

Diana Fortuna

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PM

Diss. Policy File

Record Type: Record

To: Laura Oliven Silberfarb/OMB/EOP
cc: Jeanne Lambrew/OPD/EOP, Nicolette Highsmith/OMB/EOP, Cynthia A. Rice/OPD/EOP
bcc:
Subject: Re: Offset Policy 

FYI

This doesn't offer too much in the way of precedents -- there seem to have been as many exceptions to this rule as applications of the rule.

Laura Oliven Silberfarb

*OMB's
Policy on
200 Hr.
Rule*



Laura Oliven Silberfarb
06/11/98 01:39:18 PM



Record Type: Record

To: Jeanne Lambrew/OPD/EOP
cc: Nicolette Highsmith/OMB/EOP, Diana Fortuna/OPD/EOP
Subject: Offset Policy

On November 30, 1993 OMB returned an HHS rule entitled "What is Not Income." OMB returned the rule because HHS failed to provide a savings proposal to offset the substantial cost of the rule. This return established OMB policy requiring offsets to rules that are proposed at Agency discretion.

We have few other examples since agencies so rarely promulgate regulation at their discretion (as opposed to implementing legislation). However, since the return of this rule, agencies were officially put on notice that they must provide offsets if they choose to promulgate rules that incur costs. I know that when SSA approached us with ideas for new program spending in the past, we told them they must first come up with a way to pay for it.

As you are aware, the 100 hour rule would cost \$800 million over five years. Although we are wholeheartedly in favor of the policy, it would set a disastrous precedent for us to simply "ignore" this spending. It is unclear to us why HHS is so resistant about providing an offset for a policy that they so adamantly support.

Thanks.

Disability Flk

HHS Return to Work Proposal

Goal:

To increase the number of States that provide access to health and long term care services insurance coverage through their Medicaid programs and related methods to employed individuals with significant disabilities who:

- have been on SSI or SSDI or would be eligible to receive such cash benefits, except for their earnings and assets;
- require such health coverage in order to be competitively employed at a living wage.

Medicaid

1. Amend the State option 250% Medicaid buy-in (BBA provision):

- eliminate the earned income limit of 250% fpl; *States can set upper eligibility limit?*
- amend the option to disregard unearned as well as earned income so SSDI individuals can be eligible for the Medicaid buy-in without having to forgo their cash; *Cost = Not limited to people returning to work*
- eliminate or significantly modify the current Medicaid asset test that is limited to the SSI level of \$2000.

2. Provide financial incentives to State to choose the buy-in option --

If a State chooses the buy-in option:

- Buy down the State share for Medicaid services to these individuals by providing a performance related grant.
 - For the first two years, the grant would be available to all States selecting the BBA provision with no conditions for planning and program development purposes.
 - Grants could range from \$200 to \$500 thousand a year.
 - Starting in year three, the grant would be contingent upon State performance assisting individuals transition to the workforce.

- State performance grants could be based on the number of individuals transitioning from SSI/SSDI rolls to work regardless of connection to the "Ticket"; the number of working age individuals, 18-35, able to avoid joining the SSI/SSDI rolls; the number of working age individuals removed from the rolls within a certain timeframe, etc.
- the cost of reducing the State share would be financed through SSI and SSDI savings or from other sources.

Medicare

Option 1

- No Medicare benefit. This option would rely completely on the Medicaid proposals discussed above.
 - This option would avoid issues on Medicare Trust Fund solvency. The disability community, however, would prefer Medicare over Medicaid all things being equal.

Option 2

- Provide Medicare coverage to all SSDI individuals for as long as they are working regardless if their State provides a Medicaid buy-in.
 - The cost of Medicare coverage would be financed through SSDI and SSI savings, as well as regular Medicare cost sharing.
- In States choosing to provide the Medicaid buy-in:
 - SSDI-only individuals would buy-in to Medicaid for additional long-term services (e.g., personal care and drugs);
 - SSDI/SSI dual eligibles would continue to have Medicaid as provided under current law.

Option 3

- Make the provision of Medicare coverage provided under Option 2 contingent upon the

State providing the Medicaid buy-in.

- ▶ **HCFA has concerns regarding the impact of this option on the uniformity of Medicare.**
- ▶ **Bunning/Kennally provides a 2 year extension of Medicare only if the individual leaves the SSA rolls through the Ticket - the Administration supports Bunning/Kennally.**

Disability file

PRESIDENT CLINTON AND VICE PRESIDENT GORE UNVEIL NEW INITIATIVE TO IMPROVE ECONOMIC OPPORTUNITIES FOR AMERICANS WITH DISABILITIES

January 13, 1999

Today, President Clinton is unveiling a historic new initiative that will remove significant barriers to work for people with disabilities. This three-part budget initiative, which invests over \$2 billion over five years, includes: (1) full funding of the Work Incentives Improvement Act which will be introduced by Senators Jeffords Kennedy, Roth and Moynihan next week; (2) a new \$1,000 tax credit to cover work-related costs for people with disabilities; and (3) expanded access to information and communications technologies. "The Clinton-Gore Administration has a long history of supporting the disability community. This policy initiative is one of the boldest since the landmark passage of the ADA," said Justin Dart.

These new proposals mean that the Administration has taken action on every single recommendation made in the President's Task Force on the Employment of Adults with Disabilities report that the Vice President accepted last month. In addition to today's proposals, the Vice President took action on two recommendations last month and Mrs. Gore is announcing the final one tomorrow at an event on mental health at Dartmouth College.

CRITICAL NEED TO REMOVE BARRIERS TO WORK

Since President Clinton and Vice President Gore took office, the American economy has added 17.7 million new jobs. Unemployment is at a 29-year low of 4.3 percent. However, the unemployment rate among working-age adults with disabilities is nearly 75 percent. About 1.6 million working-age adults have a disability that leads to functional limitations and 14 million working-age adults have less severe but still significant disabilities. People with disabilities can bring tremendous energy and talent to the American workforce, yet some outdated, institutional barriers and fewer opportunities often limit their ability to work.

Under current law, people with disabilities often become ineligible for Medicaid or Medicare if they work. This means that many people with disabilities are put in the untenable position of choosing between health care coverage and work. In addition, the extraordinary advances in technology and communications are often not accessible to or adapted for people with disabilities. Moreover, the wide range of public and private services that exist for people with disabilities are often difficult to access.

AN HISTORIC THREE-PART INITIATIVE TO IMPROVE ECONOMIC OPPORTUNITIES FOR AMERICANS WITH DISABILITIES

- **Funding the Work Incentives Improvement Act in the President's budget.** Health care -- particularly prescription drugs and personal assistance -- is essential for people with disabilities to work. Today, the President is announcing that his FY 2000 budget includes the full Work Incentives Improvement Act. This proposal, which costs \$1.2 billion over 5 years, would:

Improve access to health care by:

- Providing greater incentives and options for states to enable people to return to work to maintain eligibility for Medicaid. This provision: eliminates barriers to the buy-in for people with income above the current limits; allows people with conditions, such as rheumatoid arthritis, who are only able to work because of treatments that are covered to buy into Medicaid; and provides health care grants for states that take these important options;

work incentives improvement act 1999

- Extending Medicare coverage, for the first time, for people with disabilities who return to work. While Medicare does not provide as comprehensive a benefit as Medicaid, it assures that all people with disabilities who return to work have access to health care coverage, even if they live in a state that does not take the Medicaid option;
- Creating a new Medicaid buy-in demonstration to help people with a specific physical or mental impairment that, as defined by the state, is reasonably expected to lead to a severe disability without medical assistance. This could help people with muscular dystrophy, Parkinson's Disease, HIV or diabetes who may be able to function and continue to work with appropriate health care, but such health care is currently only available once their conditions have become severe enough to qualify them for SSI or SSDI and thus Medicaid or Medicare.
- Modernize employment-related services by creating a "ticket" that will increase options and access for SSI or SSDI beneficiaries to go to either a public or a private provider for employment-related services. If the beneficiary goes to work and achieves substantial earnings providers would be paid a portion of the benefits saved through either an outcome or "milestone" payment.
- Create a Work Incentive Grant program to provide benefits planning and assistance, facilitate access to information about work incentives, and foster coalitions to better integrate services to people with disabilities working or returning to work.
- **Providing an \$1,000 tax credit for work-related expenses for people with disabilities.** The daily costs of getting to and from work, and being effective at work, can be high if not prohibitive for people with disabilities. Under this proposal, workers with significant disabilities would receive an annual \$1,000 tax credit to help cover the formal and informal costs that are associated with and even prerequisites for employment, such as special transportation and technology needs. Like the Jeffords-Kennedy-Roth-Moynihan Work Incentive Act, this tax credit, which will help 200,000 to 300,000 Americans, helps assure that people with disabilities have the tools they need to return to work. It also has the advantage of helping people in all states irrespective of whether states take up optional coverage. It costs \$700 million over 5 years.
- **Improving access to assistive technology.** Technology is often not adapted for people with disabilities and even when it exists, people with disabilities may not know about it or may not be able to afford it. This new initiative would accelerate the development and adoption of information and communications technologies, which can improve the quality of life for people with disabilities and enhance their ability to participate in the workplace. This initiative: (1) helps make the Federal government a "model user" of assistive technology; (2) supports new and expanded state loan programs to make assistive technology more affordable for Americans with disabilities; and (3) invests in research and development and technology transfer in areas such as "text to speech" for people who are blind, automatic captioning for people who are deaf, and speech recognition and eye tracking for people who can't use a keyboard. It would cost \$35 million in FY 2000, more than doubling the government's current investment in deploying assistive technology.

These steps mean that the Administration has taken action on all of the Task Force Recommendations. In December, the Vice President accepted the recommendations of the President's Task Force on the Employment of Adults with Disabilities, took action on their recommendations, and pledged that the Administration would review others in the budget process. With the new steps being taken today and an announcement Mrs. Gore is making tomorrow, the Administration has taken action on all of the Task Force formal recommendations:

- Work to pass the Work Incentive Improvement Act -- included in Administration's budget.
- Work to pass a strong Patients' Bill of Rights -- high Administration priority.
- Examine tax options to assist with expenses of work -- in Administration's budget.
- Foster interdisciplinary consortia for employment services-- in Administration's budget.
- Accelerate development/adoption of assistive technology --in Administration's budget.
- Direct Small Business Administration to start outreach -- Vice President announced 12/98.
- Remove Federal hiring barriers for people w/ mental illness -- Mrs. Gore unveiling tomorrow.
- Directed OPM to develop model plan for Federal hiring of people w/ disabilities -- Vice President unveiled 12/98.

