follows:

**§ 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 and be paid under the cost reimbursement payment system, referenced in §§ 404.2101 and 416.2201 of this chapter.

23. In § 411.355, revise the section heading, the third sentence in paragraph (a) and the last sentence of paragraph (c) to read as follows:

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

(a) \* \* \* On a case-by-case basis, the State VR agency may participate either—

\* \* \* \* \*

(c) \* \* \* When serving a beneficiary who does not have a ticket that can be assigned pursuant to § 411.140 of this chapter, the State VR agency may seek payment only under the cost reimbursement payment system.

\* \* \* \* \*

**§ 411.360 [Removed]**

24. Remove § 411.360.

25. In § 411.365, revise the section heading and paragraph (a) to read as follows:

**§ 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.

\* \* \* \* \*

26. Revise § 411.370 to read as follows:

**§ 411.370 Does a State VR agency ever have to function as an EN?**

No. A State VR agency may choose to be paid under the cost reimbursement system under § 411.355.

27. In § 411.385, revise paragraph (a) introductory text, remove paragraph (a)(1) and redesignate paragraphs (a)(2) and (a)(3) as (a)(1) and (a)(2), respectively to read as follows:

**§ 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:

\* \* \* \* \*

28. Revise § 411.390 to read as follows:

**§ 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 and decides not to assign the ticket to the State VR agency, the State VR agency is limited to the cost reimbursement payment system.

**Subpart H—[Amended]**

29. In § 411.500, revise paragraphs (b), (c), (e), and (f) to read as follows:

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

\* \* \* \* \*

(b) *Outcome Payment Period* means a period of 36 months (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, after the month 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 the performance 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 the performance of SGA or by reason of earnings from work activity.

(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.

(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 beneficiary's outcome payment period, for which Social Security disability benefits and Federal SSI cash benefits are not payable to the beneficiary because of SGA or earnings from work activity.

\* \* \* \* \*

(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 SGA or earnings from work activity.

(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 beneficiary's outcome payment period, payments for completion by a disability beneficiary of up to four Phase I milestones and up to eleven Phase 2 milestones (or up to eighteen Phase 2 milestones for a title XVI disability beneficiary who is not a concurrent title II disability beneficiary) directed toward the goal of self-supporting employment. The milestones for which payments may be made must occur prior to the beginning of the beneficiary's outcome payment period.

(1) *Phase I 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 partial 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 earnings level meets the milestone objective.

30. Revise § 411.505 to read as follows:

**§ 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 SSA. (For State VR agencies, see § 411.365.) The EN (or State VR agency acting as an EN) may periodically change its elected EN payment system as described in § 411.515.

31. In § 411.510, revise paragraph (c) to read as follows:

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

\* \* \* \* \*

(c) If a beneficiary who is receiving services from the State VR agency under an existing individualized plan for employment becomes eligible for a ticket that is available for assignment, the State VR agency will notify the PM of the payment system election for such beneficiary.

32. In § 411.515, revise paragraph (b) to read as follows:

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

\* \* \* \* \*

(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 at any time prior to the close of the 12th month following the month in which the EN (or State VR agency) first elects an EN payment system.

\* \* \* \* \*

33. In § 411.525, revise paragraphs (a)(1)(i), (a)(2), (b) and (c) to read as follows:

**§ 411.525 How are the EN payments calculated under each of the two EN payment systems?**

(a) \* \* \*

(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 SGA or 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 percent of the payment calculation base for the calendar year in which such month occurs, rounded to the nearest whole dollar (see § 411.550).

\* \* \* \* \*

(2) Under the outcome-milestone payment system, we can pay the EN (or State VR agency acting as an EN) for up to four Phase 1 milestones achieved by a disability beneficiary who has assigned his or her ticket to the EN (or State VR agency acting as an EN). 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 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). The milestones for which payment may be made must occur prior to the beginning of the beneficiary's outcome payment period and meet the requirements of § 411.535. 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. 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 milestone payment equal to the total amount of the remaining unpaid milestones, 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.

(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 percent of the total that would have been potentially payable under the outcome payment system for the same beneficiary.

(c) We will pay an EN (or State VR agency acting as an EN) to whom 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 an beneficiary's work activity or earnings in or after the month in which the ticket terminates.

