GRADUAL REDUCTION CHOICE OPTION AND RELATED POLICY PROPOSALS

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GRADUAL REDUCTION CHOICE OPTION AND RELATED POLICY PROPOSALS

ABSTRACT:

The purpose of the SSDI Work Incentives Choice Research Project is to provide SSA with data, policy analysis, and policy options for determining the nature and scope of its national demonstration projects designed to enhance return to work for SSDI beneficiaries (including SSI/SSDI concurrent beneficiaries). Specifically, this research project explored the feasibility of providing **choice** for the individual SSDI beneficiary to determine whether he or she wants to utilize current SSDI policy (Trial Work Period, Extended Period of Eligibility, the "cash cliff," and expedited reinstatement) or utilize the gradual reduction choice option (which includes, among other things, a gradual reduction in benefits after an initial earned income disregard of one-half of SGA and continued attachment to SSDI when benefits are reduced to zero). The proposal also suggests policies for enhancing SSI, Section 1619, and Medicaid work incentives.

PART I: INTRODUCTION AND PURPOSE OF THE RESEARCH PROJECT

BACKGROUND

When the Ticket to Work and Work Incentives Improvement Act (TWWIIA) was signed into law (P.L. 106-170), Congress recognized that despite the fact that individuals with disabilities have greater opportunities for employment than ever before, aided by important policy initiatives such as the Americans with Disabilities Act (ADA), advancements in public understanding of disability, and innovations in assistive technology, medical treatment, and rehabilitation, and the desire of significant numbers of beneficiaries under the Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI) [1] programs to work and support themselves, few beneficiaries return to work.

In enacting TWWIIA, Congress also recognized the multiplicity of barriers faced by a heterogeneous population of SSI and SSDI beneficiaries and the concomitant need to authorize new approaches that eliminate or minimize work disincentives i.e., make work pay. For example, Congress established the new Ticket to Work and Self-Sufficiency

[1] Title II of the Social Security Act establishes the SSDI program. SSDI is a program of federal disability insurance benefits for workers who have contributed to the Social Security Trust Funds and became disabled or blind before retirement age. Disabled widows and widowers of insured workers are eligible for disability benefits. In addition, dependent children of fully insured workers (often referred to as the primary beneficiary) also are eligible for disability benefits upon the retirement, disability, or death of the primary beneficiary. Section 202 (d) of the Social Security Act also establishes the Childhood Disability Benefits program, which authorizes disability insurance payments to surviving adult children of retired, deceased, or workers with disabilities who are eligible to receive Social Security benefits, if the child has a permanent disability originating before age 22. Hereinafter in this paper, the term "SSDI" refers to all programs that provide benefit payments made to individuals on the basis of disability under Title II of the Social Security Act and the Childhood Disability Benefits program shall be referred to as Disabled Adult Children Program and the beneficiaries of such program shall be referred to as DACs.

Program, authorized states to establish Medicaid Buy-In programs, extended the time of eligibility for Medicare for SSDI beneficiaries, and authorized and funded the establishment of benefits planning assistance and outreach programs (BPAOs) and Medicaid infrastructure grants (MIG) to states to support workers with disabilities.

In addition, in order to supplement existing authority provided to the Commissioner of the Social Security Administration (SSA) to support demonstrations related to SSI beneficiaries, Congress extended general authority and directed (through specific authority) the SSA Commissioner to test (through demonstrations) alternative public policies to make work pay for SSDI beneficiaries. A significant work disincentive for SSDI beneficiaries is the so-called "cash cliff" under which a beneficiary who earns more than Substantial Gainful Activity (SGA--currently $830 per month in 2005 for disabled beneficiaries and $1380 per month for blind beneficiaries) becomes ineligible for benefits, after a Trial Work Period (TWP) and extended period of eligibility (EPE), if he or she earns more than SGA.

In accordance with general authority provided to the Commissioner, experiments and demonstrations may determine the relative advantages and disadvantages of various alternative methods of treating the work activity of individuals entitled to disability insurance benefits, including such methods as:

- A reduction in benefits based on earnings designed to encourage the return to work of such individuals,
- Altering other limitations and conditions,
- Altering the manner in which the program is administered,
- Implementing sliding scale benefit offsets as a proportion of earned income,
- The duration of the offset period, and
- The method of determining the amount of income earned by such individuals.

In addition, the Commissioner was directed to conduct demonstration projects for the purpose of evaluating a program for SSDI beneficiaries under which benefits are reduced by $1 for each $2 of the beneficiary's earnings.

SSA has announced its intent to support national demonstration projects under which SSDI benefits will be gradually rather than precipitously reduced. In order to gain additional insight regarding the focus and scope of the national demonstration projects, SSA is supporting Benefit Offset Pilot Demonstration in four states—Connecticut, Utah, Vermont, and Wisconsin.[2]

In announcing this Benefit Offset Pilot Demonstration, SSA has established certain guiding principles, the most important of which is "do no harm" i.e., persons will not be harmed as a result of their participation in pilots and demonstrations. The premise of the Benefit Offset Pilot Demonstration is that any change in policy (e.g., gradual rather than precipitous loss of benefits in order to encourage return to work) should apply to SSDI

[2] See 71 Federal Register 19821 (April 14, 2005).

beneficiaries in the pilot demonstrations who would be affected by the $1 for $2 benefit offset. Under this premise and consistent with the “do no harm” principle, the gradual reduction in benefits would need to start at the SGA level.

We believe, however, that there is another premise that is also consistent with the principle of “do no harm.” The policy implications of adopting this alternative premise needs further exploration before the national demonstration projects are initiated. We believe that SSA should explore the feasibility of providing **choice** for the individual SSDI beneficiary to determine whether he or she wants to be subject to current policy or a new policy. Under this approach the “do no harm” principle is respected and preserved because a beneficiary, not the agency, is empowered to make the choice.

SSA has provided funding to the Disability Research Institute at the University of Illinois at Urbana-Champaign (DRI) to support, among other things, research regarding the SSDI and the SSI programs. DRI has entered into a sub-award with The George Washington University’s Center for Health Services Research and Policy (GWU) and the Center for the Study and Advancement of Disability Policy (CSADP) to undertake a project entitled “SSDI Work Incentives Choice Research Project.” The principal investigators for the project are Allen Jensen, Senior Research Scientist at GWU and Robert Silverstein (CSADP).

PURPOSE OF THE RESEARCH

The purpose of this research project is to provide SSA with additional data, policy analysis, and policy options for determining the nature and scope of its national demonstration projects and other work incentive research projects designed to enhance return to work for SSDI and SSI beneficiaries (including SSI/SSDI concurrent beneficiaries). More specifically, this project explored the feasibility of and developed specific recommendations for a policy providing **choice** for the individual SSDI beneficiary to determine whether he or she wants to utilize current SSDI policy (TWP, EPE, the “cash cliff,” and expedited reinstatement) or utilize the gradual reduction choice option (which includes, among other things, a gradual reduction in benefits after an initial earned income disregard of one-half of SGA and continued attachment to SSDI when benefits are reduced to zero) as part of its national demonstration projects.[3] The project also suggests policies for enhancing SSI, Section 1619, and Medicaid work incentives.

[3] The gradual reduction choice option does not take into account the impact of increased earnings on eligibility for and the amount of governmental assistance for other programs, such as housing assistance, food stamps, and energy assistance. However, we recognize that work disincentives under these programs must be addressed by policy makers.

METHODOLOGY AND DATA SOURCES REVIEWED (INCLUDING FISCAL ESTIMATES)

In carrying out our policy research, the Project team used the following methodology. First, we identified key topics and issues regarding return to work initiatives for SSDI beneficiaries (including SSI/SSDI concurrent beneficiaries) based on a review of the literature (including previous policy papers prepared by the project team, reports prepared SSA, the Government Accountability Office (GAO), actuaries, surveys conducted by Medicaid infrastructure grant project staff, and reports related to the implementation of Section 1619) and discussions with key stakeholders. Second, we prepared draft policy memos and papers describing the key components of the gradual reduction choice approach and rationales for the components. Third, we shared the drafts with SSA for review and comment. Fourth, we arranged a meeting with SSA staff and representatives from the four Pilot states to obtain feedback regarding our draft policy memos and papers. Fifth, we held two Think Tanks in the Washington, D.C. metropolitan areas (June 8 and 22, 2005) to discuss and analyze the gradual reduction choice approach set out in our revised policy memos and papers. The Think Tanks participants included beneficiaries, benefit counselors, state program and research staff, and national disability organizations and researchers. Finally, we revised the policy memos and papers to reflect the input from SSA and representatives from the Pilot states, Think Tank participants, DRI reviewer, and other stakeholders.

STRUCTURE OF THE PAPER

Part I of the paper includes the introduction and purpose of the research project. Part II of the paper includes an overview of the gradual reduction choice option, including premises, assumptions, policy objectives, and components. Part III of the paper describes in greater detail the rationales and bases for the assumptions and key components of the gradual reduction choice option and related policy proposals.

GUIDING PRINCIPLES

The review and development of policy options to be considered under this project were guided by the following principles:

1. Do (impose) no harm.

2. Further the goals of disability policy as articulated in the ADA—equality of opportunity (individualization, effective and meaningful opportunity and inclusion), full participation (self-determination and informed choice), independent living and economic self-sufficiency.

3. Strive for a balance between policies that facilitate work and those that ensure a fair and decent level of income support during periods of work incapacity.[4]

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[4] National Academy of Social Insurance, Report of the Disability Policy Panel. *Balancing Security and Opportunity: The Challenge of Disability Income Policy* (1996) at page 12.

4. Make work pay and reduce the degree of uncertainty and risk related to work efforts.

5. Enable the beneficiary to make an informed choice, based on his or her personal situation and circumstances.

6. Balance the need to “keep it simple” with the need to foster self-determination; recognize the heterogeneity of the population and the need for individualization; and respond to the multiplicity of barriers to work faced by beneficiaries.

7. Recognize that the SSDI and SSI programs do not operate in isolation from each other, Medicaid and Medicare, or from other federal and state health and employment-related programs.

8. Facilitate cost savings (or at least not result in additional costs) to the Social Security Trust Fund, the U.S. Treasury, and states by enhancing the potential for net long range savings over the working life of a person with a disability by enabling beneficiaries to work and thereby reduce SSI and SSDI payments and reduce the use of Medicare and Medicaid. In addition, limit the potential of induced entry into the SSDI program.

9. Craft policy options based on lessons learned from other federal and state work incentive initiatives (such as Section 1619, Medicaid Buy-In programs and Benefits Planning Assistance and Outreach programs) and the insight derived from stakeholders, including beneficiaries, benefit counselors, researchers and policy analysts.

10. Provide information that enables policymakers to determine how to design permanent changes in national SSDI, SSI, Medicaid, and Medicare law. Permanent changes should preserve the national protections (safety net) provided by these programs.

PART II: SUMMARY OF THE GRADUAL REDUCTION CHOICE OPTION AND RELATED POLICY PROPOSALS

This part includes an overview of the gradual reduction choice option and related policy proposals. First, we describe the premises of the option and related policy proposals. Second, we describe the key assumptions. Third, we describe the policy objectives. Fourth, within the framework of the policy objectives, we set out the key components of the option and related policy proposals.

PREMISES AND FISCAL IMPLICATIONS

The gradual reduction choice option and related policy proposals provide SSDI beneficiaries with an informed choice (which entails tradeoffs) between current SSDI policy (which includes, among other things, a "cash cliff") and an alternative (providing, among other things, a gradual reduction in benefits and continued attached to the program when benefits are reduced to zero). The gradual reduction choice option and related policy proposals are designed to enhance the quality of life and financial independence of SSDI and SSI beneficiaries and at the same time facilitate net long-range cost savings (or at least not result in additional costs) to the Social Security Trust Fund, the U.S. Treasury, and the states.[5]

The gradual reduction choice option and related policy proposals are based on three premises:

1. There will be increased work effort by SSDI and SSI beneficiaries when there is increased simplicity, security and continuity in programs providing cash benefits and health and employment-related services and supports.

2. A sufficient number of SSDI beneficiaries will choose the gradual reduction choice option and have sufficient earnings resulting in a substantial reduction in total payments of SSDI cash benefits.

3. The gradual reduction choice option will minimize induced entry (reduce costs) by making the choice attractive primarily to those with a level of earnings resulting in a substantial reduction in the payment of SSDI cash benefits.