PRESIDENT CLINTON AND VICE PRESIDENT GORE UNVEIL NEW INITIATIVE TO IMPROVE ECONOMIC OPPORTUNITIES FOR AMERICANS WITH DISABILITIES

BACKGROUND: January 13, 1999

Today, President Clinton will unveil an historic new initiative that will remove significant barriers to work for people with disabilities. This three-part budget initiative, which invests over \$2 billion over five years, includes: (1) full funding of the Work Incentives Improvement Act which will be introduced by Senators Jeffords, Kennedy, Roth, and Moynihan next week; (2) a new \$1,000 tax credit to cover work-related costs for people with disabilities; and (3) expanded access to information and communications technologies. With these new proposals, the Administration will have taken action on every recommendation made in the report of the President's Task Force on the Employment of Adults with Disabilities, which the Vice President accepted last month. Justin Dart, one of the foremost leaders of the disability communities, stated in response to today's proposals: "The Clinton-Gore Administration has a long history of supporting the disability community. This policy initiative is one of the boldest since the landmark passage of the ADA."

BARRIERS TO WORK FOR PEOPLE WITH DISABILITIES

- **Millions of working-age adults have disabilities.** About 1.6 million working-age adults have a disability that leads to functional limitations (i.e., needs help with at least one activity of daily living). About 14 million working-age adults are disabled using a broader definition (e.g., uses a wheelchair, or walker; has a developmental disability).
- **The unemployment rate among people with disabilities is staggering.** Nearly 75 percent of people with disabilities are unemployed. Not only is it more difficult for people with disabilities to work; when they do work, their earnings are lower. According to one study, the average earnings for men with disabilities are 15 to 30 percent below those of men without disabilities. These disparities are greater for those needing help with daily activities.
- **Multiple barriers to work.** People with disabilities face a number of challenges, including:
 - **Lack of adequate health insurance.** In most places in the U.S., people with health problems can be charged high premiums by private insurance companies or denied coverage altogether. Those who are insured may not be covered for some of their needs, such as personal assistance. Medicaid covers these services, but eligibility is generally restricted to people who cannot work. Thus, there is little incentive to return to work.
 - **Higher costs of work.** People with disabilities not only face lower than average wages, but typically pay more to get to and from work and to function at work. Thus, for some, returning to work may decrease rather than increase their savings.
 - **Disconnected employment service system:** A variety of vocational rehabilitation, educational, training and health programs exist to facilitate work for people with disabilities, but they rarely work together in a coordinated way.
 - **Inaccessible or unavailable technology:** Technological advances facilitate work, improve productivity and reduce the costs of such technology. Yet, people with disabilities often lack information on what exists, how to use it, and how to afford it.

ADMINISTRATION COMMITMENT TO IMPROVING OPPORTUNITIES

The President has made expanding economic opportunities to all Americans -- particularly people with disabilities -- a priority. His accomplishments include:

- **Most diverse Administration in history** by appointing a large number of people with disabilities to senior positions. The Federal government now employs about 127,000 employees with some type of disability.
- **Strong efforts to end job discrimination.** In July 1998, the President directed key federal civil rights agencies (Department of Justice, Equal Employment Opportunity Commission and the Small Business Administration) to increase outreach and implementation efforts.
- **New Medicaid buy-in option for workers with disabilities.** The Balanced Budget Act of 1997 created an optional program whereby states could allow people with disabilities who were earning up to 250 percent of poverty to purchase Medicaid coverage.
- **Improving employment services.** On August 7, the President signed the Workforce Investment Act (WIA), including the Rehabilitation Act Amendments of 1998. It establishes better links between the vocational rehabilitation and the workforce development systems.
- **Expanding accessible transportation.** In September 1998, the Department of Transportation issued the final regulation implementing the Americans with Disabilities Act (ADA) provisions for over-the-road bus (OTRB) accessibility.
- **Reauthorizing and expanding the Assistive Technology Act.** In October, 1998, the President signed the "Tech Act" which provides assistive technology to low-income people with disabilities and encourages small businesses to design and market innovative ideas.
- **TASK FORCE ON EMPLOYMENT OF ADULTS WITH DISABILITIES.** One of the most important actions taken by President Clinton was the signing of the executive order establishing the Presidential Task Force on Employment of Adults with Disabilities on March 13, 1998. Led by Alexis Herman, Secretary of Labor, and Tony Coelho, this Task Force is charged with coordinating an aggressive national policy to bring adults with disabilities into gainful employment. It produced a set of interim recommendations in December, 1998, summarized below:

RECOMMENDATION

1. Work to pass the Work Incentive Improvement Act
2. Work to pass the Patients' Bill of Rights
3. Examine tax options to assist with expenses of work
4. Foster interdisciplinary consortia for employment services
5. Accelerate development/adoption of assistive technology
6. Direct Small Business Administration to start outreach
7. Remove Federal hiring barriers for people w/ mental illness
8. Develop a model plan for Federal hiring of people w/ disabilities

ACTION

President includes in budget
High Presidential priority
President includes in budget
President includes in budget
President includes in budget
Vice President announced 12/98
Mrs. Gore announced tomorrow
Vice President announced 12/98

WORK INCENTIVES IMPROVEMENT ACT

The Work Incentives Improvement Act is an historic bill produced through the bipartisan efforts of Senators Jeffords, Kennedy, Roth and Moynihan in collaboration with leaders in the disability community and staff throughout the Administration. It is the centerpiece of the President's initiative to provide economic opportunities to people with disabilities. Altogether, it would cost an estimated \$1.2 billion over 5 years. Its major components are described below.

HEALTH INSURANCE PROTECTIONS

Health care -- particularly prescription drugs and personal assistance -- is essential to enabling people with disabilities to work. This proposal would: (1) expand option and funding for the Medicaid buy-in for workers with disabilities; (2) extend Medicare coverage for people with disabilities who return to work; and (3) create a demonstration of a Medicaid buy-in for people with disabilities that have not yet gotten severe enough to end work and qualify them for disability, Medicaid or Medicare.

- **Expanding the State Medicaid Buy-In Option for Workers with Disabilities.** Two new optional eligibility categories would allow states to expand Medicaid coverage to workers with disabilities beyond the current option created in the Balanced Budget Act of 1997 (BBA). Additionally, a new grant program would be provide \$150 million in funds to states taking these option to help them start their programs and outreach to eligible workers.

The BBA option allows people with disabilities who would be eligible for Supplemental Security Income (SSI) but for earned income up to 250 percent of poverty to buy into Medicaid at a premium set by the state. This would be expanded through two new options:

Workers with higher earned income, unearned income, and assets. The first new option allows states to expand this Medicaid buy-in to people with disabilities with earned income above 250 percent of poverty with assets, resources and unearned income to limits set by the state. This is important since many workers with disabilities have either assets and resources that exceed the current limit of \$2,000 or are transitioning from Social Security Disability Insurance (SSDI) and have unearned income exceeding the limit of about \$500.

Workers whose conditions improve but still are disabled. The second new option would allow states that elect the first option (covering working people with disabilities with assets, resources and unearned income below limits set by the state) to also extend the Medicaid buy-in to people who continue to have a severe medically determinable impairment but lose eligibility for SSI or Social Security Disability Insurance (SSDI) because of medical improvement. Often, such improvements are possible only with health care.

To give an example of who might be helped by this option, a person with rheumatoid arthritis whose condition prevents work could receive disability and health coverage. If, at the medical review, laboratory tests were still positive but the therapy and a new drug allowed the person to work, benefits would essentially end. Although this temporary remission is mostly attributable to health care coverage, the improvement would disqualify the person from disability and thus health benefits under current law.

Grant assistance. States that take one or both of the new eligibility options for working individuals with disabilities would be eligible for a new grant program. This program would give states funds for infrastructures to support working individuals with disabilities as well as to build the capacity of states and communities to provide home and community-based services. Funds could also be used for outreach campaigns to connect people with disabilities with resources. A total of \$150 million would be available for the first 5 years, and annual amounts will be increased at the rate of inflation for 2004 through 2009. States meeting these criteria would receive a grant no less than \$500,000 and no more than equal to 15 percent of expenditures on medical assistance for individuals eligible under the new state options. Funds would be available until expended.

Both options would be treated like any other Medicaid eligibility option (e.g., same Federal matching rate, benefits rules). States could not supplant existing state spending with Medicaid funding under these options and would have to maintain effort for current spending for people made eligible under these options.

- **Continuation of Medicare Coverage for Working Individuals with Disabilities.** A ten-year trial program would allow people who are receiving Medicare because of their receipt of SSDI payments to continue to receive Medicare coverage when they return to work. Under current law, these individuals may receive Medicare coverage during the 39-month period following their trial work period, but have to pay the full Medicare Part A premium after that time. In many cases, people returning to work following SSDI either work part time and thus are not eligible for employer-based health insurance or work in jobs that do not offer insurance. This leaves them no alternative to the individual insurance market which can charge people with pre-existing conditions exorbitant premiums or deny them coverage altogether in many states. This option, which allows these workers to maintain their Medicare coverage so long as they remain disabled (as determined through continuing disability reviews), would remove a critical barrier to returning to work.
- **Demonstration of Coverage of Workers with Potentially Severe Disabilities.** A demonstration program would allow states to offer the Medicaid buy-in to workers that, as defined by the State, have a disability that without health care could become severe enough to qualify them for SSI or SSDI. Funding of \$300 million would be available for this demonstration, which sunsets at the end of FY 2004. States could participate in this demonstration if they have opted to expand coverage through at least one of the new Medicaid eligibility options for workers with disabilities. People covered in this demonstration would receive the same coverage as other workers with disabilities.

This demonstration is intended to help people whose condition has not yet deteriorated enough to prevent work but who need health care to prevent that deterioration. For example, a person with muscular dystrophy, Parkinson's Disease, or diabetes may be able to function and continue to work with appropriate health care, but such health care may only be available once their conditions have become severe enough to qualify them for SSI or SSDI and thus Medicaid or Medicare. This demonstration would provide new information on the cost effectiveness of early health care intervention in keeping people with disabilities from becoming too disabled to work.

TICKET TO WORK AND OTHER PROVISIONS

- **Ticket to Work.** Currently, SSDI and SSI disabled beneficiaries believed to benefit from employment-related services are mostly referred to state vocational rehabilitation (VR) programs administered by the Department of Education, which are then reimbursed based on cost. This provision would give more consumer choice in receiving employment services and increases provider incentives to serve SSI and SSDI beneficiaries. Components of the ticket proposal include:

Consumer Options for Employment Services. The ticket would enable an SSI and SSDI beneficiary to go to either a public or a participating private provider.