**§ 411.530 [Removed]**

34. Remove § 411.530.

35. Revise § 411.535 to read as follows:

**§ 411.535 What are the milestones for which an EN can be paid?**

(a) Under the outcome-milestone payment system, an EN can be paid up to four Phase 1 milestones achieved by title II and title XVI beneficiaries and up to eleven Phase 2 milestones achieved by a title II beneficiary or up to eighteen milestones for a title XVI beneficiary who has assigned his or her ticket to the EN (or State VR agency acting as an EN). The milestones must occur after the date on which the ticket was first assigned and after the beneficiary starts to work prior to the beginning of the beneficiary's outcome period (see § 411.500(b)).

(1) There are four Phase 1 milestones. The first Phase 1 milestone is met when a beneficiary has worked at least two weeks and earned 50% of the amount of 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 retained a job for three months and has gross earnings in each of those months equal to a trial work period service month as defined in § 404.1592(b) of this chapter. The third Phase 1 milestone is met after a beneficiary has retained a job for six months and has gross earnings in each of those months equal to a trial work period service month as defined in § 404.1592(b) of this chapter. The fourth

Phase 1 milestone is met after a beneficiary has retained a job for nine months and has gross earnings in each of those months equal to a trial work period service month as defined in § 404.1592(b) of this chapter.

(2) 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.

(3) If the beneficiary does not achieve all Phase 1 and Phase 2 milestones prior to the beginning of the beneficiary's outcome period, then we will pay the EN (or State VR agency acting as an EN) the final milestone payment equal to the total amount of the remaining unpaid Phase 1 and Phase 2 milestones. This 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.

(4) If the State VR agency has already received payment for services under the cost-reimbursement system, the EN can be paid for up to eleven Phase 2 milestones achieved by title II beneficiaries or for up to eighteen milestones achieved by title XVI beneficiaries. In this situation, we would not pay Phase 1 milestones under § 411.135(a)(1).

(b) An EN (or State VR agency acting as 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.

36. Revise § 411.540 to read as follows:

**§ 411.540 What are the payment amounts for each of the milestones?**

(a) The payment amount for each of the Phase I milestones for both title II and title XVI is equal to 120 percent 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:

(i) For title II beneficiaries (including concurrent title II/title XVI disability beneficiaries) is equal to 36 percent of the monthly 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;

(ii) For title XVI beneficiaries (who are not concurrently title II disability beneficiaries) is equal to 36 percent of

the monthly 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.

37. Revise § 411.545 to read as follows:

**§ 411.545 What are the payment amounts for outcome payment months under the outcome-milestone payment system?**

(a) The amount of each monthly outcome payment under the outcome-milestone payment system:  
 (1) For title II beneficiaries (including concurrent title II/title XVI disability beneficiaries) 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;

(2) For title XVI beneficiaries (who are not concurrently title II/title XVI disability beneficiaries) is equal to 36 percent 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.

(b) The following chart provides an example of how an EN would receive milestone and outcome payments.

**PROPOSED OUTCOME—MILESTONE PAYMENT TABLE**  
 [2005 figures for illustration only]

Payment type	Beneficiary earnings	SSDI amount of payment	Title SSI amount of payment
Phase 1 (120% of SSDI PCB) *			
Milestone 1 .....	\$295 for two weeks work .....	\$1,042	\$1,042
Milestone 2 .....	\$590/mo. × 3 months work (cumulative) .....	\$1,042	\$1,042
Milestone 3 .....	\$590/mo. × 6 months work (cumulative) .....	\$1,042	\$1,042
Milestone 4 .....	\$590/mo. × 9 months work (cumulative) .....	\$1,042	\$1,042
Total Phase 1 .....	.....	\$4,168	\$4,168
Phase 2 (36% of PCB) .....	Gross Earnings > \$830.		
SSDI Milestones 1–11 .....	.....	\$313 × 11 = \$3,443	
SSI Milestones 1–18 .....	.....		\$184 × 18 = \$3,312
Total Phase 1 + 2 Milestones .....	.....	\$7,611 *	\$7,480 *
Outcome Payments (36% of PCB)			
SSDI = 1–36 .....	>\$830/and monthly cash benefit not payable ..	\$313 × 36 = \$11,268	
SSI = 1–60 .....	Sufficient earnings for federal cash benefits = "0".		\$184 × 60 = \$11,040
Total milestone and outcome payments.	.....	\$18,879	\$18,520

\* A Lump sum milestone is the remaining total milestones unpaid if the outcome period is reached before all the milestones are achieved. This can be any number of the remaining milestones and is paid after the first outcome payment is achieved.