ASSUMPTIONS

The gradual reduction choice option and related policy proposals are based on six inter-related assumptions.

1. The current eligibility criteria for SSDI and SSI are strict, thereby limiting benefits to only those with the most severe disabilities.

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[5] See Memorandum prepared by Allen Jensen and Robert Silverstein entitled *"A Framework for Preparing Cost Estimates for SSDI $1 for $2 Gradual Reduction Demonstration Proposals"* (December 14, 2005).

2. The increasing role of the SSDI program in providing assistance to younger disabled workers and disabled adult children in addition to assisting older near-retirement disabled workers has blurred the differences between the SSDI and SSI programs.

3. The ability to work, work effort, and level of earnings varies significantly from month to month and year to year for many individual SSI and SSDI beneficiaries.

4. Most persons receiving SSDI benefits (including concurrent beneficiaries i.e., individuals receiving both SSI and SSDI benefits) are unable to sustain work above SGA for a significant period of time.

5. A significant minority of SSDI beneficiaries will choose to work above SGA for a sustained period if public programs provide appropriate information to make an informed choice; sufficient incentives, safeguards, and protections; and necessary long-term services and supports.

6. Because of the variety of factors, including tangible and intangible variables, impacting the heterogeneous population of SSDI beneficiaries, it is difficult, if not impossible, for policymakers and program administrators to determine/predict which particular SSDI beneficiaries (based on pre-determined criteria) will be able to work above SGA for a sustained period.

POLICY OBJECTIVES

Consistent with the assumptions described above, the gradual reduction choice option and related policy proposals developed by the research project team reflect the following policy objectives.

1. Retain current initial disability eligibility standards for the SSI and SSDI programs.

2. Simplify, enhance, and improve access to the work incentives by maximizing comparability between the SSI and SSDI work incentive provisions but at the same time maintain SSI as a minimum income assistance (benefit) program and maintain SSDI as a wage replacement program for the insured worker and his or her family.

3. Provide SSDI beneficiaries with an informed choice (which entails tradeoffs) between current SSDI policy and an alternative (providing gradual reduction in benefits and continued attachment when benefits are reduced to zero).

4. Provide a uniform work incentive policy under the SSI and SSDI programs that recognizes work expenses and provides for a gradual reduction of benefits as earnings increase.

5. Simplify the work incentives and reduce risk and uncertainty by providing for continued attachment to the SSI and SSDI programs when earnings reduce benefits to zero as long as the impairment continues.

6. Increase the likelihood that work incentives under the cash assistance programs will be used by making conforming changes to the work incentives under Medicaid for SSI and SSDI beneficiaries.

7. Modify and enhance administrative and outreach infrastructures related to work incentives.

COMPONENTS OF THE GRADUAL REDUCTION CHOICE APPROACH AND RELATED POLICY PROPOSALS

The following components of the gradual reduction choice option and related policy proposals reflect the policy objectives described above.

1. Retain Current Initial Eligibility Standards.

The criteria for the initial determination of eligibility (including the definition of disability) under the SSDI and SSI programs will not be changed.

2. Maximize Comparability Between SSI and SSDI.

There is the need to maximize comparability between the SSI and SSDI work incentive provisions as a means to encourage and enable beneficiaries to work or increase their work effort and update the SSI work incentives but at the same time maintain SSI as a federal minimum income assistance program and maintain SSDI as a wage replacement program for the insured worker and his/her family. Both programs must embody policies that facilitate, not impede achieving the overarching national goals of disability policy. Increasing comparability has the potential of increasing utilization of work incentives and level of earnings by reducing confusion because of current differences between SSDI and SSI work incentives.

3. Provide SSDI Beneficiaries with an Informed Choice.

Choice and Tradeoffs for SSDI Beneficiaries. Provide choice for the individual SSDI beneficiary to determine whether he or she wants to utilize current policy (TWP, EPE, the "cash cliff," and expedited reinstatement) or utilize the gradual reduction choice option (which includes, among other things, a gradual reduction in benefits after an initial earned income disregard of one-half of SGA and no time limit on continued attachment to the SSDI program when benefits are reduced to zero). In other words, the choice will entail a tradeoff. On the one hand, in utilizing current policy the beneficiary can choose limited risk and limited reward i.e., limited earnings below SGA and no reduction in benefits up to the SGA level followed by a cash cliff. On the other hand, the beneficiary can choose the gradual reduction choice option which entails short-term risk

(i.e., a gradual reduction in benefits at earnings less than SGA) to obtain increased disposable income (i.e., continued eligibility for cash benefits above SGA) and long-term security (i.e., no time limit on continued attachment to the SSDI program as benefits are reduced to zero).

Choice Times. A beneficiary's earnings would be subject to treatment under the current policy (i.e., "the default") until he/she affirmatively chooses the gradual reduction choice option. This initial decision can be made at any time after the individual obtains sufficient information and work experience to make an informed choice. This initial decision to utilize the gradual reduction choice option would continue until an "open season" during which the beneficiary would have the option to return to current policy. The open season would be available on an annual basis for a duration comparable to that currently available to Medicare beneficiaries related to enrollment in Part B. Thus, the individual would be permitted to exercise the option to move back and forth between options but only during an annual open season.

Informed choice. As explained above, when an individual initially becomes eligible for SSDI cash benefits, the "default" is current policy. The individual must affirmatively choose the gradual reduction choice option. The choice must be informed, i.e., the administrative infrastructures must ensure that the beneficiary has a sufficient level of confidence and trusts the information provided and the beneficiary must understand the consequences of his or her decision, including the nature and extent of the risk.

4. Earned Income Disregards and Gradual Reduction in Benefits

Uniform Initial Earned Income Disregard for SSI and SSDI. There would be one initial earned income disregard before there is a reduction in SSDI benefits and SSI benefits that would apply to SSI-only beneficiaries, SSDI-only beneficiaries and concurrent SSI/SSDI beneficiaries. The initial earned income disregard would be one-half of SGA as it applies to disabled beneficiaries and one-half of the special SGA as applied to blind beneficiaries. The reduction in benefits would occur as soon as the individual has earnings in excess of the initial earned income disregard and impairment-related and blind work expenses. The higher SSI initial earned income disregard would apply to all SSI beneficiaries with earnings, not just concurrent SSI/SSDI beneficiaries.

$1 for $2 Reduction in Benefits. The gradual reduction in SSDI and SSI benefits after the initial earned income disregards would be $1 reduction in benefits for $2 of earnings.

Order of Reduction for Concurrent Beneficiaries. For concurrent SSI/SSDI beneficiaries, Federal SSI cash benefits would be reduced first, SSI state supplement benefits second, the individual's SSDI benefits next, and OASDI auxiliary benefits would be the last to be reduced. The current $20 disregard of any income (earned or unearned) would still apply in determining SSI benefits.

Individual's SSDI Benefit Level is Beginning Point for Reduction Based on Earnings. The individual's SSDI benefit amount would be used as the unearned income level at which SSDI benefits are reduced based on earnings as a means to recognize SSDI as an individualized wage replacement program and the insured worker's previous contributions to the Trust Fund. In other words, the reduction based on earnings would apply against the SSDI benefits the individual is eligible to receive.

Impairment-Related Work Expenses (IRWE) Disregard. Provide that an SSDI beneficiary who chooses the SSDI gradual reduction option can apply for an individualized determination of impairment-related work expenses in determining earnings not to be counted in reducing SSDI benefits as is now provided for SSI beneficiaries with earnings. There would be one IRWE disregard allowed for concurrent SSI/SSDI beneficiaries.

Blind Work Expenses (BWE). Provide that an SSDI beneficiary who is eligible on the basis of blindness and chooses the gradual reduction option can apply for an individualized determination of BWEs in determining earnings not to be counted in reducing SSDI benefits as is now provided for SSI beneficiaries who are blind with earnings. There would be one BWE disregard allowed for concurrent SSI/SSDI beneficiaries.

Student Earned Income Exclusion. Provide that an SSDI beneficiary who chooses the SSDI gradual reduction choice option and who is under age 22 and regularly attending school will have earnings excluded from income at a higher rate than the initial earned income disregard as is now provided for SSI student beneficiaries with earnings. There would be only one exclusion for those who are concurrent beneficiaries.

Asset Accumulation. Expand the purpose of a Plan for Achieving Self Support (PASS) to include not only employment goals but also asset accumulation (savings) for SSI beneficiaries related to housing and independent living.

5. **Provide for Continued Attachment to the SSDI, SSI, and Medicaid Programs as Work Incentives. Medicare for Working SSDI Beneficiaries with Reduced Benefits.**

Continued Attachment to SSDI under the Gradual Reduction Choice Option. Those SSDI beneficiaries who chose the SSDI gradual reduction choice option would continue to be considered SSDI beneficiaries in a non-payment status when their earnings make them no longer eligible for cash benefits. They will be able to return to SSDI cash payments if they have a reduction in their earnings as is now the case in the SSI program.

Continued Attachment to SSI and Medicaid. SSI beneficiaries who exceed the Section 1619(b) threshold for Medicaid eligibility would be able to continue their attachment to SSI (non-payment status) and Medicaid (non-benefit status) without the current 12 month time limit.

Medicare for Working SSDI Beneficiaries with Reduced Benefits. Consistent with current policy regarding continued eligibility for Medicare, a beneficiary would continue to be eligible for Medicare as long as he or she is in SSDI payment status. To the extent the beneficiary is in nonpayment status, the current time limits and eligibility for regular Medicare and the Medicare Buy-In would apply.

6. **Increase Work Incentives under Medicaid for SSI and SSDI Beneficiaries.**

State's Option to Increase Section 1619(b) Earnings Limit. Each state would have the option to establish an earnings limit (for continued Medicaid eligibility for SSI beneficiaries in nonpayment status) at a level higher than the minimum Section 1619(b) threshold established each year for each state by SSA under administrative regulations. Current policy, which enables an individual to have an individualized Section 1619(b) earnings limit based on higher medical costs, would continue.

State's Option to Increase Resources Limit for Working SSI Beneficiaries. In addition, states would be authorized to establish a higher resources limit and additional resource exclusions (as work incentives) than under current law for SSI beneficiaries with earnings. Such funds from earnings would be in separate accounts as is now the case under the administration of PASS plans. Under this authority, State's may also provide for exclusions of retirement accounts and "independence" accounts. Such accounts would be disregarded for purposes of SSI eligibility.

Disabled Adult Children and Section 1619(b) Eligibility. Under current law, persons who become newly eligible or have increases in their DAC benefits under Title II are protected against loss of Medicaid eligibility if their new eligibility for benefits or increased amount of benefits makes them ineligible for SSI. However, for SSI beneficiaries who were utilizing Section 1619 their loss of SSI status makes them ineligible for the work incentives under the provisions of Section 1619(b). We are proposing that for purposes of continued eligibility for Medicaid under Section 1619(b) they would be "deemed" to be SSI beneficiaries.

7. Modify and Enhance Administrative and Outreach Infrastructures Related to Work Incentives

Effective implementation of the gradual reduction choice approach must include modifications or enhancements to administrative and outreach infrastructures both internal and external to SSA to, among other things, reduce overpayments, insure continued disability for working beneficiaries, and ensure informed choice.

PART III: COMPREHENSIVE DESCRIPTION AND ANALYSIS OF THE GRADUAL REDUCTION CHOICE OPTION AND RELATED POLICY PROPOSALS

Part II provided a summary of the key premises, assumptions, policy objectives, and key components of the gradual reduction choice option and related policy proposals. Part III details the basis and rationales for these premises and assumptions, policy objectives and key components. This part also lists alternative policies that SSA may want to consider.

In developing this proposal, we recognize that the overall design of the gradual reduction choice option and related policy proposals are pragmatic in nature and intended to operate within the constraints of current fiscal realities. For example, we recognize the value of a $1 for $4 (instead of a $1 for $2) reduction in benefits under the gradual reduction choice option as lower earnings levels. We also recognize the value of establishing an initial earned income disregard at a level higher than one-half of SGA (which is the level included under the gradual reduction choice option). We believe that these policy alternatives should be included as part of any national $1 for $2 demonstration projects.

But, we also believe that the national demonstration projects should research the feasibility of the gradual reduction choice option and related policy proposals. The standard for inclusion in the national demonstration projects should be that the options achieve the overarching goal of enhancing the quality of life and fiscal independence of beneficiaries and at the same time recognize fiscal and administrative constraints.