Provider Options for Reimbursement. Providers who accept the ticket would select their preferred reimbursement: (1) outcome payments system (e.g., 40 percent of benefits saved for five years once the recipient leaves the rolls), or (2) an outcome-milestone payment system (e.g., a flat payment when a specific employment related goal is achieved plus a portion of benefits saved once the recipient leaves the rolls).

Temporary Suspension of Continuing Disability Reviews. During the period when a beneficiary is "using a ticket" the individual would not be subject to continuing disability reviews -- medically scheduled or triggered by work activity.

- **Demonstrations.** This provision requires SSA to undertake a demonstration project that reduces SSDI benefits by \$1 for each \$2 earned above a certain level. Under current law, a DI beneficiary in the extended period of eligibility who earns more than the substantial gainful activity level, currently \$500 a month, does not receive a cash benefit. Another provision would extend SSA's SSDI demonstration authority which expired in June 1996.
- **Changes in Continuing Disability Reviews (CDRs).** SSA uses CDRs to determine if a beneficiary continues to meet the definition of disability over time. This provision would prohibit using work activity as the sole basis for scheduling a CDR for individuals during the first 24 months of DDSI eligibility. Additionally, this proposal would provide an expedited eligibility determination process for SSDI applicants who received benefits for at least 24 months & engaged in substantial gainful activity during their extended periods of eligibility.

WORK INCENTIVE GRANTS

The Work Incentive Grant proposal would combine the strong ideas in Title IV of the Work Incentive Improvement Act with those of the Task Force on the Employment of Adults with Disabilities to improve the existing infrastructure for providing information and services to individuals with disabilities. The new grant program would build upon the *Workforce Investment Act (WIA)*, signed into law by the President last year, by ensuring that people with disabilities have access to the full range of employment and re-employment services in the One-Stop delivery system established by the WIA.

- **New partnerships.** Competitive grants (totaling \$50 million a year) would be awarded to partnerships of organizations (public and private), including organizations of people with disabilities in every state. These partnerships will be responsible for working with the One-Stop system to augment that system's capacity to provide a wide range of high quality services to people with disabilities working or returning to work, including:
 - Providing benefits planning and assistance;
 - Facilitating access to information about services and work incentives available in the public, private, nonprofit sectors (e.g., availability of transportation services in the local area, eligibility for health benefits, and access to personal assistance services);
 - Better integrating and coordinating employment and support services on the Federal, state, and local levels of government.
- **Building on current efforts.** The new grant program would build upon the solid base formed by the state and local workforce investment boards mandated by the Workforce Investment Act. The WIA sets forth a new priority on ensuring that individuals with disabilities are provided access to employment and training information and services. The Federally-funded Vocational Rehabilitation agencies are required to participate in the One-Stop delivery system of employment and training services. Further, the local workforce investment boards are required to include representatives of community-based organizations, including those that represent persons with disabilities. DOL will encourage local boards to include business leaders with experience in employing such individuals.
- **Administration.** As the lead Federal agency for employment and training services for all Americans, DOL would administer these grants. DOL would consult with National Council on Disability, the President's Committee on the Employment of People with Disabilities, and the Task Force on the Employment of Adults with Disabilities, the Education Department, the Department of Health and Human Services, the Social Security Administration, the Department of Veterans Affairs, the Small Business Administration, the Department of Commerce, and others on the development of its solicitation for grant applications, on review of applications for quality and comprehensiveness, and on monitoring and evaluating the grants and the operations of the One-Stop system.

TAX CREDIT FOR WORKERS WITH DISABILITIES

Eligible workers with disabilities would receive a \$1,000 tax credit beginning in 2000. This would help about 200,000 to 300,000 people, at a cost of \$700 million for 2000-04.

- **Goal.** This new tax credit would help offset some of the formal and informal costs associated with employment for people with disabilities. As such, it would provide a greater incentive to begin working, and help those people with jobs maintain them. It would complement the Work Incentives Improvement Act and would be available to all people with disabilities, irrespective of their state Medicaid eligibility options. For participants in a Medicaid buy-in, it could pay for services not covered (e.g., special clothing, transportation). It also gives the person with disabilities flexibility in directing the credit toward the services that they need the most.
- **Amount of the credit.** The credit would be \$1,000. It would phase out for higher income tax payers (taxpayer with modified adjusted gross income exceeding \$110,000 for couples, \$75,000 for unmarried taxpayers, and \$55,000 if the taxpayer is married but filing a separate return; same phase-out as the child tax credit). This credit cannot exceed the total amount of tax liability except, however, that it may be refundable for taxpayers with 3 or more dependents.
- **Eligibility.** A taxpayer (or his or her spouse) would qualify for the proposed tax credit if he or she had earnings and was disabled. "Disabled" for this credit would be defined as being certified within the previous 12 months as being unable, for at least 12 months, to perform at least one activity of daily living (bathing, dressing, eating, toileting, transferring and continence management) without personal assistance from another individual, due to loss of functional capacity.
- **Interaction with other tax provisions.** Worker with severe disabilities who also qualify for the President's proposed long-term care credit may receive both credits since they are intended to help with different types of costs.

Individuals receiving this credit may also be eligible for the present-law deduction for impairment-related work expenses of persons with disabilities (this deduction is not subject to the 2 percent limit). However, many individuals with disabilities may not be able to itemize their deductions or incur significant work-related expenses outside the workplace (which do not qualify for the deduction).

- **Who benefits.** About 200,000 to 300,000 workers would receive this credit.
- **Cost:** \$700 million over 5 years.

EMPOWERING AMERICANS WITH DISABILITIES WITH ASSISTIVE TECHNOLOGY

This multifaceted initiative would improve the development, adoption and prevalence of technologies that help people with disabilities work. It would cost \$35 million in FY 2000, more than doubling the government's current investment in deploying assistive technology.

- **Goal:** This initiative would accelerate the development and adoption of information and communications technologies that can be easily used by Americans with disabilities. Information technology has the potential to significantly improve the quality of life for people with disabilities, enhance their ability to participate in the workplace, and make them full participants in the Information Society.
- **Elements of the initiative.** This initiative has five parts:
 - **Making the Federal government a model employer.** The government would expand its purchases of assistive technology and services to increase employment opportunities for people with disabilities in the federal government.
 - **Supporting state loan programs to make assistive technology more affordable.** The Department of Education's National Institute on Disabilities and Rehabilitation Research (NIDRR) would provide matching funds to states that create or expand loan programs to make assistive technology more affordable for people with disabilities.
 - **Investing in research and development and technology transfer to make technology more accessible.** NIDRR and the National Science Foundation would invest in research on technologies such as "text to speech" for people who are blind, automatic captioning for people who are deaf, or speech recognition and eye tracking for people who cannot use a keyboard.
 - **Developing an "Underwriters Laboratory" for accessible technologies.** The government would provide start-up funding to a private sector organization, analogous to the Underwriters' Laboratory, that would test information and communications technologies to see if they are accessible. This would help expand the market for accessible technologies.
 - **Encourage industry to make products more accessible.** Building on a successful partnership with the Internet industry (the Web Accessibility Initiative), the government would provide matching funds to industry consortia that work with disabilities community to make key technologies accessible, such as interactive television, small, hand-held computers, and cellular phones.
- **Cost:** \$35 million per year.

DISABILITY INITIATIVE QS AND AS

January 12, 1999

Q: Shouldn't this tax credit be refundable? Doesn't this mean that low-income people are not helped by this initiative?

A: No. First, let's set the facts straight. The vast majority of low-income people with disabilities are already covered by Medicare and Medicaid. This initiative expands these health insurance options and provides states incentives to take them. Thus, most of the funding in this initiative is targeted towards those low-income people in the process of returning to work.

The tax credit helps offset the higher costs of work (e.g., personal assistants, special transportation) for people with disabilities who pay taxes, irrespective of their income or state of residence. It also, unlike Medicaid and Medicare, allows the worker to use the funds for whatever expenses they incur. This could be assistance with dressing in the morning; costs of special transportation; or payments for assistive devices that improve the worker's productivity.

Q: What will the tax credit pay for that Medicaid and Medicare won't cover?

A: Workers with significant disabilities would receive a \$1,000 a tax credit in recognition of the formal and informal costs associated with employment. People are considered disabled if they need personal assistance with one or more activities of daily living. The tax credit can be used for anything the recipient wishes to use it for.

What does Medicare cover?

Medicare pays for skilled nursing care for individuals who are homebound. It does not pay for any type of personal assistance. The majority of the expenses individual with disabilities who are insured by Medicare are likely to incur are associated with personal assistance and home health care services. The tax credit can be applied to these expenses.

What does Medicaid cover?

All Medicaid programs provide home health services for people who are eligible for nursing facility services. However, Medicaid has an optional home and community-based services waiver program that allows States to provide case management, homemaker services, home health aid services, personal care services, adult day health, habilitation and respite care, so personal assistance and home health benefits actually differ significantly by State.

Some Medicaid programs have copayments for their home health and community based services programs. In some States, copayments can be more than \$1000 per month. The tax credit can be applied to these expenses.

Q. Why are we only doing tax initiatives? Are you rejecting traditional Medicare and Medicaid program expansions? Aren't you catering to Republicans?

A: Each policy in the President's budget was designed to be the most cost-effective approach to solving a particular problem. This tax credit for workers with disabilities is no exception. Workers with disabilities have very different costs -- for rural residents, it may be transportation; for people limited use of their hands, it may be assistive devices. A tax credit offers the flexibility to assist with a wide-ranging and changing set of needs that Medicaid cannot.

Similarly, the informal, unmeasurable costs of family caregiving are best addressed through a tax credit, as proposed in our long-term care initiative. If Medicaid or Medicare expanded to cover respite care, for example, not only would this undermine rather than strengthen informal family caregiving -- it would cost billions more.

In no way does the President's support for these tax credits undermine his commitment to Medicare and Medicaid. This President has an unparalleled record of protecting, strengthening and expanding these programs. For example, the President's aggressive actions to reduce Medicare fraud contributed to record-low spending growth in 1998 -- the same year that he added new preventive benefits, health plan choices, and low-income protections to Medicare.

Q. How many people will benefit from this proposal?

A. There are no exact counts of people who would benefit from these proposals combined. We do know that 200,000 to 300,000 people would likely benefit from the tax credit, and possibly millions from the new options, services and programs in the Work Incentive Improvement Act and the assistive technology initiative.