38. Revise § 411.550 to read as follows:

**§ 411.550 What are the payment amounts for outcome payment months under the outcome payment system?**

Under the outcome payment system, the payment for an outcome payment month is equal to 67 percent of the payment calculation base for the calendar year in which the month occurs, rounded to the nearest whole dollar (see charts III and IV for an example of the proposed Outcome payment system for title II and title XVI).

39. Revise § 411.555 to read as follows:

**§ 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).

40. Revise § 411.560 to read as follows:

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

Yes. 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 or outcome payment under its elected payment system, the PM will make a determination of the allocation of payment to 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).

41. Revise § 411.565 to read as follows:

**§ 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 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).

42. Add § 411.566 to read as follows:

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

Yes, an EN may use outcome or milestone payments to provide bonuses to the beneficiary, subject to other applicable Federal, State, or local laws that may govern an EN's use of these payments.

43. In § 411.575, revise the introductory text; paragraph (a)(1) introductory text; and paragraphs (a)(1)(i), (a)(2), (b)(1) introductory text, (b)(1)(ii), and (b)(2) to read as follows:

**§ 411.575 How does the EN request payment for milestone 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.

(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);

\* \* \* \* \*

(2) The EN (or State VR agency acting as an EN) must request payment for each milestone achieved 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 achieved and other information as we may require to evaluate the EN's (or State VR agency's) request. 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 achieved 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—

\* \* \* \* \*

(ii) We have not already paid for 36 outcome payment months (or a period of 60 outcome payment months for a title XVI disability beneficiary who is not concurrently a title II disability beneficiary) on the same ticket; and

\* \* \* \* \*

(2) The EN (or State VR agency acting as an EN) must request payment for outcome payment months. Along with the 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, when requesting payment for additional outcome payment months with respect to that beneficiary. *Exception:* If the EN (or State VR agency) does not currently hold the ticket because it is unassigned or reassigned 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.

44. Revise § 411.580 to read as follows:

**§ 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 first day on which the ticket is assigned to the EN (or State VR agency acting as an EN).

45. Add a new § 411.581 to read as follows:

**§ 411.581 Can an EN receive milestone and outcome payments for months after assignment?**

Yes. If a beneficiary 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, as long as the ticket has not terminated for any of the reasons listed in § 411.155. 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.

46. Add a new § 411.582 to read as follows:

**§ 411.582 Can a State VR agency receive payment under the cost reimbursement 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 361.12, and elects payment under the cost reimbursement system, under subpart V of part 404 (or subpart V of part 416) of this chapter, the State VR can receive payment under the cost reimbursement 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 are met.

47. Revise § 411.585 to read as follows:

**§ 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.

(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 the beneficiary had a ticket in use when receiving services from a State VR agency (see §§ 411.166–411.171) and the State VR agency received payment under the cost reimbursement system under subpart V of part 404 (or subpart V of part 416) of this chapter, the beneficiary may assign his or her ticket to an EN after completing services with the State VR agency, other than a State VR acting as an EN. The EN can then be paid for milestone payments and outcome payments under the outcome-milestone payment system or for outcome payments under the outcome payment system. See § 411.535.

(c) If the beneficiary first assigns a ticket to an EN, but not a State VR agency acting as an EN, the EN can be paid pursuant to the elected EN payment system. If the ticket becomes unassigned, and a beneficiary chooses to receive services from a State VR agency, the State VR agency may choose to be paid under the EN payment or the cost reimbursement system.

**§ 411.587 [Removed]**

59. Remove § 411.587.

60. In § 411.590, revise paragraph (d) to read as follows:

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

\* \* \* \* \*

(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 the 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.

[FR Doc. 05-19530 Filed 9-29-05; 8:45 am]

BILLING CODE 4191-02-P

**POSTAL SERVICE**

**39 CFR Part 111**

**New Preparation Requirements for Bundles of Mail on Pallets**

**AGENCY:** Postal Service.

**ACTION:** Proposed rule.

**SUMMARY:** The Postal Service™ is seeking comments on a proposal that would affect mailers who prepare bundles of Periodicals, Standard Mail, and Package Services flat-size mail or irregular parcels on pallets. The proposal would not affect mailers who prepare sacks, unbundled parcels, or trays on pallets.

Currently, mailers who prepare bundles of flat-size mail or bundles of irregular parcels on pallets must prepare a pallet if the mailing contains 500 or more pounds of bundles for a required sortation level. ("Sortation level" refers to the distribution or separation of mail by ZIP Codes, range of ZIP Codes, or carrier route.) After all required pallets are prepared, mailers must place any remaining bundles in sacks.