We also recognize that there are no absolutes in drafting public policy—there is always a need to balance competing goals/interests and to make tradeoffs. For example, an overarching goal of our proposal is to reduce work disincentives--of which complexity is a major factor. At the same time, we are cognizant of other goals guiding national disability policy articulated in the ADA such as individualization and self-determination. Thus, certain components of the proposal may add a degree of complexity (e.g., the choice option and choice times) in order to enhance self-determination and individualization whereas other components are designed to simplify the work incentives (e.g., making the SSDI and SSI work incentives more comparable and providing for continued attachment to the key entitlement programs, albeit in non-payment status).

PREMISES AND ASSUMPTIONS

Premises and Fiscal Implications

The gradual reduction choice option and related policy proposals provide SSDI beneficiaries with an informed choice (which entails tradeoffs) between current SSDI policy (which includes, among other things, a “cash cliff”) and an alternative (providing, among other things, a gradual reduction in benefits and continued attached to the program when benefits are reduced to zero). The gradual reduction choice option and related policy proposals are designed to enhance the quality of life and financial

independence of SSDI and SSI beneficiaries and at the same time facilitate net cost savings (or at least not result in additional costs) to the Social Security Trust Fund, the U.S. Treasury, and the states.[6]

The gradual reduction choice option and related policy proposals are based on three premises:

1. There will be increased work effort by SSDI and SSI beneficiaries when there is increased simplicity, security and continuity in programs providing cash benefits and health and employment-related services and supports.

2. A sufficient number of SSDI beneficiaries will choose the gradual reduction choice option and have sufficient earnings resulting in a substantial reduction in total payments of SSDI cash benefits.

3. The gradual reduction choice option will minimize induced entry (reduce costs) by making the choice attractive primarily to those with a level of earnings resulting in a substantial reduction in the payment of SSDI cash benefits.

As stated in the introduction to this part, the overall design and projected outcomes of the gradual reduction choice option and related policy proposals are pragmatic in nature and intended to operate within the restraints of current fiscal realities and balancing competing goals/interests. Thus, the premises reflect three inter-related policy considerations—the need to support increased work effort, the need to make the proposal sufficiently attractive to encourage a significant number of beneficiaries to risk increased work effort, and the need to save money (or at least not increase net costs) by reducing benefits based on increased earnings and by recognizing the need to reduce the possibility of induced entry.

Assumptions.

The gradual reduction choice option and related policy proposals are based on six inter-related assumptions.

1. The current eligibility standards for SSDI and SSI are strict, thereby limiting benefits to only those with the most severe disabilities.

2. The increasing role of the SSDI program in providing assistance to younger disabled workers and disabled adult children in addition to assisting older near-retirement disabled workers has blurred the differences between the SSDI and SSI programs.

3. The ability to work, work effort, and level of earnings varies significantly from month to month and year to year for many individual SSI and SSDI beneficiaries.

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[6] See Memorandum prepared by Allen Jensen and Robert Silverstein entitled *"A Framework for Preparing Cost Estimates for SSDI $1 for $2 Gradual Reduction Demonstration Proposals"* (December 14, 2005).

4. Most persons receiving SSDI benefits (including concurrent beneficiaries i.e., individuals receiving both SSI and SSDI benefits) are unable to sustain work above SGA for a significant period of time.

5. A significant minority of SSDI beneficiaries will choose to work above SGA for a sustained period if public programs provide appropriate information to make an informed choice; sufficient incentives, safeguards, and protections; and necessary long-term services and supports.

6. Because of the variety of factors, including tangible and intangible variables, impacting the heterogeneous population of SSDI beneficiaries, it is difficult, if not impossible, for policymakers and program administrators to determine/predict which particular SSDI beneficiary (based on pre-determined criteria) will be able to sustain work above SGA for a significant period of time.

Set out below is a more detailed discussion of these assumptions, including presentations of supporting data. These assumptions are critical because they lay the policy foundation for the policy objectives and specific components of the gradual reduction choice option and related policy proposals.

Assumption #1--Current Eligibility Standard

The first assumption is that <u>the current eligibility criteria for SSDI and SSI are strict/stringent, thereby limiting benefits to only those with the most severe disabilities.</u> The Social Security Advisory Board recently noted that "there is no doubt that all, or at least nearly all, Social Security disability beneficiaries have serious impairments."[7]

Overall, less than 55% of those who apply for disability benefits under the Social Security Act were allowed in FY 2002. Further proof of the strictness of the definition of disability is the fact that among denied applicants, 58% were not working and over two-thirds of those not working said they had been out of work for three years and over three-fourths said they were unable to work because of poor health.[8]

Assumption #2--Similarities Between Younger SSDI and SSI Beneficiaries

The second assumption is that <u>the increasing role of the SSDI program in providing assistance to younger disabled workers and disabled adult children in addition to assisting older near-retirement disabled workers has blurred the differences between the SSDI and SSI programs.</u> The benefit level for an individual under the SSDI program varies according to the number of years of work and the earnings levels. Many younger SSDI disabled workers had fewer years of work and generally lower earned income

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[7] Social Security Advisory Board. *The Social Security Definition of Disability* (October 2003) at p.16.
[8] Committee on Ways and Means, U.S. House of Representatives, *OVERVIEW OF ENTITLEMENT PROGRAMS, THE 2004 GREEN BOOK* at pages 1-28.

levels before they became SSDI beneficiaries. As a result, their benefit levels are more comparable to the benefit levels for SSI beneficiaries.

While the average benefit for SSDI disabled workers of all ages in December 2003 was $861 a month, for those ages 25-29, the average benefit is $573; those ages 30-34, the average benefit is just $644; those ages 35-39, it is $711; and those ages 40-44, the average benefit is $768. In December 2003 there were 1,379,690 SSDI disabled workers ages 44 or younger. The federal SSI benefit standard in 2003 was $552 a month. Therefore, for the various age cohorts between 25 and 45, the average benefit level is within $21 (ages 25-29), $92 (ages 30-34), $159 (ages 35-39), and $216 (ages 40-44).[9]

For a very significant number of individuals receiving SSDI as disabled adult children, there is little difference in terms of work history between them and the SSI population (the disabled adult child is a person whose disability began before age 22).This is because they receive benefits not on the basis of their own work history but rather on the basis of their parent's work history as an insured worker who is retired, disabled, or deceased. According to December 2003 SSA data, 744,000 are DACs. Their average benefit in December 2003 was $567 per month, which is just $15 over the federal SSI benefit standard in 2003.[10]

It is also important to note that there are SSI beneficiaries who, because of earnings under Section 1619, become SSDI-only beneficiaries. Further, it is also important to note that there are SSDI beneficiaries who are not receiving SSI (although they have income less than the Federal SSI standard) but are not eligible for the SSI work incentives. They are denied SSI simply because they are living with family or others and are considered to be receiving in kind assistance and thus the applicable federal SSI benefit standard is reduced by one-third. In addition, some are denied benefits because their assets exceed the SSI standards.

Approximately 30 percent of SSI beneficiaries between the ages of 18-65 (1.2 million) are also eligible for SSDI benefits. Some of these beneficiaries are concurrently eligible because of SSI state supplementation. More specifically, even though their SSDI benefit is in excess of the federal SSI benefit standard plus the $20 disregard, in states with SSI supplementation they still receive an SSI payment. In addition, nearly two-thirds of the Section 1619(b) SSI/Medicaid work incentive program participants are concurrent SSI/SSDI beneficiaries.[11]

This assumption is important because it lays the foundation for the policy objective of maximizing comparability between the SSI and SSDI work incentive provisions in order to simplify, enhance, and improve access to work incentives.

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[9] Social Security Administration. *Annual Statistical Supplement*, 2004, Table 5.A 1.2.
[10] Social Security Administration. *Annual Statistical Supplement*, 2004, Table 5.A 1.4.
[11] Social Security Administration. *Annual Statistical Supplement,* 2004, Table 7 D 1.

Assumption #3--Variations in Earnings for Individual Beneficiaries

The third assumption is that the ability to work, work effort, and level of earnings varies significantly from month to month and year to year for many individual SSDI and SSI beneficiaries. This is because for many beneficiaries the episodic nature of their disability results in irregular work and earnings patterns.[12]

According to GAO, of working SSDI beneficiaries with earnings above the SGA level in a given year, nearly one-half experience an eventual reduction in earnings in subsequent years. For example, of beneficiaries in 1985 who earned between 75 and 100% of the annualized SGA level, 47% had no earnings by 1989 while earnings of another 26% had fallen to between 1 and 74% of the annualized SGA level.[13]

According to SSA staff, nearly one-half of SSI beneficiaries receiving wages in one year stop working in the subsequent year. More specifically, 51% of blind or disabled adults had no wages in a year following a year of reported wages and 35% had maximum variation of more than 50%.[14] They also report that during a 15 year period only half of those employed in one year had earnings in each of the succeeding three years.[15]

This assumption is important because it lays the foundation for the policy objective to provide continued attachment to the SSDI and SSI programs when earnings reduce benefits to zero (as long as the impairment continues) in order to reduce risk and uncertainty which are major barriers to work.

Assumption #4--Inability to Sustain Work Above SGA

The fourth assumption is that most persons receiving SSDI benefits (including concurrent beneficiaries i.e., individuals receiving both SSI and SSDI benefits) are unable to sustain work above SGA for a significant period of time.

The data from SSA and GAO as well as from surveys of Medicaid Buy-In participants provide documentation for this assumption. More specifically, the data indicates that the primary reason SSDI beneficiaries limit their work activity is the severity of their disabilities. The data also indicates that a significant percentage of beneficiaries do not work at all, a significant percent of beneficiaries that work, do so at levels substantially below SGA, and a small, but significant, percentage work near or above SGA.

Before we present this data, however, it is important to keep in mind three points. First,

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[12] It should be noted, however, the data shows that while individual beneficiary work activity can vary, there are a percent of beneficiaries whose income stays relatively stable for a significant period.
[13] U.S. Government Accountability Office. *SSA Disability-SGA Levels Appear to Affect the Work Behavior of Relatively Few Beneficiaries, But More Data Needed*, GAO-02-224 (January 2002) at pages 2, 15, 16.
[14] Balkus, Richard, and Wilschke, Susan. *Annual Wage Trends for Supplemental Security Income* Social Security Recipients in Social Security Bulletin, Vol. 65, No. 2, 2003-2004 at pages 51-52.
[15] Id. at pages 51-53.

we use the phrase "most persons receiving SSDI benefits" instead of specifying a precise percentage. This is because existing data can only provide us with a range of estimates.

Second, it is important to note that existing data should be viewed in the context of work disincentives in current policy, especially the SSDI cash cliff. For example, four state surveys of participants in Medicaid Buy-In programs (Iowa, Kansas, and Minnesota, and Utah) indicate that from 25 to nearly 55 percent of the participants in the Buy-In programs were adjusting their work activities to protect themselves against loss of SSDI benefits because of exceeding SGA.[16] In a random sample survey of the Medicaid Buy-In participants in Iowa, 62 percent stated that they were limiting their work activity for various reasons. The primary reason for limiting their work activity was the severity of their physical or mental disabilities. However, 53 percent of those limiting their work effort stated that they were doing so because of concern about jeopardizing their social security benefits. In a random sample survey of Medicaid Buy-In participants in Kansas, 23 percent turned down an increase in hours of work because it might risk their SSDI; 7.5 percent turned down a job because it might affect their SSDI; and 9 percent turned down a raise to prevent risking their SSDI. A Utah survey of Medicaid Buy-In participants indicated that of those continuously enrolled in the Buy-In program, 29.6 percent were worried about losing their SSDI benefits.

Third, this assumption should not be construed to suggest that all SSDI beneficiaries are unable to work. It may be that a particular beneficiary is able to work, but not necessarily on a sustained basis above SGA for a significant period of time or that other beneficiaries may be able to work on a sustained basis above SGA for a significant but irregular period of time given the episodic nature of their condition. Others may not work and earn above SGA because of fear of losing their benefits.