Q. What are this initiative's prospects of passing?

A. Removing barriers to work for people with disabilities goes beyond partisan politics. We can all agree that something must be done so that people with disabilities can fully participate in today's strong economy. The President has thanked Senators Jeffords, Kennedy, Roth and Moynihan for their leadership. We hope that early passage of this bill can show the American public that this Congress and President can work together to address real problems that are affecting people's lives today.

THE CLINTON ADMINISTRATION'S BOLD NEW INITIATIVE TO IMPROVE ECONOMIC OPPORTUNITIES FOR AMERICANS WITH DISABILITIES

February 18, 1999

The President has proposed an historic new initiative that will remove significant barriers to work for people with disabilities. This four-part initiative, which invests over \$3 billion over five years, includes: (1) full funding of the Work Incentives Improvement Act which was recently introduced by Senators Jeffords, Kennedy, Roth and Moynihan; (2) a new \$1,000 tax credit to help with work-related costs for people with disabilities; (3) doubling the funding for assistive technologies; and (4) increasing the amount that people can earn while on disability in order to ease the transition to work. People with disabilities will also benefit from the President's \$6 billion long-term care initiative that complements the health insurance and work incentive proposals. Together, this is the most important effort to improve opportunities for people with disabilities since the Americans with Disabilities Act was passed.

CRITICAL NEED TO REMOVE BARRIERS TO WORK

Since President Clinton and Vice President Gore took office, the American economy has added 17.8 million new jobs. Unemployment is at a 41-year low of 4.3 percent. However, the unemployment rate among working-age adults with disabilities is nearly 75 percent. About 1.6 million working-age adults have a disability that leads to functional limitations and 14 million working-age adults have less severe but still significant disabilities. People with disabilities can bring tremendous energy and talent to the American workforce, yet some outdated, institutional barriers and fewer opportunities often limit their ability to work.

Under current law, people with disabilities often become ineligible for Medicaid, Medicare, or disability insurance if they work. This means that many people with disabilities are put in the untenable position of choosing between health care coverage and work. In addition, the extraordinary advances in technology and communications are often not accessible to or adapted for people with disabilities. Moreover, working itself is usually more expensive for people with disabilities who need personal assistance getting to and from work; special transportation, or technology that is not paid for by their employers.

INITIATIVE TO IMPROVE ECONOMIC OPPORTUNITIES FOR AMERICANS WITH DISABILITIES

- **Funding the Work Incentives Improvement Act in the President's budget.** Health care -- particularly prescription drugs and personal assistance -- is essential for people with disabilities to work. The President included in his FY 2000 budget the Work Incentives Improvement Act. This proposal, which costs \$1.2 billion over 5 years, would:
 - Improve access to health care by:
 - Providing greater incentives and options for states to enable people to return to work to maintain eligibility for Medicaid. This provision: eliminates barriers to the buy-in for people with income above the current limits; allows people who are only able to work because of treatments that are covered to buy into Medicaid; and provides health care grants for states that take these important options;
 - Extending Medicare coverage, for the first time, for people with disabilities who

return to work. While Medicare does not provide as comprehensive a benefit as Medicaid, it assures that all people with disabilities who return to work have access to health care coverage, even if they live in a state that does not take the Medicaid option;

- Creating a new Medicaid buy-in demonstration to help people with a specific physical or mental impairment that, as defined by the state, is reasonably expected to lead to a severe disability without medical assistance. This could help people with muscular dystrophy, Parkinson's Disease, HIV or diabetes who may be able to function and continue to work with appropriate health care, but such health care is currently only available once their conditions have become severe enough to qualify them for SSI or SSDI and thus Medicaid or Medicare.
- Modernize employment-related services by creating a "ticket" that will increase options and access for SSI or SSDI beneficiaries to go to either a public or a private provider for employment-related services. If the beneficiary goes to work and achieves substantial earnings providers would be paid a portion of the benefits saved through either an outcome or "milestone" payment.
- Create a Work Incentive Grant program to provide benefits planning and assistance, facilitate access to information about work incentives, and foster coalitions to better integrate services to people with disabilities working or returning to work.
- **Providing an \$1,000 tax credit for work-related expenses for people with disabilities.** The daily costs of getting to and from work, and being effective at work, can be high if not prohibitive for people with disabilities. Under this proposal, workers with significant disabilities would receive an annual \$1,000 tax credit to help cover the formal and informal costs that are associated with and even prerequisites for employment, such as special transportation and technology needs. Like the Jeffords-Kennedy-Roth-Moynihan Work Incentive Improvement Act, this tax credit, which will help 200,000 to 300,000 Americans, helps assure that people with disabilities have the tools they need to return to work. It also has the advantage of helping people in all states irrespective of whether states take up optional coverage. It costs \$700 million over 5 years.
- **Improving access to assistive technology.** Technology is often not adapted for people with disabilities and even when it exists, people with disabilities may not know about it or may not be able to afford it. This new initiative would accelerate the development and adoption of information and communications technologies, which can improve the quality of life for people with disabilities and enhance their ability to participate in the workplace. This initiative: (1) helps make the Federal government a "model user" of assistive technology; (2) supports new and expanded state loan programs to make assistive technology more affordable for Americans with disabilities; and (3) invests in research and development and technology transfer in areas such as "text to speech" for people who are blind, automatic captioning for people who are deaf, and speech recognition and eye tracking for people who can't use a keyboard. It would cost \$35 million in FY 2000, more than doubling the government's current investment in deploying assistive technology.
- **Increasing the amount that people can earn while on disability to ease the transition to**

work. A new proposed regulation increases the substantial gainful activity (SGA) level from \$500 to 700 per month. Under current rules, people lose eligibility for Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI) benefits if they can engage in any substantial gainful activity (SGA) that exceeds \$500 per month. Many hesitate to work because they cannot afford to give up critical benefits. Increasing the SGA level would enable the 400,000 beneficiaries who now work to work more, easing their transition to work. This initiative costs \$1.2 billion over five years.

TASK FORCE ON EMPLOYMENT OF ADULTS WITH DISABILITIES. Last March, President Clinton signed the executive order establishing the Presidential Task Force on Employment of Adults with Disabilities. Led by Alexis Herman, Secretary of Labor, and Tony Coelho, this Task Force is charged with coordinating an aggressive national policy to bring adults with disabilities into gainful employment. It produced a set of interim recommendations in December, 1998, summarized below along with the Administration's actions to address them:

RECOMMENDATION

ACTION

- | | |
|--|--------------------------------|
| 1. Work to pass the Work Incentive Improvement Act | President includes in budget |
| 2. Work to pass the Patients' Bill of Rights | High Presidential priority |
| 3. Examine tax options to assist with expenses of work | President includes in budget |
| 4. Foster interdisciplinary consortia for employment services | President includes in budget |
| 5. Accelerate development/adoption of assistive technology | President includes in budget |
| 6. Direct Small Business Administration to start outreach | Vice President announced 12/98 |
| 7. Remove Federal hiring barriers for people w/ mental illness | Mrs. Gore announced 1/99 |
| 8. Develop a model plan for Federal hiring of people w/ disabilities | Vice President announced 12/98 |

EMPOWERING AMERICANS WITH DISABILITIES WITH ASSISTIVE TECHNOLOGY

This multifaceted initiative would improve the development, adoption and prevalence of technologies that help people with disabilities work. It would cost \$35 million in FY 2000, more than doubling the government's current investment in deploying assistive technology.

- **Goal:** This initiative would accelerate the development and adoption of information and communications technologies that can be easily used by Americans with disabilities. Information technology has the potential to significantly improve the quality of life for people with disabilities, enhance their ability to participate in the workplace, and make them full participants in the Information Society.
- **Elements of the initiative.** This initiative has five parts:
 - **Making the Federal government a model employer.** The government would expand its purchases of assistive technology and services to increase employment opportunities for people with disabilities in the federal government. \$10 m
 - **Supporting state loan programs to make assistive technology more affordable.** The Department of Education's National Institute on Disabilities and Rehabilitation Research (NIDRR) would provide matching funds to states that create or expand loan programs to make assistive technology more affordable for people with disabilities. \$15 m
 - **Investing in research and development and technology transfer to make technology more accessible.** NIDRR and the National Science Foundation would invest in research on technologies such as "text to speech" for people who are blind, automatic captioning for people who are deaf, or speech recognition and eye tracking for people who cannot use a keyboard. \$6 m
 - **Developing an "Underwriters Laboratory" for accessible technologies.** The government would provide start-up funding to a private sector organization, analogous to the Underwriters' Laboratory, that would test information and communications technologies to see if they are accessible. This would help expand the market for accessible technologies. \$2 m
 - **Encourage industry to make products more accessible,** Building on a successful partnership with the Internet industry (the Web Accessibility Initiative), the government would provide matching funds to industry consortia that work with disabilities community to make key technologies accessible, such as interactive television, small, hand-held computers, and cellular phones. \$2 m
- **Cost:** \$35 million per year.

ONE-PAGE OVERVIEW: TAX CREDIT FOR WORKERS WITH DISABILITIES

Summary:

- **Credit:** \$1,000 for taxpayer (or his or her spouse) with earnings and certified disability
- **Disability:** Within the previous 12 months as being unable, for at least 12 months, to perform at least one activity of daily living (bathing, dressing, eating, toileting, transferring and continence management) without personal assistance from another individual, due to loss of functional capacity.
- **Who benefits.** About 200,000 to 300,000 workers would receive this credit.
- **Cost:** \$700 million over 5 years.

History:

- **Health Security Act:** Contained a non-refundable credit for personal assistance for workers with disabilities 50 percent of expenses up to \$5,000.
- **Original Bunning-Kennelly Bill in 1998:** Contained a non-refundable credit for impairment-related work expenses. Amount is 50 percent of expenses up to \$5,000.

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asst.*

Disability community does not like either credit because expenses have to be at the workplace -- not getting to and from work, which is where most of the expenses are.

However, Treasury does not think that it could administer a credit, however, that is not linked to the work place. This is why we chose a flat credit.

Issue:

Q. Why not refundable?

- A. Most of the funding in this initiative -- and the vast majority of all public spending on people with disabilities -- is targeted to the poor and near poor through Medicaid or non-workers through Medicare. This tax credit, for the first time, assists those tax payers whose earnings lift them out of Medicaid and Medicare eligibility ranges. It also could help people with disabilities afford the Medicaid buy-in.

