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**COMMENTS BY NATIONAL EMPLOYMENT NETWORK ASSOCIATION  
TO THE ANPRM DOCKET NUMBER SSA-2009-0040  
REGARDING VR COST REIMBURSEMENT RULES  
UNDER THE TICKET TO WORK AND SELF SUFFICIENCY PROGRAM**

**Final Draft approved by NENA Board, Feb. 4, 2010**

NENA commends SSA for recognizing that unintended consequences arose from the Ticket to Work Program regulations that took effect in July, 2008. The new rules included provisions intended to strengthen the partnership between State vocational rehabilitation (VR) agencies and private employment networks (ENs), enabling both to serve the same ticket-user sequentially, fairly compensating both for services provided. Unfortunately, that expectation has not materialized as effectively as hoped. NENA offers the following recommendations in response to this ANPRM to further improve the Program and foster collaboration between State VR agencies and ENs.

**Questions Asked:**

- 1. What changes to the VR cost reimbursement regulations might we consider to make them work more effectively with the Ticket to Work Program?**

**NENA's Response:** SSA seems to put considerable emphasis on not making duplicate payments for the same services. This concern with regard to VR is misplaced. It assumes that VR and private ENs are providing the same services to a specific beneficiary. The new Ticket rules that took effect in July of 2008 included a promising provision with regard to VR and private ENs being able to work together in a way that was fair to everybody and provided more comprehensive services to beneficiaries who need them.

VR is intended to provide often costly "rehabilitation services" to people whose disabilities are so significant as to need more restorative services to help clients secure employment.

The Ticket Program, on the other hand, recognizes that a much larger group of SSI/SSDI beneficiaries do not need such comprehensive services, but rather mostly need job placement and retention services.

A private EN can operate and be paid as a community VR provider under the provisions of Title I of the Rehabilitation Act, without regard to the Ticket program, while the beneficiary's VR Plan is implemented. Once VR successfully closes the case, the new rules allow the beneficiary to then move over to an EN operating under the Ticket program, probably the same provider who served the beneficiary under Title I.

The services offered by VR and private ENs are NOT the same services when the case is handed off sequentially from VR to the EN and, therefore, both should be paid for the unique services each provides.

**Recommendation:** Leave the current cost reimbursement system as is. SSA is merely reimbursing VR dollar-for-dollar for the actual expenses VR incurred by providing services under the Rehabilitation Act. It is legitimate and appropriate to reimburse those costs because they were actually incurred. Often the reason these cases must be handled first by VR is because they are too expensive for a private EN to provide those services; the Ticket Program does not adequately reimburse those expenses. VR is generally the best option for those beneficiaries with such extraordinary needs.

Under the new TTW rules an EN only starts to get paid for services after the VR case is successfully closed. Congressional intent in the TWWIA clearly was to provide ongoing services to ensure a beneficiary is not left in limbo after being on the job only a short time (i.e. 90 days). The EN serving that beneficiary after the VR case is closed will now provide a variety of job retention services and supports that should be paid for without regard to the reimbursement paid to VR.

The above mentioned VR/EN partnership, when accomplished sequentially and without interruption, can work well. If it is not accomplished sequentially, payments to ENs can be unfairly reduced.

With regard to Phase I Milestones for ENs:

- a) SSA must amend the rules to clearly identify how long the VR case must be closed before an EN who accepts a Ticket would again be eligible for Phase I payments. Currently, there is no definitive guidance on this point. Without such a change, a VR case could be closed for years before coming to an EN, but the EN would forgo Phase I milestones even if the beneficiary has not worked in years. NENA recommends that the EN would become eligible for Phase I payments if the VR case has been closed for 18 months or for a beneficiary with prior VR services who is no longer working when he or she chooses to deposit a ticket with an EN and the EN chooses to accept

- it. If the beneficiary is no longer working, the EN will necessarily provide all new services to get that beneficiary re-employed and should be compensated for the required work;
- b) Under Rehabilitation Act rules, VR may successfully close a case after the beneficiary works only 90 days. If the beneficiary does not continue to work and achieve nine months of work, VR is not reimbursed for costs. Under the language of the current rules, an EN serving this beneficiary later would not be eligible for Phase I Milestones even though VR never received any cost reimbursement for the case.