According to SSA staff, utilizing SIPP data matched to SSA administrative records, only 10.1% of SSDI beneficiaries worked at some time during 1984 and only 22% of SSDI beneficiaries worked at some time during 1999.[17] According to GAO, from 1985-1997 on average, only about 7.4% of SSDI beneficiaries who worked (comprising about 1%

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[16] Iowa: *Medicaid for Employed People with Disabilities: A Client Profile and Program Evaluation. Iowa Department of Human Services* (March 11, 2005), Figure 6-9, page 46. http://www.dhs.state.ia/dhs_homepage/docs/MEPD-04_report-master.pdf. Kansas: *Satisfaction Survey of Medicaid Buy-In Participants*, Reported in Policy Brief # Six, November 2004, University of Kansas Medicaid Infrastructure Change Evaluation Project. http://www.workinghealthy.org/WHpolicybrierno6.pdf. Minnesota: *How MA-EPD Does the Job-Survey of Minnesotans Enrolled in the Medical Assistance for Employed Persons with Disabilities Program*. Minnesota Department of Human Services (August 2004), Table 21, page 36. The full report is at http://www.dhs.state.mn.us/main/group/disabilities/documents/pub/dhs_id_029455.pdf. Utah: *Self Reported Experiences of Individuals with Disabilities Involved in the Utah Medicaid Work Incentives Program*. UWIN Evaluation Team, Utah State University and University of Utah (April 13, 2003), Table 21, page 36. The full report is at http:www.uwin.org/uwin/webpage/products/MWIreportFINAL4-15-03.pdf.

[17] Martin, Teran and Davies, Paul S. "*Changes in the Demographic and Economic Characteristics of SSI and DI Beneficiaries Between 1984 and 1999*" in *Annual Wage Trends for Supplemental Security Income Recipients, Social Security Bulletin,* Volume 65, No. 2, 2003/2004 at page 9.

of the total SSDI caseload) had annual earnings between 75 and 100 percent of the annualized SGA level. In 1995, about 58% of SSDI beneficiaries who worked earned no more than 50% of the annualized SGA level.[18]

Using data from SSA relating to the work experience of SSI recipients, (*SSI Disabled Recipients Who Work*, 2004 (July 2005)), only 4.8% of SSI recipients (all ages) worked in 1983, 6.4% in 1999, and 5.6% in December 2004. For SSI recipients aged 18-64, in December 2004, the percent of SSI recipients that worked was 7.8%. Of the SSI recipients (all ages) that worked, 59.3% percent earned less than $400 per month and 86% earned less than $1,000 per month.

Survey data from several Medicaid Buy-In programs is consistent with the GAO and SSA findings. For example, in Iowa, the Buy-In participants not working or that didn't want to work more (61%) were asked to evaluate a number of statements and choose those that fit as to agree or strongly agree, 63.2 % reported that their health has gotten worse for reasons unrelated to working and 30.6% reported that working has caused their health to get worse.[19] In Minnesota, 48% (physical health problems) and 30% (mental health problems) reported that health issues prevented them from working some time during the past year.[20]

We believe assumption #4 reflects current reality and provides insight into the possible impact of a policy change. Policymakers should be wary of making any change to current law that imposes a work mandate on all beneficiaries when in fact most beneficiaries are unable to sustain work above SGA for a significant period of time. The current purpose of SSDI as a partial wage replacement program is appropriate and the current structure (TWP, EPE, cash cliff, and expedited reinstatement) meets the needs of most beneficiaries.

It is also important that our public policy encourage beneficiaries to work, reflect high expectations regarding the potential for work, and provide necessary services and supports and safeguards and protections. We need to strive for a balance between the policies that facilitate work and those that ensure a fair and decent level of income support during periods of work incapacity.

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[18] U.S. Government Accountability Office. *SGA Levels Appear to Affect the Work Behavior of Relatively Few Beneficiaries, But More Data Needed*, GAO-02-224 (January 2002) at page 9.

[19] Iowa: *Medicaid for Employed People with Disabilities: A Client Profile and Program Evaluation. Iowa Department of Human Services* (March 11, 2005), Figure 6-10, page 47.

[20] Minnesota: *How MA-EPD Does the Job-Survey of Minnesotans Enrolled in the Medical Assistance for Employed Persons with Disabilities Program*. Minnesota Department of Human Services (August 2004), page 78 and questions A41 and A42. The full report is at http://www.dhs.state.mn.us/main/group/disabilities/documents/pub/dhs_id_029455.pdf. Utah: *Self Reported Experiences of Individuals with Disabilities Involved in the Utah Medicaid Work Incentives Program*.

Assumption #5--Conditions Under Which Work Becomes a Viable Choice

The fifth assumption is that a significant minority of SSDI beneficiaries will choose to work above SGA for a sustained period if public programs provide appropriate information to make an informed choice, sufficient incentives, safeguards, and protections; and necessary long-term services and supports.

The data from SSA and GAO as well as from surveys of Medicaid Buy-In participants provide documentation for this assumption. The documentation includes studies of the earnings levels of SSDI beneficiaries as well as the work experience of SSI recipients using the work incentives provisions in the SSI and Section 1619 programs, including the policies providing for a gradual reduction of benefits as earnings increase and continued attachment to Medicaid. More recently, the Medicaid Buy-In program reduced one of the work disincentives by continuing Medicaid for SSDI beneficiaries.

According to GAO, about 11% of the SSDI beneficiaries who had earnings in 1985 between 75 and 100% of annualized SGA still had earnings at that level in 1989 (suggesting that at least some beneficiaries are attempting to stay close to the SGA level without exceeding it). Even after the SGA level was increased in 1990 (from $300 to $500), a small proportion of these beneficiaries continue to have earnings between 75 and 100% of the new annualized SGA level. For example, in 1995 about 13% of beneficiaries who had earnings between 75 and 100 percent of the annualized SGA level in 1985 had earnings within this range of the higher annualized SGA level.[21]

Using data from SSA, (*SSI Disabled Recipients Who Work*, 2004 (July 2005)), of the limited number and percentage of SSI recipients that work (5.6% of all SSI recipients and 7.8% of SSI recipients aged 18-64, see above under assumption 4), there are significant numbers and percentages of persons on SSI with earnings and resulting reduced levels of benefits. For example, of all SSI recipients that worked, 40.7% earned more than $400 per month and 14% earned more than $1,000 per month.

Using the same data from SSA (*SSI Disabled Recipients Who Work*, 2004 (July 2005)), there has been a gradual but significant increase in the use of the Section 1619 work incentives by SSI beneficiaries since its inception in 1981 when it was a temporary program. (The program was permanently authorized as an entitlement, effective July 1, 1987.) In December 1988, 35,545 beneficiaries utilized the Section 1619 work incentives. By 1993, there had been an increase to 55,327 and by 2004 the number had increased to 90,796. In short, during the 15 year period between 1988 and 2004, the program experienced nearly a 150% increase in participation.

The experience under the Medicaid Buy-In programs may also shed some light on the increased interest by SSDI beneficiaries (the primary participants in the Buy-In programs) in working when certain barriers to work (e.g., concern about loss of health care) are addressed. There has been a gradual but significant increase in enrollment in

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[21] U.S. Government Accountability Office, *SSA Disability-SGA Levels Appear to Affect the Work Behavior of Relatively Few Beneficiaries, But More Data Needed*, GAO-02-224 (January 2002) at pages 15-16.

Medicaid Buy-In programs since their inception (See Table in Appendix 1). In a survey of Vermont Medicaid Buy-In participants, 80% indicated that the Medicaid Buy-in program was very important in enabling them to keep working.[22] In Kansas, 61% of survey respondents indicated that their level of independence has increased since enrolling and 59% said their financial status has improved since enrolling.[23] In Minnesota, 72% of participants said that they would not be able to work without the Medicaid Buy-In program. 92% of participants in the Medicaid Buy-In program reported that working because of the Medicaid Buy-In program improved their quality of life.[24]

According to Mathematica researchers in a recent study "Explaining Enrollment Trends at Participant Characteristics of the Medicaid Buy-In Program, 2002-2003 (January 14, 2005) of those Medicaid Buy-In participants who are working and contributed to the unemployment insurance system (UI), approximately 29% had earnings in 2003 in excess of $800 and 21% had in excess of $1,000 (page 54).

In Iowa, a recent survey of Medicaid Buy-In participants found that 40 percent of the participants indicated that they would like to increase the amount they are working over the next 12 months.[25] In Wisconsin, one-third of the participants reported that they wanted to work more hours.[26]

States' Medicaid Buy-In programs have enabled a significant number of SSDI beneficiaries to work and have Medicaid without having to spend down their income under Medically Needy eligibility criteria. The rate of participation in the Medicaid Buy-In programs by SSDI disabled workers, disabled adult children and disabled widows(ers) is estimated to be as high as ten percent in Minnesota, a state with few restrictions (e.g., no unearned income limits or high cost shares).[27]

As in the case of assumption 4, it is not possible to know the precise percent of beneficiaries that would choose to sustain work above SGA for a significant period of

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[22] Vermont: Survey of Enrollees in the Medicaid for Working People with Disabilities Program, Prepared for the State of Vermont Department of Aging and Disabililties, October 2003. Page 11 Full report available at http://www.dad.state.vt.us/dvr/vocrehab/vwii/s5_reports.htm#mbirpts

[23] Kansas: *Satisfaction Survey of Medicaid Buy-In Participants*, Reported in Policy Brief # Six, November 2004, University of Kansas Medicaid Infrastructure Change Evaluation Project, page 1. http://www.workinghealthy.org/WHpolicybrierno6.pdf.

[24] Minnesota: *How MA-EPD Does the Job-Survey of Minnesotans Enrolled in the Medical Assistance for Employed Persons with Disabilities Program.* Minnesota Department of Human Services (August 2004), page 82, Question A54 and page 2. The full report is at http://www.dhs.state.mn.us/main/group/disabilities/documents/pub/dhs_id_029455.pdf.

[25] Iowa: *Medicaid for Employed People with Disabilities: A Client Profile and Program Evaluation. Iowa Department of Human Services* (March 11, 2005), Figure 6-10, page 45. The full report is available at http://www.dhs.state.ia.us/dhs2005/dhs_homepage/docs/MEPD-04_report-master.pdf.

[26] Wisconsin: Medicaid Purchase Plan Evaluation Annual Report, December 2003. Submitted to the Wisconsin Department of Health and Family Services by APS Healthcare, Inc. The full report is available at *http://dhfs.wisconsin.gov/WIpathways/pdf/MAPPAnnualReport2003.pdf*.

[27] See e.g., Jensen, Allen; Silverstein, Robert; Folkemer, Donna; Shaw, Tara. *Policy Frameworks for Designing Medicaid Buy-In Programs and Related State Work Incentive* Initiatives, Table 8. Prepared for the U.S. Department of Health and Human Services. The full report is located at http://www.aspe.hhs.gov/daltcp/projects.htm#GWU5.

time. However, we can use experiences under existing programs, including SSI and Section 1619, to obtain estimates.[28] And current experience indicates that the numbers are sufficient to warrant an effort to encourage work.

This assumption is important because it lays the foundation for the option of continuing eligibility when earnings exceed SGA (policy objective #4, gradual reduction) and the concept of continued attachment as a form of ongoing support for beneficiaries who work (policy objective #5).

Assumption #6—Impact of Tangible and Intangible Factors on Policy Decision-making

The sixth assumption is that because of the variety of factors (including tangible and intangible variables) impacting the heterogeneous population of SSDI beneficiaries, it is difficult, if not impossible, for policymakers and program administrators to determine/predict which particular beneficiary (based on pre-determined criteria) will be able to sustain work above SGA for a significant period of time.

Set out below are a series of **tangible variables** impacting work activities of the heterogeneous population of SSDI beneficiaries:

1. The impact of type and severity of disability, age, time of onset of disability (i.e., birth, during teens, after years of employment).
2. The impact of level of skills, education, experience and work previously performed,
3. The state in which the individual resides.[29]
4. The strength of the state and local economy and job market.
5. The level of need for and availability of ongoing acute health care and long-term health-related and employment-related services and supports (including transportation and housing) to sustain their jobs.

[28] For a comprehensive analysis of how SSI and Section 1619 data and Medicaid Buy-In data should be used to project the numbers of SSDI beneficiaries that may increase their earnings if a SSDI $1 for $2 policy were to be adopted, see Jensen and Silverstein "*A Framework for Preparing Cost Estimates for SSDI $1 for $2 Gradual Reduction Demonstration Proposals."* (December 14, 2005).

[29] A review of SSA and SSI Work Incentives File and Revised Management Information Counts System (REMICS) data indicates significant variation among the states in the number of SSI beneficiaries who work and the level of earnings. See Table in Appendix 2. In addition, the recent report by Mathematica "Explaining Enrollment Trends and Participation Characteristics of the Medicaid Buy-In Program, 2002-2003" (January 14, 2005) indicates wide variation in participant earnings among the states with Medicaid Buy-In programs.