ONE-PAGE OVERVIEW: WORK INCENTIVES IMPROVEMENT ACT

Major components:

- Allows a broader group of people with disabilities to buy into Medicaid; creates a financial incentive (through grants) to take the Medicaid options; and extends Medicare coverage for people who had SSDI who return to work.
- Provides for a so-called "ticket" to allow for public or private vocational rehabilitation.
- Creates a new Work Incentive Grants program (mostly from Tony Coelho's Task Force, not Jeffords-Kennedy) that funds service coalitions to work with One-Stops to help people with disabilities find jobs.

History:

- The ticket piece was introduced in the House by Bunning and Kennelly and passed by ~~405~~⁴¹⁰ to ~~5~~¹ in May, 1998.
- The bill was prevented from going to the Finance Committee because Senator Kennedy used a procedural rule to hold it up. He did this because he wanted to add the health component which was missing in the House bill.
- The original Jeffords-Kennedy bill contained a number of flaws and cost \$5 billion over 5. Administration staff worked with Congressional staff all spring, summer and into the fall to improve the bill. CBO estimated its cost at \$1.2 billion in early October.
- At the commemoration of the ADA on July 28, 1998, the President announced his hope to work with Senators Jeffords and Kennedy to pass this legislation.
- In October 1998, this bill was on our list of bills that we would include and pass in the Omnibus Budget Bill. However, the Republicans objected to it, citing concerns over the offsets.

Status:

- It appears that Senators Jeffords, Kennedy, Roth and Moynihan have come to an agreement to introduce the bill next week. Other Republican Senators interested in the bill include: Grassley, DeWine, Stevens.
- It is less clear about who will be original sponsor in the House. Republicans expressing interest have been Nancy Johnson of Ways & Means and Brian Bilbray of Commerce; probably Start of Ways & Means and Waxman on Commerce.

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**PRESIDENT CLINTON AND VICE PRESIDENT GORE:
Increasing Opportunities for Americans With Disabilities**

"Increased access to health care, more assistance at home and in the workplace, remarkable new technologies made more available: This is how we can make sure that all Americans can take their rightful place in our 21st century workplaces."

President Clinton
January 13, 1999

President Clinton and Vice President Gore are committed to expanding opportunities for Americans with disabilities and demonstrating to all Americans that people with disabilities -- given access to the workplace, health care, community services, and technology -- make significant contributions to our society and economy.

EXPANDING EMPLOYMENT OPPORTUNITIES

Fighting to Enact the Work Incentives Improvement Act (WIIA) -- The Work Incentives Improvement Act is an historic bill produced through the bipartisan efforts of Senators Jeffords, Kennedy, Roth and Moynihan in collaboration with leaders in the disability community and staff throughout the Administration. On January 13, 1999, the President previewed one of his FY2000 budget initiatives, committing to the full funding of the WIIA. The Administration's budget initiative, which invests \$1.2 billion over five years, will help provide better health care options for people with disabilities who work.

The Work Incentives Improvement Act will improve access to health care by: (1) expanding states' ability to provide a Medicaid buy-in to people with disabilities who return to work; (2) extending Medicare coverage, for the first time, for people with disabilities who return to work; and (3) creating a new Medicaid buy-in demonstration to help people with a specific physical or mental impairment that is not severe enough to qualify for health assistance, but is likely to lead to a severe disability in the absence of medical treatment. In addition, WIIA will modernize the employment services system by creating a "ticket" that will enable Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) beneficiaries to go to any of a number of public or private providers for vocational rehabilitation. If the beneficiary goes to work and achieves substantial earnings, providers would be paid a portion of the benefits saved. And WIIA creates a Work Incentive Grant program to provide benefits planning and assistance, facilitating access to information about work incentives, and better integrate services to people with disabilities working or returning to work.

Providing a \$1,000 Tax Credit for Work-Related Expenses for People with Disabilities --
On January 13, 1999, the President announced a new proposal that will allow workers with significant disabilities to receive an annual \$1,000 tax credit to help cover the formal and informal costs that are associated with employment, such as special transportation and technology. Like the Jeffords-Kennedy-Roth-Moynihan Work Incentive Act, this tax credit, which will assist 200,000 to 300,000 Americans, will help ensure that people with disabilities have the tools they need to return to work.

Establishing the Task Force on Employment of Adults with Disabilities -- On March 13, 1998, President Clinton signed an Executive Order establishing a National Task Force on Employment of Adults with Disabilities, charged with creating a coordinated and aggressive national policy to bring adults with disabilities into gainful employment at a rate that is as close as possible to that of the general adult population. According to a 1998 Bureau of Labor Statistics report, only 30 percent of persons with severe disabilities were in the labor force in the third quarter of 1994 (latest data available).

Taking Action on All of the Task Force's Formal Recommendations -- In December, the Vice President accepted the report of the President's Task Force on the Employment of Adults with Disabilities. Alexis M. Herman, Secretary of Labor, chairs the Task Force and Tony Coelho, Chairman of the President's Committee on Employment of People with Disabilities, serve as Vice-Chair. The Administration has taken action on all the Task Force formal recommendations: work to pass the Work Incentive Improvement Act; work to pass a strong Patients' Bill of Rights; examine tax options to assist with expenses of work; foster interdisciplinary consortia for employment services; accelerate development and adoption of assistive technology; direct Small Business Administration to expand outreach; remove Federal hiring barriers for people with mental illness and direct the Office of Personnel Management to develop model plan for Federal hiring of people with disabilities.

Signing the Workforce Investment Act of 1998, Improving Worker Training and Placement Options for People with Disabilities -- Last year, the President signed the Workforce Investment Act (WIA), which included the Rehabilitation Act Amendments of 1998. The new Act establishes better links between the vocational rehabilitation (VR) system and the general workforce development system. Job seekers with disabilities will have improved options for service through the mainstream worker training and placement system, as well as through the disability-specific VR system. The U.S. Department of Labor, with assistance from the Department of Education, has been providing valuable technical assistance to the network of one-stop career centers on how to provide nondiscriminatory and accessible services to people with disabilities. In addition, the Rehabilitation Act has also been strengthened to give increased options to individuals with disabilities in developing employment plans.

Working on Innovative Strategies to Improve Employment of Adults with Disabilities -- Agencies within the Clinton Administration continue to work on innovative strategies to employ Americans with disabilities. The Social Security Administration, the Department of Health and Human Services, the Department of Labor and the Department of Education are all participating in inter-agency demonstration projects to expand employment opportunities for persons with disabilities. For instance, the Department of Education has awarded six systems-change grants to establish models of improved cooperation and coordination between State Vocational Rehabilitation programs, public employment/employment training programs, and other related programs. The grants will assist in reducing barriers to employment and increasing the capacity of the State's overall employment system to serve individuals with disabilities. The focus of these systems change projects is increasing the employment rate of individuals with disabilities who are currently receiving support through public programs.

Supporting Families -- President Clinton fought for and enacted the Family and Medical Leave Act (FMLA) making workplaces more accommodating for many families that include a

initiative proposed by the Administration.

Increasing Outreach -- In July 1998, the President directed key Federal civil rights agencies to increase their outreach efforts to individuals with disabilities, including those in diverse cultural communities, including immigrants, racial and ethnic minorities and rural residents.

SAVING SOCIAL SECURITY NOW

Saving Social Security First -- President Clinton is committed to saving Social Security for the 21st Century. The President will fight to save every penny of any future surplus until a bipartisan plan to save Social Security is enacted to preserve the program for all eligible individuals, including the one-third of beneficiaries who are covered by the disability and survivors insurance programs.

Protecting Supplemental Security Income Benefits -- In 1995, the President vetoed a budget bill that would have significantly cut cash assistance to most families with disabled children on Supplemental Security Income -- families who are struggling to care for a child at home and face extra costs for home modifications, equipment and income lost because a parent is unable to work full-time. In addition, the 1997 Balanced Budget Act ensured that 30,000 disabled children losing SSI because of the new tighter eligibility criteria kept their Medicaid coverage.

HELPING TO ENSURE THAT PEOPLE WITH DISABILITIES HAVE ACCESS TO QUALITY HEALTH CARE

Fighting to Pass a Strong, Enforceable Patients' Bill of Rights -- President Clinton has called on the Congress to pass a strong, enforceable patients' bill of rights that assures Americans the quality health care they need. The bill should include important patient protections such as: assuring direct access to specialists; real emergency room protections; continuity of care provisions that protect patients from abrupt changes in treatment; a fair, timely, and independent appeals process for patient grievances; and enforcement provisions to make these rights real.

Proposing New Initiatives to Improve Prevention and Treatment and Fairness for People with Mental Illnesses -- The President and Vice President advocated for and enacted the Mental Health Parity Act of 1996, which took steps to end discrimination based on mental illnesses. On January 14, 1999, Mrs. Gore unveiled three new major initiatives, including: an unprecedented \$70 million increase in the mental health services block grant, a 24 percent increase, totaling \$358 million for FY2000, which will enable states to target particularly-hard-to-reach adults and children with severe mental illnesses; the announcement of a White House Conference on Mental Health to be held this spring; and a Presidential request to the Office of Personnel Management (OPM) to explore measures to eliminate the stricter standards currently applied to federal hiring practices for adults with psychiatric disabilities.

Increasing Home and Community-Based Programs -- On July 29, 1998, the anniversary of the ADA, President Clinton announced that the Health Care Financing Administration was directing State Medicaid Directors to provide services to people with disabilities in the most

integrated setting appropriate to their needs and in conjunction with the Americans with Disabilities Act. State Medicaid Directors are being urged to conduct self-evaluations to ensure that their practices and procedures encourage rather than inhibit integration into communities. The Clinton Administration's flexibility in granting state waivers has spurred an increase in home and community-based services; since he took office, the President has approved over 300 such waivers. As a result, the number of people with developmental disabilities served in home and community waiver programs has increased significantly.

Increasing Access to Health Care and Supporting Employment for Disabled Americans

-- The Balanced Budget Act of 1997 created an optional program whereby States could allow people with disabilities who were earning up to 250 percent of poverty to purchase Medicaid coverage. Oregon is the first state to take advantage of this policy, and they have created a program that will let individuals go to work and get or keep Medicaid. Secretary of Health and Human Services Donna Shalala has asked every governor to seriously consider this program.

Passing Meaningful Health Insurance Reform -- President Clinton signed the Health Insurance Portability and Accountability Act of 1996 which limits exclusions for pre-existing conditions, makes coverage portable and helps individuals who lose jobs maintain coverage.