Under this proposal, before placing any bundles in sacks, if there are 250 or more pounds of bundles addressed within the ZIP Code range for an area distribution center (ADC) or a bulk mail center/auxiliary service facility (BMC/

ASF), mailers must prepare the ADC pallet (for Periodicals) or the BMC/ASF pallet (for Standard Mail and Package Services). If a mailing does not contain any ADC or BMC/ASF pallets—for example, the mailer has set the presort software to stop at the sectional center facility (SCF) level—but there are 250 or more pounds for an SCF, the mailer must prepare the SCF pallet.

**DATES:** We must receive comments on or before October 31, 2005.

**ADDRESSES:** Mail or deliver comments to the Manager, Mailing Standards, U.S. Postal Service, 475 L'Enfant Plaza, SW., Rm. 3436, Washington, DC 20260-3436. You may inspect and photocopy all written comments between 9 a.m. and 4 p.m., Monday through Friday, at USPS Headquarters Library, 11th Floor North, 475 L'Enfant Plaza, SW., Washington, DC 20260.

**FOR FURTHER INFORMATION CONTACT:** Julia Carroll at 202-268-2108 or *Julia.Carroll@usps.gov*.

**SUPPLEMENTARY INFORMATION:** The Postal Service™ is finding ways to process mail more efficiently, thereby improving service to our customers and reducing costs.

Bundles of flat-size mailpieces or bundles of irregular parcels prepared on pallets are easier and generally less costly for us to handle than bundles in sacks. When customers present mail in sacks, the sacks must be opened and the contents unloaded before processing on our automated sorting equipment. In addition, we have found that bundles on pallets maintain their integrity to a greater degree than bundles in sacks. This proposal would help increase the volume of mail on pallets by revising the standards for required pallet preparation.

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM®) 705.8.5.2 provides required pallet preparation for Periodicals, Standard Mail, and Package Services mail (except specified discount rate Parcel Post). DMM 705.8.5.2a requires mailers who prepare bundles of flat-size mail or bundles of irregular parcels on pallets to prepare a pallet to a required sortation level if a mailing contains 500 or more pounds of bundles. Additional standards in DMM 705.8.9.1 require these mailers to place in sacks any bundles that cannot go on one of the required pallets.

Under this proposal, after preparing all other required pallets at the 500-pound required minimum, mailers who prepare bundles of flat-size mailpieces or bundles of irregular parcels on pallets must prepare additional pallets, under the following conditions:

- If 250 or more pounds of bundles remain for an ADC (for Periodicals) or for a BMC/ASF (for Standard Mail and Package Services), mailers must prepare the ADC or BMC/ASF pallet(s), as applicable for the class of mail.

- If there are no ADC or BMC/ASF pallets in a mailing—for example, if a mailer's presort software is set to stop at the SCF level—and 250 or more pounds remain for an SCF, mailers must prepare the SCF pallet.

We are proposing an effective date of March 1, 2006, for mailers to begin mailing under the revised standards.

In addition to the above changes, we also are removing text in 705.8.5.2 about labeling pallets and optional bundle reallocation, because we cover these topics in detail elsewhere in the DMM.

Although we are exempt from the notice and comment requirements of the Administrative Procedure Act [5 U.S.C. 553 (b),(c)] regarding proposed rulemaking by 39 U.S.C. 410(a), we invite public comments on the following proposed revisions to Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

**List of Subjects in 39 CFR Part 111**

Administrative practice and procedure, Postal Service.

**PART 111—[AMENDED]**

1. The authority citation for 39 CFR part 111 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001-3011, 3201-3219, 3403-3406, 3621, 3626, 5001.

2. Revise Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM), as follows:

**700 Special Standards**

\* \* \* \* \*

*705 Advanced Preparation and Special Postage Payment Systems*

\* \* \* \* \*

**8.0 PREPARATION FOR PALLETS**

\* \* \* \* \*

**8.5 General Preparation**

\* \* \* \* \*

**8.5.2 Required Preparation**

[Revise 8.5.2 to require ADC, BMC/ASF, or SCF pallets at 250 pounds of bundles, as follows:]

The following standards apply to Periodicals, Standard Mail, and Package Services mail, except Parcel Post mailed at BMC Presort (8.17), OBMC Presort (8.18), DSCF (8.19, 8.20), and DDU rates (8.21).