Set out below are a series of **intangible variables** impacting work activities by the heterogeneous population of SSDI beneficiaries:

- **Information**–What level of confidence and trust does the individual have that he/she understands the consequences of options related to the impact of working?

- **Economics** –Does the individual believe he/she will be better off economically if he/she works, increases work effort, or changes the nature of his/her employment?

- **Independence** – What level of importance does the individual place on being financially independent through earnings and ability to accumulate resources from working?

- **Values** – What personal value does the individual place on working?

- **Personal Self-Confidence and Self-Perception** –What level of self-confidence does the individual have related to his/her ability to work in general as well as ability to work at the job available and to sustain a work effort?

- **Coping with Stress**—What ability does the individual have to cope with physical and mental stress?

- **Risk-taking** – What level of risk is the individual willing to incur related to his/her ability to sustain a work effort and potential loss or reduction of entitlement benefits if he/she works?

- **Expectations and Encouragement by Agencies, Providers and Employers-** What level of expectations and encouragement to work in competitive, integrated settings is provided to the individual by agencies, service providers, and employers?

- **Family support**—What is the level of encouragement and support provided to the individual by his/her family?

- **Informal Network of Support for Working** – What is the level of encouragement and support provided to the individual by friends, and acquaintances?

This assumption is critical because it suggests that a “one size fits all” policy approach that attempts to determine in advance which beneficiaries (already determined to be unable to work) should be forced to work is inappropriate. To the contrary, it suggests a policy based on choice by individual beneficiaries.

POLICY OBJECTIVES

The gradual reduction choice option and related policy proposals developed by the research project team reflect the following policy objectives. These policy objectives are based on the premises and assumptions described in the previous section.

1. Retain current initial eligibility standards for the SSI and SSDI programs.

2. Simplify, enhance, and improve access to the work incentives by maximizing comparability between the SSI and SSDI work incentive provisions but at the same time maintain SSI as a minimum income assistance (benefit) program and maintain SSDI as a wage replacement program for the insured worker and his or her family.

3. Provide SSDI beneficiaries with an informed choice (which entails tradeoffs) between current SSDI policy and an alternative (providing gradual reduction in benefits and continued attachment when benefits are reduced to zero).

4. Provide a uniform work incentive policy under the SSI and SSDI programs that recognizes work expenses and provides for a gradual reduction of benefits as earnings increase.

5. Simplify the work incentives and reduce risk and uncertainty by providing for continued attachment to the SSI and SSDI programs when earnings reduce benefits to zero as long as the impairment continues. Consistent with the policy of providing continued attachment to the SSDI and SSI programs, technical and conforming changes are made to extend the concept of continued attachment to the Medicaid program.

6. Increase the likelihood that work incentives under the cash assistance programs will be used by making conforming changes to the work incentives under Medicaid for SSI and SSDI beneficiaries.

7. Modify and enhance the administrative and outreach infrastructures related to work incentives.

POLICY OBJECTIVE #1—RETAIN CURRENT INITIAL ELIGIBILITY STANDARDS

The first policy objective is to retain current initial disability eligibility standards for the SSI and SSDI program. There appears to be little disagreement among stakeholders regarding the conclusion stated under assumption #1 that the definition of disability used for purposes of determining initial eligibility is strict/stringent. Furthermore, there is concern that requiring applicants to go through a process of proving that they meet the definition for purposes of initial eligibility is of itself a disincentive to future work. The project's scope of work, however, did not include consideration of options related to

changing the definition of disability. Such an endeavor would exceed the congressional directive to design and implement national $1 for $2 demonstration projects.

POLICY OBJECTIVE #2—MAXIMIZE COMPARABILITY BETWEEN SSDI AND SSI

The second policy objective is to simplify, enhance, and improve access to the work incentives by maximizing comparability between the SSI and SSDI work incentive provisions but at the same time maintain SSI as a minimum income assistance (benefit) program and maintain SSDI as a wage replacement program for the insured worker and his or her family. This policy objective is consistent with the data described under assumption #2 that the increasing role of the SSDI program in providing assistance to younger disabled workers and disabled adult children in addition to assisting older near-retirement disabled workers has blurred the differences between the SSDI and SSI programs.

Set out below are reasons for maximizing comparability between the SSI and SSDI work incentive policies as a means to encourage and enable beneficiaries to work or increase their work effort.

First, both the SSDI and SSI programs should embody policies that facilitate rather than impede achieving the overarching national goals of disability policy. The overarching goals of disability policy include equality of opportunity (individualization, meaningful and effective opportunity, and most integrated setting appropriate), full participation in decision-making (self-determination and informed choice), independent living, and economic self-sufficiency.

Second, the SSI and SSDI programs use the identical definition of disability for purposes of initial eligibility. Because a primary goal of both programs is the provision of income supplementation for those with limited earnings due to their disability, then similar policies regarding continued disability status with earnings should apply to both programs.

Third, for a very significant number of younger disabled workers receiving SSDI and the disabled adult children population, there are many similarities between them and the SSI disabled population in terms of characteristics and benefit levels.

Fourth, there is a significant proportion (30%) and number (1.2 million) of individuals who are participating in both the SSI and SSDI programs (concurrent beneficiaries). Some of these beneficiaries are concurrently eligible because of SSI state supplementation.

Finally, increasing comparability has the potential of increasing utilization of work incentives by reducing confusion which currently results from the significant differences between the SSI and SSDI work incentives. These differences are often cited as a primary barrier to understanding and therefore utilizing work incentive provisions intended to encourage work and increase work effort.

POLICY OBJECTIVE #3—PROVIDE SSDI BENEFICIARIES WITH AN INFORMED CHOICE

Introduction and Tradeoffs

The third policy objective is to provide an SSDI beneficiary an informed choice (which entails tradeoffs) between current SSDI policy and an alternative (providing gradual reduction in benefits and continued attachment when benefits are reduced to zero).

As stated in assumption #4 and #5, most SSDI beneficiaries are unable to sustain work above SGA for a significant period of time; but a significant minority of beneficiaries will choose to work above SGA if they are provided with necessary incentives, protections, and supports. Determining whether a particular beneficiary will or will not be able to sustain work above SGA for a significant period of time is not practicable given the myriad of tangible and intangible factors impacting work activities by this heterogeneous population (assumption #6). These assumptions, combined with the ADA goals of individualization and self-determination, naturally lead to an approach that focuses on choice for the individual.

The choice approach is responsive and complementary to new employment services initiatives for persons with disabilities, including the State Medicaid Buy-In program. Furthermore, there is precedent for a choice option under other entitlement programs such as Medicare and OASDI Retirement (choosing age).

We recognize that a decision by an individual beneficiary to select the gradual reduction choice option will entail a tradeoff. On the one hand, the beneficiary may choose current policy with limited risk and limited reward i.e., limited earnings below SGA and no reduction in benefits up to the SGA level followed by a cash cliff. On the other hand, the beneficiary may choose the gradual reduction choice option that entails short-term risk (i.e., a gradual reduction in benefits after initial earned disregard of one-half of SGA) to obtain increased disposable income (i.e., continued eligibility for cash benefits above SGA) and long-term security (i.e., no time limit on continued attachment to the SSDI program when benefits are reduced to zero).

The gradual reduction choice option is not meant for all beneficiaries. The proposed strategy is designed to provide a new option for beneficiaries who personally decide that they have sufficient confidence in their ability to sustain employment over a period of time at an earnings level somewhat greater than SGA and/or for beneficiaries whose primary concern is security—knowing they will preserve their attachment to the program even when their earnings increase substantially for a given period of time. Beneficiaries need a form of social insurance that protects them against the uncertainty often times intrinsic to the medical conditions and impairments which initially qualified them for SSDI disability benefits.

Choice Times

Selecting the appropriate frequency of the choice involves creating a balance between the degree of risk for the individual and the administrative burden on SSA. The longer the period of time in which the gradual reduction choice remains in effect (benefits reduced beginning with earnings below SGA), the greater the potential for an individual (whose earnings decreased) being disadvantaged with less net income compared to the SGA cash cliff option under which there is no reduction in benefits below SGA. However, the greater the frequency of choice increases the administrative time required by SSA to make individualized modifications to a beneficiary's records.

Under the proposal, a beneficiary's earnings would be subject to treatment under the current policy until he/she affirmatively chooses the gradual reduction choice option (the default). This initial decision can be made at any time after the individual obtains sufficient information and work experience to make an informed choice. If the beneficiary moves from the choice option to the cash cliff option, existing policies apply i.e., Trial Work Period months not used remain available (taking into account months no longer counted under the rolling 60 months provision).

This initial decision to have earnings considered for purposes of the $1 for $2 gradual reduction would continue until an "open season" during which the beneficiary would have the option to return to current policy. The open season would be available on an annual basis for a specified duration. The open season approach is intended to address concerns over administrative burden on SSA by concentrating a specific administrative task for a limited time period. The open season concept is one that is used in private health insurance plans and related to enrollment in Medicare Part B.

Informed Choice

As explained above, when an individual initially becomes eligible for SSDI cash benefits and has earnings, the "default" is current policy. The individual must affirmatively choose the gradual reduction choice option. The choice must be informed, i.e., the administrative infrastructures must support a sufficient level of confidence and trust in the information provided to the individual beneficiary and the beneficiary must understand the consequences of his or her decision, including the nature and extent of the risk. Ensuring informed choice for beneficiaries will require a significant commitment of resources by SSA and other federal and state agencies. [See policy objective #7 for additional discussion of the need to modify and enhance the administrative and outreach infrastructure]

Alternative Policy Options

1. Instead of providing a default to current law**,** the choice could be made by the beneficiary after the first month he or she has earnings at any level (no trial work period applies) and that choice would apply for 6 months, including the first

month of earnings. Thereafter, the individual could modify his or her choice every 12 months after the anniversary of the initial choice.

2. Permit a beneficiary to change their decision (to or from the gradual reduction choice option) when he or she changes jobs or has a major earnings increase opportunity in addition to changes made during the open season.

POLICY OBJECTIVE #4: PROVIDE UNIFORM WORK INCENTIVE POLICY—WORK EXPENSES AND GRADUAL REDUCTION IN BENEFITS

Introduction

The fourth policy objective is to provide a uniform work incentive policy under the SSI and SSDI programs that recognizes work expenses and provides for a gradual reduction of benefits as earnings increase.

In order to understand the basis and rationale for this policy objective, it is important to compare and contrast the core policies of the SSI and SSDI programs related to work expenses and gradual reduction in benefits.

The **SSI** work incentives are based on three core policies:

- Work expenses should be recognized with an initial earned income disregard.
- There should be a gradual reduction in benefits as earnings increase.
- There should be a continued attachment to the SSI program and Medicaid until earnings can replace benefits and health services.

In contrast, currently under the **SSDI** program benefits are either received in full or not received at all (the cash cliff).

The fundamental change to current SSDI policy in our proposal relates to the criteria for continued eligibility for SSDI cash payments on the basis of disability. This proposal achieves this change by adopting and enhancing the three core policies (described above) on which the SSI work incentives are based. Consistent with the notion of comparability, this proposal also updates and makes technical and conforming changes to the SSI and Section 1619 work incentive provisions.

The applicable components of the gradual reduction choice option related to work expenses and gradual reduction in benefits are as follows:

- Establish a uniform initial earned income disregard for SSI and SSDI;

- Provide $1 for $2 reduction in benefits for both SSI and SSDI;

- Establish an order of reduction for concurrent beneficiaries;

- Establish the individual's SSDI benefit level as the beginning point for reduction based on earnings;

- For both SSI and SSDI, disregard impairment-related work expenses and blind work expenses;

- For both SSI and SSDI, apply the student earned income exclusion; and

- Modify for both SSI and SSDI disregards for Plans to Achieve Self-Support.

In assessing the policy and fiscal efficacy of this proposal (i.e., creating effective work incentives for beneficiaries that do not result in net increases in costs to the income assistance and health programs), it is important to view all components in their entirety (i.e., as a package) rather than view an individual component in isolation. In addition, it is important to take into consideration other components of our proposal, including the option to allow a beneficiary to modify his or her choice on a periodic basis between current policy and the gradual reduction choice option.

Uniform Initial Earned Income Disregard for SSI and SSDI.