Protecting the Medicaid Guarantee for People with Disabilities -- The Clinton Administration refuses to go backwards on health care coverage for Americans with disabilities -- rejecting proposals to end the Medicaid guarantee to meaningful health benefits for people with disabilities. The President vetoed the Republican's proposal in the 104th Congress to block grant the Medicaid program, preserving Medicaid coverage for six million persons with disabilities. Medicaid is often the only form of health care available to people with disabilities and allows many children and adults to receive services at home rather than in institutions. Thanks to President Clinton, the 1997 Balanced Budget Act preserved the Federal guarantee of Medicaid coverage for populations who depend on it.

INCREASING ACCESSIBILITY

Increasing Public Transportation Accessibility -- The Department of Transportation and the Access Board have issued final regulations implementing the Americans with Disabilities Act (ADA) provisions for over-the-road bus (OTRB) accessibility and provides a definition of what constitutes discriminatory action. The regulation requires large fixed-route operators to achieve 50% of full fleet accessibility by October 2006 and 100% by October 2012. The Department has strengthened the regulations by including provisions making OTRB operators individually and collectively accountable for providing accessible service. Additionally, in 1998, President Clinton signed the Transportation Equity Act for the 21st Century (TEA-21), legislation that provides significantly increased resources to make our Nation's surface transportation systems accessible. The Act included increased funding for the Elderly Individuals and Individuals with Disabilities grant program.

Expanding Accessibility to the Parks and Wilderness -- In October 1997, a memorandum of understanding was signed by the Federal wilderness management agencies and a nonprofit

**VICE PRESIDENT GORE UNVEILS NEW REGULATION
AS PART OF BROAD-BASED INITIATIVE TO ENABLE MORE AMERICANS WITH
DISABILITIES RETURN TO WORK**

February 12, 1999

Today, Vice President Gore is unveiling a new regulation that will take new steps to remove some important barriers to work for people with disabilities. This regulation will increase the amount of income Americans with disabilities receiving Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI), can earn -- from \$500 to \$700 per month -- and still receive critical cash and medical benefits. The unemployment rate among all working-age adults with disabilities is nearly 75 percent. People with disabilities can bring tremendous energy and talent to the American workforce, but there are many barriers that often limit their ability to work, including the fact that they lose their disability benefits and health care coverage when they return to work. This means that many people with disabilities are put in the untenable position of choosing between critical protections and work.

UNVEILED NEW REGULATION TO IMPROVE INCENTIVES FOR PEOPLE TO RETURN TO WORK. The Vice President is announcing a new proposed regulation to increase the (SGA) level from \$500 to \$700 per month. Under current rules to become eligible for Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI) benefits, an individual must be unable to engage in any substantial gainful activity (SGA) that exceeds \$500 per month. SGA is also used as a measure in determining ongoing entitlement for SSDI benefits and those who exceed this amount lose their disability benefits and health insurance. Each year, approximately 400,000 disability beneficiaries participate in the workforce. Many hesitate to work because they cannot afford to give up critical benefits. Increasing the SGA level would enable more disabled beneficiaries to work more. This initiative costs \$1.2 billion over five years.

BUILDS ON ADMINISTRATION'S COMPREHENSIVE INITIATIVE TO IMPROVE ECONOMIC OPPORTUNITIES FOR AMERICANS WITH DISABILITIES. The regulation the Vice President unveiled builds on the comprehensive initiative that the Administration has proposed to improve economic opportunities for people with disabilities, including:

- **Including the Work Incentives Improvement Act in the President's budget.** Health care -- particularly prescription drugs and personal assistance -- is essential for people with disabilities to work. The Administration's FY2000 budget which includes the Work Incentives Improvement Act, which was recently introduced by Senators Moynahan, Roth, Jeffords, and Kennedy. This proposal, which costs \$1.2 billion over 5 years, would:
 - Improve access to health care by: (1) Expanding states' ability to provide a Medicaid buy-in to people with disabilities who return to work whose assets and/or income exceed current limits; (2) giving states the option of offering the buy-in to people who do not meet the current disability standard, but who can work only because of medical treatment or for those with a specific physical or mental impairment that is not yet severe enough to qualify for health care assistance, but that is reasonably expected to lead to a severe disability in the absence of medical treatment; and (3) extending Medicare coverage for people with disabilities who return to work.

- Modernize the employment services system by creating a “ticket” that will enable SSI or SSDI beneficiaries to go to any of a number of public or private providers for vocational rehabilitation. If the beneficiary goes to work and achieves substantial earnings, providers would be paid a portion of the benefits saved.
- Create a Work Incentive Grant program to provide benefits planning and assistance, facilitate access to information about work incentives, and better integrate services to people with disabilities working or returning to work.
- **Providing a \$1,000 tax credit for work-related expenses for people with disabilities.** The daily costs of getting to and from work, and being effective at work, can be high if not prohibitive for people with disabilities. Under this new proposal, workers with significant disabilities would receive an annual \$1,000 tax credit to help cover the formal and informal costs that are associated with employment, such as special transportation and technology. This tax credit, which will assist 200,000 to 300,000 Americans, will help ensure that people with disabilities have the tools they need to return to work. The credit will cost \$700 million over 5 years.
- **Improving access to assistive technology.** This new initiative would accelerate the development and adoption of information and communications technologies that can improve the quality of life for people with disabilities and enhance their ability to participate in the workplace. The initiative would: (1) help make the Federal government a “model user” of assistive technology; (2) support new and expanded state loan programs to make assistive technology more affordable for Americans with disabilities; and (3) invest in research and development and technology transfer for people with disabilities. It would cost \$35 million in FY 2000, more than double the government’s current investment in deploying assistive technology.
- **Taking action on all of the Task Force Recommendations.** In December, the Vice President accepted the report of the President’s Task Force on the Employment of Adults with Disabilities, took action on some of their recommendations, and pledged that the Administration would review others in the budget process. All of the proposals stated above, in addition to the SGA increase are part of the Task Force recommendations.

Disability SGA File

Supplemental Security Income Disability Example**NEW APPLICATION**

Current Regulation		Proposed Regulation
Earnings	\$600	\$600
Benefit	\$0	\$243
Medicaid	maybe (depends on state)	usually

Note: For SSI eligibility, SGA only applies in the case of new disability applicants. An individual may not be put on the rolls based on disability unless their earnings are below the SGA level. Under current law SGA is \$500, the proposed level is \$700. Thus, individuals with earnings between \$500 and \$700 will be eligible for benefits.

ALREADY ON THE ROLLS

Current Regulation		Proposed Regulation
Earnings	\$600	\$600
Benefit	\$243	\$243
Medicaid	usually	usually

Note: Once individuals are on the SSI rolls as a disabled recipients, they are permitted to work as long as their earnings do not exceed an amount that would result in their benefits being reduced to zero. SSI benefits are related to current income. Earnings above \$65 reduce their benefits by \$1 for every \$2 earned. Generally, a person may earn up to \$1085 a month and remain eligible for benefits.

Social Security Disability Insurance Examples**NEW APPLICATION**

Current Regulation		Proposed Regulation
Earnings	\$600	\$600
Benefit	\$0	\$733 (Note, this an average benefit. Benefits depend on earnings.
Medicare	no	after 2 years, yes

Note: For SSDI, SGA functions the same way as for SSI initial cases. That is, you must have earnings below the SGA level in order to be eligible for benefits. However, once you are on SSDI you may only work and continue to receive benefits if your earnings are below the SGA level. In addition, benefits are computed as a function of prior earnings, not current earnings.

ALREADY ON THE ROLLS

Current Regulation		Proposed Regulation
Earnings	\$600	\$600
Benefit	\$0 (after trial period)	\$733 (even after 9 month trial period)
Medicare	Continues for 3 years.	Continues

Note: For SSDI, SGA functions as an limit on what people may earn and be eligible for benefits. Generally, people may attempt to work and earn more than SGA for 9 months. After that, they would be ineligible for benefits based on their earnings.

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Statement

THE WHITE HOUSE

Office of the Press Secretary
(New York, New York)

For Immediate Release

May 19, 1999

STATEMENT BY THE PRESIDENT

I commend the House Commerce Committee for its overwhelming bipartisan support for the Work Incentives Improvement Act today. By unanimously endorsing this legislation, the committee has taken an important step towards removing significant barriers to work for one of our nation's most significant untapped resources -- millions of people with disabilities. The committee's action, under the leadership of Chairman Bliley and Congressman Dingell, parallels the overwhelmingly bipartisan support that the Roth/Moynihan/Jeffords/Kennedy version of this legislation received from the Senate Finance Committee.

Americans with disabilities can and do bring tremendous energy and talent to the American workforce, but the unemployment rate for all working-age adults with disabilities is nearly 75 percent. One of the most glaring problems is that people with disabilities frequently become ineligible for Medicaid or Medicare if they go back to work. This puts people with disabilities in the untenable position of choosing between health care coverage and work. The Work Incentives Improvement Act would improve job opportunities for people with disabilities by increasing access to health care and employment services.

Justin Dart, one of the foremost leaders of the disability community, has said that the Work Incentives Improvement Act is "one of the boldest since the landmark passage of the Americans with Disabilities Act." As I indicated in my State of the Union Address, I could not agree more with him. I urge Speaker Hastert and Majority Leader Lott to move promptly to schedule votes on this important and long overdue legislation.

30-30-30

November 2, 1998

TO: Len Burman, Jon Talisman et al

FROM: Chris Jennings, Jeanne Lambrew *jml*

cc: Jon Orszag, Chuck Marr

RE: **NEW OPTIONS ON THE WORK-RELATED TAX CREDIT FOR PEOPLE WITH DISABILITIES**

Yesterday, we met with Gene Sperling about the tax options. He expressed the strong opinion that we should have additional options for the work-related impairment expenditures. As you know from previous meetings, there is concern that the credit as currently designed does not help with expenditures required by people with disabilities to get to work. However, we also appreciate that enforcement is more difficult for expenses that are not directly work related.

To accommodate both concerns, we would like you to look at three new options. The first is your base option plus a \$1,000 flat credit that is intended to help with those expenses outside of work that enable work. Rather than having the IRS try to track down whether such expenses are valid, this approach simply assumes that such expenses exist and compensates for them. This should be no more difficult to enforce than the base option.

The second and third options move away from an expense-based credit to one based on a person's disability status and work status. Presumably, these are easier to enforce since the disability status is certified by a doctor and work status is indicated by having earned income. Option 2, per Gene's request, resembled the EITC and thus is refundable. The third option is simply an add-on to the long-term care (LTC) credit that we are proposing.