Amend the rules to allow Phase I payments to an EN when VR does not receive Cost Reimbursement for whatever reason.

- 2. Is the list of services for which payment may be made . . . adequate and comprehensive. If not, what changes to the list of allowable services should we consider?**

**NENA's Response:** NENA has no comments on this question.

**NENA'S Recommendation:** None.

- 3. Under the TTW Program , our rules discount payments to an EN when it accepts a ticket assignment for job retention services for a beneficiary who is a former VR agency client and was working under the VR case. Our reimbursement rules do not cover the reverse situation: when the EN is the first provider and the VR agency later provides job retention or career advancement services. How should we avoid duplicate payments for the same services while insuring that individuals get the services they need to maximize opportunities for employment?**

**NENA's Response:** As we pointed out in our response to #1, ENs and VR typically provide very different services. An EN has no legitimate reason to transfer a ticket-user to VR unless VR-type rehabilitation services are needed. This often happens after an EN has invested significant resources serving a beneficiary and later determines along with the ticket-user that restorative services are needed that are best provided by VR. This situation typically, but not always, happens pre-employment. Thus, an EN generally has not received any payments yet. Under the new rules, to transfer that ticket-user to VR, the EN would have to take the ticket out of assignment and it becomes "in-use" with VR. The referring EN stands to lose the value of its investment in that beneficiary for services already provided.

**NENA's Recommendation:**

a) Amend the regulations to require VR to refer the beneficiary back to the first EN to continue services after the VR plan is completed. Such a practice would achieve consumer continuity of service and also increase the likelihood that the EN would ultimately get paid for all services provided, even those provided before the referral to VR. This would not prohibit an EN from operating as a VR provider to that same client under VR Title I provisions. The key point to remember here with regard to SSA's fear of making duplicate payments for the same service, is for SSA to understand that VR and the EN are NOT providing duplicate services. Each plays a unique role and should be compensated according to the existing rules for VR Cost Reimbursement and Milestone/ Outcome payments to ENs in accordance with the new TTW rules.

b) SSA must clarify whether VR referring back to the original EN, as proposed in paragraph a) above, is a violation of the Privacy Act.

c) In cases where an EN refers a ticket-user to VR for services and has already received payments on the ticket, the EN should not be required to pay those payments back to SSA, nor should future payments be reduced in any way for payments paid to the EN initially. The EN provided significant services and resources prior to the referral to VR and is entitled to retain those payments.

**4. Benefits Planners (including those with the work incentives planning and assistance organizations) provide information to beneficiaries with disabilities regarding the effect of earnings on many types of benefits. We would appreciate your comments about how benefits planning can become a more central part of a beneficiary's participation in the VR process.**

**NENA's Response:** Work incentives planning is crucial for beneficiaries, if only to allay their fears of losing benefits for an unsuccessful work attempt. Unfortunately, the resources for this valuable service are seriously limited. Yet many ENs and VR agencies automatically refer ticket-holders to work incentives planners for guidance in this area. As more ENs enter the program and more VR counselors understand and use the Ticket with their clients, work incentive planners will be too overwhelmed to be effective or provide needed services timely.

**NENA's Recommendation:** SSA needs to "take the show on the road" and provide comprehensive training to VR counselors and ENs on work incentives planning such that they can provide this service themselves. This would ensure that ticket-holders get the information they need, relieve the heavy burden from work incentives planners in general, and solidify the relationship between the VR/EN counselors and the beneficiary. Such work incentives training is now available. However, to get the training it is necessary to take the counselor off the job and pay the travel expenses to get to the training. Furthermore, ENs are on the very bottom of the priority list for work incentives planning training, making it very hard to get accepted, even if the training is nearby. If it could be provided in more locations

by SSA trainers, and if ENs were given a higher priority, more could be trained and ENs could be an even more valuable resource to ticket-users.