Establish a uniform initial earned income disregard. The rationale for the current initial earned income disregard in the SSI program is that there are expenses that need to be recognized if beneficiaries are going to be encouraged to work and be better off than not working. Consistent with this rationale, the gradual reduction choice option establishes a uniform initial earned income disregard for SSI, SSDI, and concurrent SSDI/SSI beneficiaries.

Establishing a uniform initial earned income disregard makes sense for several reasons. First, by treating earnings in both programs the same, it furthers the overall goal of simplifying the work incentive provisions in order to enhance and encourage their use. Second, with overlapping populations and similar goals of income supplementation and encouraging work under the SSI and SSDI programs, it is essential to have uniformity in program design. Finally, there should be only one initial earned income disregard for one beneficiary even if he or she is receiving benefits from both the SSI and SSDI programs.

Establish an Appropriate level. Once it is determined that there should be a uniform initial earned income disregard, the next question is what is the appropriate level at which it should be set. In addressing this question, it is important to balance competing goals of encouraging work and controlling costs while improving the work incentives in the SSDI program.

There does not appear to be any clearly articulated rationale for the current initial income disregards in the SSI program ($20 of any income and $65 of earned income) or the SGA earnings level test for non-blind disabled beneficiaries ($830 in FY 2005) for

continued eligibility status in the SSDI program. For purposes of determining the appropriate level of the initial earned income disregard, the parameters for the discussion range from the SSI earned income disregard of $85 ($65 + $20) (which was approximately one-half of the SSI benefit standard when the program began in 1974), to the SSI earned income disregard adjusted for inflation ($265), to the SSDI program's SGA level ($830 for 2005 for non-blind disabled beneficiaries) earnings limit.

Our proposal establishes a single initial earned income disregard of one-half of SGA, which is $415 for 2005 (SGA in 2005 is $830) for non-blind disabled beneficiaries who are SSI-only beneficiaries, SSDI-only beneficiaries, and concurrent SSDI/SSI beneficiaries. In the case of persons eligible on the basis of blindness, the initial earned income disregard would be $690 for 2005, which is one-half of the special SGA as applied to blind beneficiaries ($1380 in 2005). Under the Choice option, the reduction in benefits for an SSDI-only beneficiary would occur as soon as the individual has earnings in excess of the earned income disregards. The higher SSI initial earned income disregard would apply to all SSI beneficiaries with earnings.

In choosing current policy or the gradual reduction choice option, for those beneficiaries whose primary concern is net income from benefits and earnings, the issue is whether they can sustain (on a month-to-month basis) a level of earnings greater than 150% of SGA. For example, under the gradual reduction choice option (with benefits reduced beginning at one-half of SGA) beneficiaries who are not able to sustain a level of earnings will have less net income if their earnings in a month are less than 150% of SGA but more than one-half of SGA. Such beneficiaries also need to take into account that if they have a reduction in earnings to less than one-half of SGA, they will still have a safety net of no less net income than if they had chosen the SSDI cash cliff option.

It is important to note, however, that some beneficiaries in deciding whether or not to choose the gradual reduction choice option will focus more on long-term security and optimism regarding their potential earnings and career than on month-to-month net income. These beneficiaries may decide to choose the gradual reduction choice option because their primary concern is security—this option will enable them to preserve their attachment to the program even as their earnings fluctuate over a period of time. [See Policy Objective #5 regarding continued attachment]

The rationale for these numbers is pragmatic and balances competing goals of encouraging work and controlling costs (including potential for induced entry) while improving the work incentives in the SSDI program.

The pragmatic rationale is as follows. First, the amount is easy to understand (with its tie-in to the SGA level). Second, in light of the policy premise that there should be a uniform initial earned income disregard applied to both programs, it provides for a balance and transition between an SSI disregard (which may be too low for SSDI beneficiaries) and an SGA level (which may be too high for SSI beneficiaries). The SGA level is intended to be an indicator of initial eligibility for disability benefits and not intended to be used as a work expense disregard. Third, there is a need to improve the

work incentives for SSI beneficiaries by increasing the current initial earned disregard for SSI beneficiaries to reflect increases in work expenses since the SSI program was authorized in 1972.

In attempting to balance competing goals of encouraging work and controlling costs, while improving the work incentives in the SSDI program, the establishment of an initial earned income disregard for SSDI beneficiaries at one-half of SGA, instead of full SGA, is a deliberate attempt to target the gradual reduction choice option primarily on those who are able to engage in and sustain earnings significantly above SGA. It is not intended for those who can only marginally and infrequently sustain a level of earnings over SGA. The amount is sufficiently high to serve as an incentive for SSDI beneficiaries to choose the gradual reduction choice option rather than current law under which there is no reduction of benefits below SGA. The amount is low enough, however, that even when combined with a $1 for $2 of earnings disregard, it will not induce entry into the SSDI program.

$1 for $2 Reduction in Benefits.

The proposal includes $1 for $2 gradual reduction in SSDI and SSI benefits after the initial earned income disregards. This rate of reduction was chosen because it is consistent with longstanding precedent under the SSI program. In addition, it was chosen because of congressional expectations as indicated in section 302 of TWWIIA (Demonstration Projects Providing for Reductions in Disability Insurance Benefits Based on Earnings). It was also chosen to limit the cost of a gradual reduction program in comparison to a lesser reduction in benefits for a dollar of earnings. This policy also is consistent with the principle that we need to create an option under which SSI and SSDI work incentives enable more beneficiaries to have earnings as their primary source of support and disability cash benefits as an income supplement.

It is possible to consider alternative rates of reductions e.g., $1 for $4 as is included in several SSI demonstrations authorized by SSA [See 66 Fed. Reg. 7826 (January 25, 2001)]. It is also possible to make the reductions progressive with $1 for $4 at the lower earnings levels going to $1 for $2 at higher earnings levels. Of course, in considering these alternatives, it is important to assess their fiscal implications. This assessment should include determining which alternatives have the best potential for encouraging more beneficiaries to work (with increased earnings resulting in reduced benefits) and at the same time limit induced entry.

Order of Reduction for Concurrent Beneficiaries.

Under the proposal, for concurrent SSI/SSDI beneficiaries Federal SSI cash benefits would be reduced first, Federally-administered SSI State supplement benefits second, the individual's SSDI benefits next, and OASDI auxiliary benefits would be the last to be reduced. This policy is consistent with the order of reduction of benefits policy under current SSI law as related to Federal SSI benefits being reduced to zero before there is a reduction in the state SSI supplement.

This order of reduction we are recommending is based on the fact that the SSDI gradual reduction choice option modifies the SSDI program to one partially based on need instead of earnings only being used for purposes of determining eligibility for benefits on the basis of disability. The entitlement for SSDI, which is a social insurance entitlement based on worker contributions, should be the last to be reduced and purely means tested SSI should be the first to be reduced.

The order of reduction used under the gradual reduction choice option is different than current procedures under which a concurrent SSDI/SSI beneficiary totally loses their SSDI payment upon a finding of engaging in SGA. Under these procedures SSDI is totally eliminated on the basis of a disability determination, not on the basis of need. Subsequently, the SSI benefit is increased because under the provisions of Section 1619 SSI payments are continued when earnings exceed SGA. The current procedures would continue for individuals not selecting the gradual reduction choice option.

In the alternative, the OASDI auxiliary benefits could be reduced prior to reducing the individual's SSDI benefits since a primary intent is to provide wage replacement for the insured worker.

Individual's SSDI Benefit Level is Beginning Point for Reduction Based on Earnings.

The proposal specifies that the individual's SSDI benefit amount should be used as the unearned income level at which SSDI benefits are reduced based on earnings. The SSDI benefit level in 2003 ranged from less than $400 per month (10% of beneficiaries) to the median benefit amount of $708 to over $1,100 (for 17% of beneficiaries). The proposal is based on the premise that the SSDI program is a wage replacement program for the insured worker and his or her family and recognizes the insured worker's previous contributions to the Trust Fund. Thus, the proposal provides a higher level of disposable income to a beneficiary by rewarding a beneficiary who has worked and had a longer work history and had higher wage levels.

Disregard for Impairment-Related Work Expenses and Blind Work Expenses

Under the proposal, those beneficiaries who choose the gradual reduction choice option can apply for an individualized determination of impairment-related work expenses (IRWEs) or blind work expenses (BWEs) in determining earnings not to be counted in reducing SSDI benefits as is now provided under the SSI program. This policy is in addition to the initial earned income disregard. There would be one IRWE or BWE disregard allowed for concurrent SSI/SSDI beneficiaries.

Current SSI law (related to determining the amount of benefits) and SSDI policy (related to earnings counted toward SGA) provide for the disregard of IRWEs and BWEs. As explained above, a core policy change included in the proposal is to make SSDI more like SSI in terms of gradual rather than precipitous loss of benefits as earnings increase.

This proposal recognizes the heterogeneous nature of the population of beneficiaries as to their disability-related employment expenses or blind work expenses and the resulting need to allow for an individualized determination, notwithstanding the added administrative complexities and costs.

An alternative policy is to use a standard or average amount of disability-related work expenses or blind work expenses for all SSDI and SSI beneficiaries with earnings. This policy would reduce administrative burden and costs but at the expense of individualization. Another alternative is to use uniform categories of disability-related work expenses or blind work expenses based on whether an individual meets set criteria for such categories (e.g., transportation, personal assistance services and supports, assistive technology devices and services) and a set amount of earnings would be disregarded based on the individual meeting the criteria. This policy provides less individualization regarding such expenses than current SSI policy regarding IRWEs and BWEs. A third alternative would use the uniform categories but enable beneficiaries to rebut the uniform amount based on individualized determination of work expenses.

Student Earned Income Exclusion

Under our proposal, an SSDI beneficiary who chooses the SSDI gradual reduction choice option and who is under age 22 and regularly attending school will have earnings excluded from income at a higher rate than the initial earned income disregard as is now provided for SSI student beneficiaries with earnings. There would be only one exclusion for those who are concurrent beneficiaries. The application of the student earned income exclusion is especially important to some disabled adult children who are not eligible for SSI because of the level of benefits received based on their parents being retired, deceased, or disabled. Providing a higher earned income exclusion for disabled adult children in transition from secondary school to postsecondary education and employment is important because it encourages work and work experience.

Expand Asset Accumulation

The current SSI program provides for disregards of earnings and resources when an individual has an approved Plan for Achieving Self-Support (PASS). Our proposal would expand the purpose of a PASS to include not only employment goals but also asset accumulation (savings) for SSI beneficiaries related to housing and independent living. Such a proposal passed the House of Representatives in the early 1990s. It is consistent with the exclusion in the SSI program of the home owned by a SSI beneficiary—a provision originally intended primarily for the elderly to allow them to retain the home they had acquired from a lifetime of earnings. This proposal is also consistent with the emphasis states have placed in their Medicaid Buy-In programs to have higher asset levels as a means to foster independent living.

POLICY OBJECTIVE # 5: PROVIDE CONTINUED ATTACHMENT TO SSDI, SSI, and Medicaid

Introduction

The fifth policy objective is to simplify the work incentives and reduce risk and uncertainty by providing for continued attachment to the SSI and SSDI programs when earnings reduce benefits to zero as long as the impairment continues. Consistent with the policy of providing continued attachment to the SSDI and SSI programs, technical and conforming changes are made to extend the concept of continued attachment to the Medicaid program.

In order to understand the basis and rationale for this policy objective, it is important to understand the historical context of the concept of continued attachment in both the SSI and SSDI programs. Both the SSI and SSDI programs currently include work incentives based, in part, on the need to reduce the risk of working by providing for continued attachment to the programs. This continued attachment enables beneficiaries to return to cash benefit status if their work attempts fail or are diminished. The concept of continued attachment is a form of "ongoing support" that is recognized as an essential component of disability policy designed to enable persons with significant disabilities to achieve independent living and economic self-sufficiency. However, the specific policies relating to continued attachment under the SSI and SSDI programs differ in significant ways and in both programs include limitations that diminish their effectiveness.

Current work incentive provisions under the SSI program are designed to reduce risk and uncertainty and to make work pay. Specifically, the work incentive provisions in current SSI law include several key provisions related to continued attachment:

- SSI beneficiaries enjoy continued attachment to the SSI program under the provisions of Section 1619(b) even when earnings reduce benefits to zero.
- The Section 1619(b) attachment is not open-ended; it is subject to an earnings limit.
- The earnings limit is established by SSA based on state-eligibility policies and state Medicaid program costs (i.e., there is no uniform national standard for continued attachment to SSI).
- Continued attachment to SSI is a technical means to provide continued eligibility to Medicaid and also enables a person to return to SSI cash benefit status.
- If an individual loses eligibility for Medicaid because he or she exceeds the Section 1619 earnings limit, the individual has a time limited continued attachment to the SSI and Medicaid programs and can return to SSI payment status and Medicaid benefit status without a new application for 12 months.