The attached specs are rough and we are happy to talk to you about them. We are hoping for cost/coverage estimates and a policy discussion of their merits as soon as possible (we'll check with Gene on the time frame).

Please call with questions, and thank you in advance.

DRAFT: TAX CREDIT OPTIONS FOR WORKERS WITH DISABILITIES, November 2, 1998

OPTION	ELIGIBILITY	QUALIFYING EXPENSES	CREDIT AMOUNT	REFUNDABLE	PHASE-OUT	# BENES	COST / 5 YEARS
Treasury Option	Has chronic condition lasting 12 months	Attendant care services at work, other expenses necessary for work plus certain capital purchases	50% up to \$5,000 (indexed to inflation)	No	No	300,000	\$800 million
LTC Credit	3 + ADL limitations or tax filer w/ chronically ill dependent	NA	\$1,000 (not indexed)	Partial (if 3 + dependents)	Phased out \$110 - 130,000 for couples, \$75-105,000 for singles (not indexed for inflation)	2.3 million	\$6 billion
HSA Credit	Has chronic condition lasting 12 months & can't work w/o personal asst.	Personal assistance services regardless of whether in the workplace or home	50% up to \$15,000	No	Phased out \$45,000 - \$70,000 (indexed for inflation)		\$537 million (old estimate)
Option 1: Treasury option plus flat credit for non-work based expenses	Has chronic condition lasting 12 months & works (has earned income)	Attendant care services at work, other expenses necessary for work plus certain capital purchases	\$1,000 flat credit for non-work expenses plus 50% up to \$5,000 of expenses	No	No		
Option 2: Income-related, eligibility-related credit (like EITC)	Has chronic condition lasting 12 months	NA	20% of income up to \$10,000, phased out between \$100-150,000	Yes	See credit amount		
Option 3: Add-on to LTC credit	3 + ADL limitations and works (has earned income)	NA	\$5,000 (\$4,000 in addition to LTC credit)	Partial (if 3 + dependents)	Phased out \$110 - 130,000 for couples, \$75-105,000 for singles (not indexed for inflation)		

November 16, 1998

Subject: Very *Preliminary* Estimates of several Options Credit for Persons With Earnings
Credits are effective 1/1/2000

Option I - Credit structured in general as Long Term Care Credit - stacked after LTC credit

Credit for taxpayers with earnings and 2ADLs or 3 IADLs
Credit not to exceed earnings of disabled taxpayer
Only taxpayer can claim credit (i.e. no credit for dependents)

Option I-a - \$1,000 credit

Preliminary estimate of revenue loss fiscal years 2000-2004 \$.7 billion
Approximately 240 thousand persons including elderly would receive
the credit after full behavior at 2000 levels.

Option I-b - \$2,000 credit

Preliminary estimate of revenue loss fiscal years 2000-2004 \$1.4
billion.

Approximately 240 thousand persons including elderly would receive
the credit after full behavior at 2000 levels.

Option II- Fully refundable credit for any earner with 2ADLs or 3IADLs - credit cannot exceed earnings. Dependents and non-filers can claim. A number of important questions would have to be answered before more refined estimates can be provided for this credit. For example, would earners who are currently dependents claim the credit? Would individuals who receive public assistance also be able to claim the credit? How would the credit effect public and private transfer payments for disabled workers?

The estimates shown below for Option II are intended to provide a very rough idea of the cost of a fully refundable credit.

Option I-a - \$1,000 credit

Very preliminary estimate of revenue loss fiscal years 2000-2004 \$1.6
billion.

Approximately 430 thousand persons including elderly would receive
the credit after full behavior at 2000 levels.

Option I-b - \$2,000 credit

Very preliminary estimate of revenue loss fiscal years 2000-2004
\$3.2 billion.

Approximately 430 thousand persons including elderly would receive the credit after full behavior at 2000 levels.

Note: Although the tabulations from the NHIS and the SIPP are in close agreement for the number of persons under 65 with 2+ADLs and earnings (point in time estimates), the number of persons with 3 + IADLS appear to differ. The estimates above reflect the NHIS tabs for the adults and SIPP tabs for persons 65+.

John Drabek and I believe that relatively few of the individuals who would receive the credit are currently receiving paid help. The SIPP and possibly the NHIS provide information in this regard and we will be looking at these data sources.

OK?

November 17, 1998

TO: Gene S.
FROM: Jeanne and Chris
RE: **DISABILITY TAX CREDIT**

Employer credit

Per our conversation two weeks ago, we have been working with HHS, OMB and Treasury to look at options for the disability tax credit. We would like your guidance on this policy.

ISSUES WITH TAX CREDIT LINKED TO EXPENSES

Few workers with verifiable disabilities. While a fairly large number of workers report some type of health limitation that can be characterized as a disability (10 million), this number quickly diminishes with a stricter definition of disabilities. For example several million workers have trouble lifting and carrying, climbing stairs, and hearing normal conversations. However, only around a million workers have a limitation of one or more activities of daily living (ADLs) or instrumental activities of daily living (IADLs).

*→ a million more
non-work related*

Expenses for working disabled skewed. Three interesting facts have emerged from the available studies. First, work-related expenses do not appear to be a major perceived barrier to work. Only 4 percent (33,000) of people with 1+ ADLs limitations who are not now working but have in the past say that they need help with transportation and accommodations at work. Second, only about 9 percent (27,000) of workers with 1+ ADLs receive paid help for those ADLs. This may reflect a strong reliance on informal assistance from relatives and friends. Third, for those who do pay for personal assistance, most pay more than \$10,000 per year for those expenses. The implications of these facts are that if our goal is to help with work-related expenses, we are targeting a very small number of people who actually need a fairly large credit.

Thus, we think that it is advisable to move away from a work-related expenses credit. It does appear that some people incur large costs to go to work, but these people are few in number and the policy could have adverse effects -- inducing fraud (since IRS could not verify expenses outside of the workplace) and a possible reduction in employer payments for expenses at work.

ALTERNATIVE: FLAT TAX CREDIT FOR WORKERS WITH DISABILITIES

As you recommended, we looked into the idea of giving workers with disabilities a credit independent of expenses. The following are the parameters of a base, flat-credit policy:

Option	Credit \$	Refundable	Eligible	5-Year Cost
1	\$1,000	No	240,000	\$0.7 billion
2	\$1,000	Yes	430,000	\$1.6 billion
3	\$2,000	No	240,000	\$1.4 billion
4	\$2,000	Yes	430,000	\$3.2 billion

- **Eligibility:** Worker with 2 + ADLs (bathing, dressing, eating, toileting, getting in /out bed or chair and getting around inside house) or 3 + IADLs (preparing meals, using the telephone, light or heavy housework, shopping, money management). They would be certified by a doctor as having such limitations for longer than 12 months. We do not think that we could be much broader with this definition without getting into possible fraud.
- **Phase-out:** \$110-130,000 for couples, \$75-105,000 for singles (same as LTC credit)
- **Retain current deductibility of work-related expenses:** Under current law, employees may deduct impairment-related work expenses incurred in the work place that are "ordinary and necessary" (no capital purchases). This deduction would be retained.

Advantages of flat credit:

- **Recognizes extra cost of working for all people with severe disabilities, not just those with acceptable receipts.** People with disabilities face a higher costs of living -- especially when they forgo public program assistance to go to work. Transportation costs, personal assistance costs, and special technology costs are high for people with disabilities. Additionally, families and friends often invest time and resources in helping people with disabilities make this transition. This credit helps compensate for such costs.
- **Broader than what the disability community expects.** The community has heard about the work-related expenses credit and are not very excited. This credit is broader, thus compensating for formal as well as informal, at-work as well as at-home expenses.

Disadvantages:

- **Not enough for people with large expenditures.** Our previous proposals (HSA) acknowledged that a few people have very high expenses (up to \$7,500 credit); a \$1,000 credit could only compensate for a fraction of such expenses.
- **Could be criticized if not refundable.** Since workers with disabilities have lower average incomes, the lack of refundability of the credit could be considered a major flaw.

GUIDANCE: Is this general direction where you want to go? If so, what type of variations would you like to see? We do not think that we can broaden the definition of who qualifies very much without running into large fraud problems. However, we could increase the amount of the credit per person by either making it refundable or making it larger. If we increase the size the credit, all additional dollars go to higher income people, since the lower-income people already are only getting a part of the \$1000 because of the low tax liability. If we make the \$1,000 refundable, all additional dollars go to low-income workers, but we potentially jeopardize the EIT C and raise questions about why we don't make the LTC credit refundable. We'd appreciate your input.

1999 PCEPD

Award + Actions

June 3, 1999

**PRESIDENT'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES
PRESIDENT'S AWARD CEREMONY**

DATE: June 4, 1999
LOCATION: East Room
BRIEFING TIME: 2:00pm – 2:30pm
EVENT TIME: 2:40pm – 3:15pm
FROM: Bruce Reed, Mary Beth Cahill

I. PURPOSE

To present the President's Committee on Employment of People with Disabilities (PCEPD) President's Award; to call on Congress to pass the Jeffords-Kennedy legislation by the July anniversary of the American with Disabilities Act; and to announce an executive order to eliminate the stricter standards applied to federal hiring practices for adults with psychiatric disabilities.

II. BACKGROUND

Established in 1947 by President Harry Truman, the President's Committee on Employment of People with Disabilities is a small federal agency based in Washington, DC, that reports to the President on progress and problems related to disability employment issues. Under the leadership of Chairman Tony Coelho, some 300 members communicate, coordinate and promote public and private efforts to enhance the employment of individuals with disabilities. The Committee provides information, training and technical assistance to America's business leaders, organized labor, rehabilitation and service providers, advocacy organizations, families and individuals with disabilities. Among the Committee's services are the Job Accommodation Network, the Business Leadership Network, High School/High Tech, Project EMPLOY and the Workforce Recruitment Program for College Students with Disabilities, which during the past year placed 300 people with disabilities in private and public sector jobs.

The President's Award is America's highest honor for achievement in furthering the employment and empowerment of people with disabilities. An annual recipient is selected from a national slate of nominees. Honorees have demonstrated outstanding achievements in the world of work and made significant contributions to increase public awareness about Americans with disabilities in the workforce. Since 1947, the award has been presented only six times at the White House, three of those times by you.

Today you will present awards to the following honorees:

Joyce Bender is the president of Bender Consulting Services (BCS), which actively recruits and hires people with disabilities who have expertise in information technologies. BCS contracts these employees as consultants to client companies throughout the Pittsburgh, Pennsylvania, and Wilmington, Delaware, areas. In 1985, Ms. Bender sustained a life-threatening epileptic attack that caused an intracranial hemorrhage requiring brain surgery. She returned to work with a seizure disorder, a 40 percent hearing loss in one ear and a renewed respect for the attitudinal obstacles faced by individuals with disabilities. Employment of people with disabilities has become her life's work.