The work incentive provisions under the SSDI program are designed to serve as a time-limited transition from inability to work, to initial efforts at self-supporting work, to minimal self-supporting employment (i.e., earnings above SGA). More specifically, the SSDI work incentives provide:

- When earnings are above SGA (after a Trial Work Period and Grace Period) resulting in a loss of cash benefits, provide for a continued attachment to the SSDI program (in nonpayment status).

- This attachment is time-limited (extended period of eligibility) but is not subject to an earnings limit.

- During the time-limited continued attachment, an individual can return to SSDI cash benefits when their earnings are less than SGA and their impairment continues.

- Medicare eligibility continues during and after the time of continued attachment to SSDI but is time-limited.

These time limits in current SSDI law are based on the assumption that a beneficiary's earnings indicate that there is a lessening over time of the impact of the impairment on the ability to work i.e., the individual is no longer disabled.

The gradual reduction choice option draws on the concepts described above related to continued attachment that reflect the current goals of national disability policy (e.g., choice, independent living, and economic self-sufficiency) and the characteristics of the population of SSDI beneficiaries (i.e., the severity of impairment necessary to qualify for benefits). The proposal then makes important modifications designed to enhance their effectiveness and utility.

Consistent with our discussion of Assumption #3, the gradual reduction choice option also recognizes that the ability to work, work effort, and level of earnings varies significantly from month to month and year to year for individual SSDI and SSI beneficiaries. According to GAO, of working SSDI beneficiaries with earnings above the SGA level in a given year, nearly half experience an eventual reduction in earnings in subsequent years. For example, of beneficiaries in 1985 who earned between 75 and 100% of the annualized SGA level, 47% had no earnings by 1989 while earnings of another 26% had fallen to between 1 and 74% of the annualized SGA level.[30]

According to SSA staff, nearly half of SSI beneficiaries receiving wages in one year stop working in the subsequent year. More specifically, 51% of blind or disabled adults had no wages in a year following a year of reported wages and 35% had maximum variation

[30] U.S. Government Accountability Office. *SSA Disability SGA Levels Appear to Affect the Work Behavior of Relatively Few Beneficiaries, But More Data Needed*, GAO-02-224 (January 2002) at pages 2, 15, 16.

of more than 50%. They also found that during a 15 year period only half of those employed in one year had earnings in each of the succeeding three years. [31]

This section of the paper includes three topics:

- Continued attachment to SSDI;
- Continued attachment to SSI and Medicaid; and
- Medicare for working SSDI beneficiaries with reduced benefits.

Continued Attachment to SSDI

Among the reasons cited by SSDI beneficiaries for not working or increasing earnings above SGA is the fear of losing their eligibility for cash benefits under the SSDI program, notwithstanding the Trial Work Period, Grace Period, extended period of eligibility, and the expedited reinstatement provision added by the TWWIIA. [See, for example, our discussion related to fear of losing eligibility under Assumption #5] This fear can be reduced to the simple refrain: "why should I risk losing my eligibility for cash benefits under the SSDI program if I work and have earnings above SGA after it took me two years to be found "disabled" and thereby eligible for SSDI cash benefits and, given the nature and severity of my disability, sometimes I can work and other times I am totally unable to work."

A premise of the gradual reduction choice proposal is that the SSDI program (consistent with the goals of disability policy) must encourage a level of work and earnings for SSDI beneficiaries resulting in no or minimal reliance on cash benefits by the beneficiary and significant savings to the Social Security Trust Fund. A related premise of our proposal is that the SSDI program must recognize that a key condition for SSDI beneficiaries to risk work commensurate with their potential and the nature of their disability, is having the security and confidence that if their work attempts fail or an exacerbation of their disability makes it impossible to work, that they will not lose their attachment to the SSDI program and therefore would be entitled to immediately return to cash benefits status (as in the case of the SSI Section 1619(b) provisions).

More specifically, those SSDI beneficiaries who choose the SSDI gradual reduction choice option would continue to be considered SSDI beneficiaries in a non-payment status when their earnings make them no longer eligible for cash benefits and their impairment continues. This policy differs from current SSDI law by eliminating the time limit (i.e., extended period of eligibility provision) on their ability to return to SSDI. Individuals will be able to return to SSDI cash payments if they have a reduction in their earnings, as is now the case for SSI beneficiaries that have earnings. The continued attachment policy is a simpler/less complex way of furthering the policy direction

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[31] Balkus, Richard; Wilschke, Susan. *Annual Wage Trends for Supplemental Security Income Recipients* in Social Security Bulletin, Volume 65, No. 2, 2003/2004 at pages 51-53.

Congress envisioned when it included the expedited reinstatement provision in TWWIIA.

Continued Attachment to SSI and Medicaid

Current work incentive provisions under the SSI and Medicaid programs are designed to reduce risk and uncertainty. However, current law limits those protections by limiting the amount an individual can earn. The SSI/Medicaid work incentives policy provides that an SSI beneficiary will continue eligibility for Medicaid and attachment to the SSI program if his/her earnings are not sufficient to provide a "reasonable equivalency" of benefits from SSI, state SSI supplements, and Medicaid he/she would have received if they were not working. The Section 1619(b) work incentives have been administered since its inception in 1981 with the use of the concept of "averaging" on a state-by-state basis of that "reasonable equivalent" amount. This is called the Section 1619(b) threshold. The Section 1619(b) threshold for a state is impacted by state policies regarding the level of state SSI supplementation and the value of Medicaid in a particular state for an SSI disabled adult. The regulations provide that an individualized threshold can be established for those with high Medicaid utilization.

Under the proposal, the Section 1619(b) threshold (as provided for in current law and regulations) would still be applicable to continued eligibility for Medicaid benefits and attachment to SSI. As described in a Policy Objective #6, the proposal would allow states to increase the income level for continued Medicaid under Section 1619(b). An additional change under the proposal is that SSI beneficiaries who exceed the Section 1619(b) threshold for Medicaid eligibility would also be able to continue their attachment to SSI (<u>nonpayment status</u>) and Medicaid (<u>non-benefit status</u>) without the current 12 month time limit. In other words, an individual will remain attached to the SSI and Medicaid programs, regardless of earnings as long as his/her impairment continues. We recognize that the earnings limitations in current law reflect the fact that SSI and the related Medicaid eligibility are means tested programs.[32]

We believe that the new policy providing for continued attachment (notwithstanding the level of earnings) is consistent with a means tested program because, although there is continued attachment, there is no payment of cash benefits nor is there receipt of Medicaid benefits. This recommendation is important because the security of being able to return to Medicaid eligibility without a new application is an essential component of a comprehensive work incentive policy.

[32] In addition it is important to note that Medicaid services can be made available at the option of the state under the Medicaid Buy-In program when an individual is no longer eligible for Medicaid under Section 1619(b) of the Social Security Act. However, transferring to the Medicaid Buy-In program has the disadvantage of the individual losing his or her attachment to the SSI program.

Medicare for Working SSDI Beneficiaries with Reduced Benefits

Under current law, SSDI beneficiaries are eligible for Medicare after a 24 month waiting period, beginning when they first receive cash benefits. Medicare continues for individuals who are working even though they have lost their eligibility for SSDI cash payments when their earnings exceed SGA and their impairments continue. The time-limited continuation of Medicare is for 7 ½ years after they lose their SSDI cash payments. After this period, the individual can buy into Medicare Parts A and B. The premiums normally charged for Medicare Part A are reduced from $375 a month (for 2005) to $206 a month (for 2005) if the individual has 30 or more quarters of coverage.

Consistent with current law, under any SSDI $1 for $2 gradual reduction proposal (including the gradual reduction choice option) a beneficiary would continue to be eligible for Medicare as long as he or she is in SSDI payment status i.e., he or she is working with reduced SSDI benefits. Similarly, to the extent the beneficiary has sufficiently high earnings resulting in being in nonpayment status, the current time limited eligibility for Medicare (including the 7 ½ year extended period) and subsequent option of the Medicare Buy-In would still be applicable. In other words, our gradual reduction choice option makes no change to current Medicare law as to Medicare for SSDI beneficiaries in payment status.

We believe that extending current Medicare coverage when an individual is still receiving SSDI benefits (albeit at a reduced level) and working should be considered an essential component to the work incentives provided under any $1 for $2 proposal, including the gradual reduction choice option. It is expected that at the higher earnings levels, a significant proportion of SSDI beneficiaries who continue on reduced SSDI payments under any $1 for $2 approach would have employer-based health insurance that would offset Federal costs of Medicare. Data from state Medicaid Buy-In surveys indicate that approximately 5-8% of participants have employer-based health insurance but that is understandable given that only 10-15% of participants have earnings in excess of SGA.[33]

It is important to note, however, that there are other possible interpretations of the intent of current law when there is continued Medicare without a required premium for SSDI beneficiaries with relatively high earnings and minimal SSDI benefits. Again, our interpretation of the intent of current law is that all SSDI beneficiaries in payment status

[33] Minnesota: *How MA-EPD Does the Job-Survey of Minnesotans Enrolled in the Medical Assistance for Employed Persons with Disabilities Program*. Minnesota Department of Human Services (August 2004), page 74, Question A27. The full report is at http://www.dhs.state.mn.us/main/group/disabilities/documents/pub/dhs_id_029455.pdf

Kansas: *Satisfaction Survey of Medicaid Buy-In Participants*, Reported in Policy Brief # Six, November 2004, University of Kansas Medicaid Infrastructure Change Evaluation Project, page 10. http://www.workinghealthy.org/WHpolicybrierno6.pdf

Vermont: Survey of Enrollees in the Medicaid for Working People with Disabilities Program, Prepared for the State of Vermont Department of Aging and Disabililties, October 2003. page 20. Full report available at http://www.dad.state.vt.us/dvr/vocrehab/vwii/s5_reports.htm#mbirpts.

should be treated alike, including those with reduced payments at higher earnings levels. On the other hand, if the intent of the policy is construed to be that persons earning above SGA should not receive regular Medicare but rather should be subject to the 7 ½ year extension and the Medicare Buy-In option provisions, then one could assert that there is a change in Medicare law resulting from the impact of any $1 for $2 benefit reduction of earnings policy. Consistent with this alternative interpretation of current Medicare law, a possible provision could include requiring the payment of a premium on a sliding scale based on earnings for those with earnings above SGA or beginning at a higher level similar to the authority under federal law for states' Medicaid Buy-In programs.

In addition to our proposal, it may be appropriate to consider as part of the $1 for $2 national demonstration projects the impact on work and improving health to enable work the elimination of the 24 month waiting period for Medicare. Further, as an alternative to the current Medicare 7 ½ year extension and the Medicare Buy-In option provisions in may be appropriate to consider the elimination of the time limit on continued Medicare.

POLICY OBJECTIVE #6: INCREASE WORK INCENTIVES UNDER THE MEDICAID PROGRAM FOR SSDI AND SSI BENEFICIARIES

Introduction

The sixth policy objective is to <u>increase the likelihood that work incentives under the cash assistance programs will be used by making conforming changes to the work incentives under Medicaid for SSI and SSDI beneficiaries.</u>

In order to understand the basis and rationale for this policy objective, it is important to understand the historical context of existing work incentives under SSI and Medicaid and under SSDI for disabled adult children. The Section 1619 SSI/Medicaid work incentives have been in effect since 1981. These work incentives currently impact nearly 90,000 beneficiaries each month by providing continued eligibility for SSI when earnings exceed SGA. They also provide continued Medicaid when SSI beneficiaries lose their benefits because of earnings. The provisions were initially temporary in nature until 1986 when legislation refined the provisions and made them permanent, effective July 1, 1987. In the same legislation was a provision requiring continued eligibility for Medicaid for SSI beneficiaries who lose their eligibility for SSI when they became newly eligible for SSDI benefits as a Disabled Adult Child (DAC) or lose SSI because of an increase in the amount of their benefits as a DAC. However, this legislation did not extend to them the protections of Section 1619(b).

Thus, since 1981 there has been continued emphasis by Congress on enabling SSI and SSDI beneficiaries to work and increase their earnings through the Section 1619 provisions and more recently through the provisions in TWWIIA providing states the option to establish Medicaid Buy-In programs. Thirty one states have chosen this option. The Section 1619 initiative and the Medicaid Buy-In state option, however, have not included changes to the rules regarding the accumulation of assets from earnings

by SSI beneficiaries above the SSI resources limit of $2000 (which has not been updated since the 1980s). Likewise, States have not had the option to set higher earnings limits for Medicaid eligibility for Section 1619 beneficiaries above the earning limit set by SSA under regulations which establish the Section 1619(b) threshold.

In order to increase the likelihood that work incentives under the cash assistance programs will be used, this section describes the policies and rationales included in our proposal related to:

- Providing states with an additional option to increase Section 1619(b) earnings limit;
- Providing states with an additional option to increase resource limits for working SSI beneficiaries; and
- Deeming Disabled Adult Children to be SSI beneficiaries for purposes of continued attachment to Medicaid under Section 1619(b).

State's Option to Increase Section 1619(b) Earnings Limit.

Under our proposal, the Section 1619(b) threshold no longer is a limitation to continued attachment to the SSI program. A Section 1619(b) threshold, however, will still be applicable for purposes of determining continued eligibility for Medicaid.

The purpose of Section 1619(b) is to enable SSI beneficiaries to have earnings up to a predetermined state threshold (but with the option for individualized thresholds for those with high medical costs) while at the same time remain eligible for Medicaid, remain attached to the SSI program, and return to benefit status if earnings decrease. As explained above, currently, the state Section 1619(b) thresholds are determined by SSA for each state under administrative regulations. This federal policy has not been updated since the advent of the Medicaid Buy-In authority. Since a goal of the proposal is to increase the similarities in the work incentives for the SSI and SSDI programs, it is also essential for the federal government to allow states to modify their Medicaid programs by increasing the Section 1619(b) threshold.

Thus, federal policy should allow States the option to increase Section 1619(b) earnings limit. Each state would have the option to establish an earnings limit (for continued Medicaid eligibility for SSI beneficiaries in nonpayment status) at a level higher than the minimum Section 1619(b) threshold established each year for each state by SSA under administrative regulations. Current policy, which enables an individual to have an individualized Section 1619(b) earnings limit based on higher medical costs, would continue.

The fact that 31 states have enacted Medicaid Buy-In programs and most have established assets limits and earnings limits higher than the SSI assets test or the Section 1619 (b) threshold indicates the willingness of some states to take the initiative to improve the work incentive provisions beyond that required in Federal Medicaid law. In addition to those states which have Medicaid Buy-In programs, those states which

have not established Medicaid Buy-In programs should also have the option to make incremental improvements in the work incentives provisions in their Medicaid programs related to assets and earnings limits.

State's Option to Increase Resource Limit for Working SSI Beneficiaries

Significant increases in earnings by SSI beneficiaries can be further encouraged by allowing for a greater accumulation of resources than is currently allowed under SSI and Medicaid (Section 1619(b)). At state option, most Medicaid Buy-In programs allow for an accumulation of resources, which is higher than the SSI standard. This policy is intended to enable and reward persons with significant disabilities to increase their level of independence and self-sufficiency. We believe that similar rewards should be authorized for working SSI beneficiaries.

Thus, federal policy should allow States the option to increase resources limit for working SSI beneficiaries. States would be authorized to establish a higher resources limit and additional resource exclusions (as work incentives) than under current law for SSI beneficiaries with earnings. Such funds from earnings would be in separate accounts as is now the case under the administration of PASS plans. Under this authority, State's may also provide for exclusions of retirement accounts and "independence" accounts. If a beneficiary's earnings decrease and he or she returns to SSI cash payment status, such accounts would be excluded in determining eligibility for cash payments and Medicaid. Such accounts would be disregarded for purposes of SSI eligibility.

Disabled Adult Children and Section 1619(b) Eligibility

Under current law, persons who become newly eligible or have increases in their DAC benefits under Title II are protected against loss of Medicaid eligibility if their new eligibility for benefits or increased amount of benefits makes them ineligible for SSI. However, for SSI beneficiaries who were utilizing Section 1619 their loss of SSI status makes them ineligible for the work incentives under the provisions of Section 1619(b). In most states with Medicaid Buy-In programs DACs can move to eligibility under the Buy-In program and increase their earnings without fear of loss of Medicaid. However, in states without a Medicaid Buy-In program, they do not have an option to retain Medicaid if they have earnings.

We are proposing that for purposes of continued eligibility for Medicaid under Section 1619(b) they would be "deemed" to be SSI beneficiaries. As discussed above, this is particularly important in states that do not have a Medicaid Buy-in program.

POLICY OBJECTIVE #7: Modify and Enhance Administrative and Outreach Infrastructures Related to Work Incentives

Policy objective #7 is to modify and enhance the administrative and outreach infrastructures related to work incentives.

The gradual reduction choice option proposal anticipates a significant increase in the number of beneficiaries who will have earnings that will affect the level of benefits to which they are entitled. Ensuring implementation of the gradual reduction choice option will therefore require a significant commitment of resources by SSA and other federal and state agencies. In addition, we recognize that implementation of the option will result in a degree of increased administrative responsibility placed on personnel within SSA. Effective implementation option should include modifications or enhancements to administrative and outreach infrastructures both internal and external to SSA.

Internal (SSA) Infrastructures

We recognize that the linchpin of our proposal is choice. A beneficiary must understand the consequences of his or her decision, including the nature and extent of the risk. To implement choice entails administrative infrastructures that empower beneficiaries to make informed choices—administrative infrastructures must result in a sufficient level of confidence and trust in the information provided to the individual beneficiary. The experience in implementing the State Medicaid Buy-In programs has shown that it is the front-line eligibility workers and direct service workers that are the primary source of information for beneficiaries in making the choice to work and utilize the Medicaid Buy-In program.[34] Utilizing this experience, the local SSA district and field office staff will need to play a key role in ensuring informed choice under the gradual reduction choice option.

In addition to understanding the consequences of his or her decision, informed choice also requires that the beneficiary have confidence that SSA will accurately and on a timely basis respond to and adjust benefits based on earnings information provided by the beneficiary to SSA. In other words, implementing choice also requires SSA to have the administrative capacity and procedures that accurately and on a timely basis process earnings information from beneficiaries to prevent overpayments and other confusion that can negate work incentive policies. Current efforts underway to address overpayments and other initiatives such as tracking individual information (e.g., TWP months used) can provide a basis for the establishment of the administrative capacity necessary to implement the gradual reduction choice option.

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[34] Minnesota: *How MA-EPD Does the Job-Survey of Minnesotans Enrolled in the Medical Assistance for Employed Persons with Disabilities Program*. Minnesota Department of Human Services (August 2004), page 82, Question A55. The full report is at http://www.dhs.state.mn.us/main/group/disabilities/documents/pub/dhs_id_029455.pdf

DDS Agency Infrastructure

In order to assure SSDI beneficiaries under the gradual reduction choice option that significant earnings will not jeopardize their continued eligibility for benefits (i.e., continued disability status), state Disability Determination Service (DDS) agencies must be modified with respect to their structure and basic mode of operations. This could include the establishment of separate units to determine continued disability status for beneficiaries participating in the gradual reduction choice option and Section 1619 and Medicaid Buy-In programs to allay fears for those beneficiaries who have significant earnings. This is particularly critical for beneficiaries (e.g., persons with mental illness) for whom level of functioning (compared to physical symptoms) is used as a factor for determining whether a beneficiary is still disabled for purposes of continued eligibility (CDRs look at functional issues, including work). The establishment of such separate units could be modeled on actual state experience (e.g., Wisconsin) in implementing their Medicaid Buy-In programs.

External Infrastructures

The role of state and local public and private agencies to ensure informed choice by beneficiaries and to provide assistance when needed regarding the reporting of work activities and earnings is also critical. For example, in states that have surveyed Medicaid Buy-In participants, it is reported that nearly two-thirds of participants obtained information about the potential for eligibility from social services case managers and Medicaid eligibility workers.[35] Thus, adequate implementation of the gradual reduction choice option must include extensive orientation and training of these direct services workers. The external infrastructures should also include enhancements of benefits planning assistance and outreach services to ensure informed choice and full utilization of the work incentives proposed under the gradual reduction choice approach.

[35] Minnesota: *How MA-EPD Does the Job-Survey of Minnesotans Enrolled in the Medical Assistance for Employed Persons with Disabilities Program*. Minnesota Department of Human Services (August 2004), page 82, Question A55. The full report is at http://www.dhs.state.mn.us/main/group/disabilities/documents/pub/dhs_id_029455.pdf.

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Appendix 1

State Medicaid Buy-In Programs
State Examples of History of Enrollments
December 1999 through June 30, 2005

X = Year Medicaid Buy-In Program Began in State
Data Source: States' Medicaid Infrastructure Grant Reports to CMS

	Enrolled Dec 1999	Enrolled June 2000	Enrolled June 2001	Enrolled June 2002	Enrolled June 30, 2003	Enrolled Dec 31, 2003	Enrolled June 30, 2004	Enrolled June 30, 2005
Connecticut		X			2,663	2,908	3,073	3,711
Indiana				X	4,560	5,186	5,674	5,580
Iowa		X	2105		5,496	6,231	6,941	8,610
Kansas				X	563	672	750	930
Minnesota	X 3674	5173	6473	6048	6,510	6,221	6,209	6,458
New Hampshire				X	1,122	1,237	1,339	1,308
New Jersey			X		665	951	1,186	1,771
Pennsylvania				X	1,761	2,466	3,263	5,693
Vermont		X 160			456	468	508	557
Wisconsin		X			4,655	5,684	6,511	8,602

APPENDIX 2 Examples of States with Percentages of SSI Beneficiaries with Earnings Data Source: SSI Work Incentive File and Revised Management Information Counts System (REMICS)				
State	**Total SSI Disabled 18 - 64**	**Percent and Number SSI 18 -64 Disabled with Earnings**	**Percent and Number of SSI Beneficiaries with earnings $400 - $800**	**Percent and Number of SSI Beneficiaries with earnings above $800**
Examples of States with 11% and more of SSI beneficiaries with earnings				
North Dakota	5,135	26.7% 1,373	4.7% 243	3.1% 161
Iowa	28,977	22.8% 6,614	4.4% 1,281	2.6% 747
Minnesota	44,793	21.7% 9,725	4.9% 2,180	2.6% 1,172
Kansas	25,130	16.1% 4,046	3.4% 849	2.5% 619
Wisconsin	58,128	17.6% 10,236	3.5% 2,048	2.4% 1,407
Vermont	8,831	13.6% 1,200	3.7% 330	3.0% 267
Utah	13,999	15.2% 2,140	3.2% 454	2.3% 325
Examples of States with more than 9% and less than 11% of SSI beneficiaries with earnings				
Massachusetts	104,301	9.2% 9,647	2.4% 2,484	2.4% 2,504
New York	334,873	9% 30,195	1.9% 6,292	1.8% 5,861
Maryland	53,781	10.6% 5,694	2.3% 1,211	2.1% 1,126
Oregon	38,446	10.1% 3,885	2.1% 814	1.6% 628

State	Total SSI Disabled 18 - 64	Percent and Number SSI 18 -64 Disabled with Earnings	Percent and Number of SSI Beneficiaries with earnings $400 - $800	Percent and Number of SSI Beneficiaries with earnings above $800
Examples of States with more than 7% and less than 9% of SSI beneficiaries with earnings				
Washington	72,661	7.9% 5,785	1.9% 1,369	2.3% 1,638
California	578,944	7.5% 43,666	1.6% 9,457	1.7% 9,674
Pennsylvania	199,599	7.6% 15,137	1.7% 3,402	1.6% 3,086
North Carolina	110,939	7% 7,772	1.3% 1,474	1.2% 1,344

Examples of States with less than 7% of SSI beneficiaries with earnings				
Michigan	146,604	6.6% 9,647	1.9% 2,851	1.6% 2,381
Florida	197,811	5.8% 11,470	1.4% 2,921	1.5% 2,929
Texas	238,539	5.7% 13,560	1.3% 3,108	1.1% 2,698
Tennessee	101,866	5.1% 5,229	.9% 935	1.% 1,081
Georgia	116,203	6% 7,036	.9% 935	1.1% 1,322
Kentucky	118,946	4% 4,708	.8% 939	.9% 1,002