James H. Click, Jr. founded the non-profit LINKAGES program in Tucson, Arizona, as a one-stop shop for employers who want to hire people with disabilities. A LINKAGES liaison works with local rehabilitation agencies to identify qualified candidates for every position. Since 1998, some 80 employers have hired more than 170 people with disabilities through the program. As president of the Jim Click Automotive Team, Mr. Click is also a LINKAGES employer. Approximately 35 individuals with disabilities are working in his car dealership franchises throughout Arizona and California. His dream is to take LINKAGES throughout the country.

Laura Hershey is a grass roots leader who has tirelessly advocated for reform in the Social Security system, housing, transportation and other areas affecting the livelihood of Americans with disabilities. She is best known for mobilizing the PASS Participants Rights Campaign to fight for the rights of adults with severe disabilities to pursue employment and maintain their eligibility for Medicaid coverage. Ms. Hershey has served as interim executive director of the Denver Disability Center for Independent Living and is a former director of the Denver Commission for People with Disabilities. She consults and writes frequently on disability issues.

III. PARTICIPANTS

Briefing Participants:

Bruce Reed
Chris Jennings?
Cynthia Rice?
Mary Beth Cahill
Janet Murguia
Jonathan Young
June Shih

Stage Participants:

Joyce Bender
James H. Click, Jr.
Laura Hershey

Program Participants:

Secretary Alexis Herman
Jill Rickgauer

Jill Rickgauer is currently employed as a switchboard receptionist for a large automotive dealer in Tuscon, Arizona, the Jim Click Automotive Group. Soon after becoming blind in 1991, Ms. Rickgauer lost her job as a career planner for college students due to downsizing. With assistance from the Arizona Vocational Rehalitation Department, Mrs. Rickgauer learned to navigate daily living as a blind person and use assistive technology. Despite her solid resume and new skills, however, she faced extensive discrimination from employers, who offered many interviews but no jobs. Ms. Rickgauer identified and successfully obtained her current position through Jim Click's LINKAGES program.

IV. PRESS PLAN

Open Press.

V. SEQUENCE OF EVENTS

- YOU will greet the award winners and their families in the Blue Room.
- YOU will be announced, accompanied by Secretary Alexis Herman, Joyce Bender, James Click, Laura Hershey, and Jill Rickgauer, into the East Room.
- Secretary Herman will make remarks and introduce Jill Rickgauer.

- Jill Rickgauer will make remarks and introduce **YOU**.
- **YOU** will make remarks, present the President's Awards, and depart.

VI. REMARKS

To be provided by speechwriting.

Shih

**PRESIDENT WILLIAM J. CLINTON
REMARKS FOR PRESIDENT'S COMMITTEE ON
THE EMPLOYMENT OF PEOPLE WITH DISABILITIES AWARDS
THE WHITE HOUSE
JUNE 4, 1999**

In 1951, President Harry Truman, the very first President to present these awards, set a goal for our nation: To give every American with a disability who is willing and able to work the chance "to play their full part in strengthening our nation... [and] to share in the greatest satisfaction of American life - to be independent and self-supporting."

Today, we gather to honor three Americans - Joyce Bender, James Click, Laura Hershey -- whose efforts to bring thousands of men and women with disabilities into the world of work have moved us ever closer to that great --and just - goal.

Since the founding of our nation, work has been at the heart of the American Dream. Because millions of Americans have had the opportunity to work and build better lives for themselves and their families, our nation is strong and prosperous. In so many ways, we Americans define ourselves, not only by our families and hometowns, but by our work. Often, the first question Americans ask each other is not "Who are your parents?" or "Where do you live?" but "What do you do?"

Today, there are still too many disabled Americans who cannot answer that question, who still do not have the opportunity to experience that essential component of the American Dream. Even as we celebrate more than 18 million new jobs and a nationwide unemployment rate of x percent -- the lowest unemployment in a generation -- 75 percent of disabled Americans remain unemployed. And of those unemployed, 72 percent say they want to go to work.

This is not just a missed opportunity for the disabled. It is a missed opportunity for America. In an era of labor shortages, when companies go begging to fill positions they need to stay competitive in our global economy, we cannot afford to ignore millions of potential workers simply because they have a disability. Think of the loss to American industry, the economy, and even the IRS. Tony Coehlo often likes to say that he represents the only group in America that actually wants to pay more taxes. If we are to sustain and build our prosperity, then we as a nation must work harder to give all Americans the chance to bring their talents to bear in our economy. If we are to uphold our highest ideal of opportunity for all, then we as a nation must work harder to give all Americans the chance to experience the pride and independence of going to work and earning a paycheck.

Today, one of the biggest obstacles to employment for many Americans with disabilities is the fear that they will lose their federal health insurance once they take a job. As many of you know, under current law, people with disabilities cannot work and keep Medicaid or Medicare coverage at the same time. For many disabled Americans, medical bills cost

thousands of dollars beyond what is typically covered by an employer's private insurance. For them, going to work without Medicaid or Medicare is simply too expensive. They have no choice but to stay out of the workforce, dependent on federal assistance.

This is not what America is about. This system undermines our most cherished values of opportunity, responsibility, and community. It denies millions who are willing to take on the responsibilities of work the opportunity to achieve economic independence and become full-fledged members of our American community.

That is why last summer, I called on Congress to free our fellow Americans from this unfair choice between going to work and keeping health insurance. This year, in my balanced budget, I have proposed funds that will allow Americans with disabilities to go to work without losing their federal health insurance. And this Spring, Congress is considering landmark bipartisan legislation to do just that. The Work Incentives Improvement Act, sponsored by Senators Jeffords and Kennedy, has awaited passage in the Senate and the House for months. With more than 75 Senate co-sponsors from both sides of the aisle, there is no good reason why it should take so long to pass. So today, I challenge Congress to pass the Jeffords-Kennedy bill law by this date: July 28, 1999, the ninth anniversary of the passage of Americans with Disabilities Act. The best way we can celebrate the landmark legislation that literally widened the doors of opportunity for millions is to throw open those doors even wider so that more Americans with disabilities can join the proud ranks of working citizens.

There is much more we can do. In my balanced budget, I am also proposing a \$1,000 tax credit to help people with disabilities afford the specialized transportation, technology, or personal assistance they need to make a successful transition to the world of work. And we must double our efforts to make "assistive technologies" such as voice recognition software, mobile telephones, Braille translators, more widely available to disabled Americans. I challenge Congress to move forward with this work.

And today, I am taking immediate action to give more Americans with disabilities the opportunity to become a part of the largest workforce in America. As some of you may know, on Monday, the First Lady, the Vice President and Mrs. Gore and I will be hosting a White House Conference on Mental Health. One of our goals is to help more Americans understand that mental illness is no different from any other disability. That is why today, I am also using my executive authority to eliminate the outdated stricter standards that currently apply to hiring adults with psychiatric disabilities. I am directing all federal agencies to treat people with mental illnesses the same way they would treat any other applicant with disabilities.

Government must do its part to widen the circle of opportunity to more Americans with disabilities. But Americans as individuals can and must take action. We need look no further than the three men and women we honor today for proof of the difference a single individual can make in the lives of thousands. It is an honor to present these Presidential awards to each of them.

First, to Joyce Bender. Fifteen years ago, as Joyce Bender lay in a hospital trauma

unit, recovering from a near-fatal cerebral hemorrhage, she made a vow to give something back to the patients who were not so lucky. Through Bender Consulting Services, she has used her own experience as a professional head-hunter to help place people with disabilities in high-wage, high-tech jobs. Joyce once told a reporter that the motto of her firm is "No pity." Anyone who works with a Bender consultant knows the truth of that motto, as pity for a worker's disability quickly dissolves into admiration for his or her skills and professionalism. Joyce knows that the demand for high-skilled workers will only continue to grow – and she is determined to make sure more people with disabilities will be ready to meet it. To keep her employee roster full, she founded a new program to train even more disabled people in the high tech skills at a local community college. So it is an honor to present this award to Joyce Bender.

Next, to James H. Click, Jr. As the head of nine car dealerships in California and Arizona, Jim Click is an undisputed leader in his field. But he is also unrivaled in his commitment to empowering the disabled. Twenty years ago, he hired two young people with disabilities to work at one of his dealerships. And as his business grew, he continued to give even more people with disabilities the chance to work and be part of his dealerships. A few years ago, Jim he could encourage more of his business colleagues to do the same, by making it easier for them to find workers with the right skills. So he founded Linkages, which serves as a one-stop shop for businesses looking to hire people with disabilities. It brings Tucson businesses and rehabilitation programs together to match qualified people with disabilities to appropriate jobs. In a little over a year, more than 170 people have found work through Linkages. Jim hopes to take his good idea across the country, and I challenge communities all across America to make his dream come true.

Finally, to Laura Hershey. Laura once said that "disability is not a tragedy... It is powerful." By speaking her mind, and using her gifts as a writer to point out the shortcomings and possibilities of our society, Laura has found the power to change the world. As the head of a variety of disability organizations and as a private citizen, she has fought to reform our Social Security, housing, transportation and other areas to better serve Americans living with disabilities. Economic freedom and self sufficiency for Americans with disabilities is her goal. And I am confident she will not rest until she achieves it. I am proud to present this final award to Laura Hershey.

A high-tech head hunter from Pittsburgh, a car dealer from Tucson, a writer and activist from Denver – our awardees seem to have little in common. But they are bound by their passion for empowering the disabled. And most of all, they are patriots. Patriots because they believe so much in the American Dream – and its promise of equal opportunity for all – that they have dedicated their lives to making it real for all Americans with disabilities.

Harry Truman said that "we love our country ... because it offers us the chance to lead useful lives and to do what we can for those around us." I thank each of you for working to give more of our fellow Americans the chance to lead useful lives; and the chance to live in an

America of hope and opportunity.

Mike Auburger

Executive Director, Atlantis Community (Center for Independent Living)
Denver, CO

Mike's Atlantis Community has been a leader in securing access to public transportation and in helping people with disabilities find community-based housing. He and Bob Kafka are generally viewed as the top two leaders of ADAPT.

James Billy

Executive Director, Harlem Center for Independent Living
New York City, NY

James helps draw attention to the needs of minorities with disabilities. He is widely considered a leader in the independent living movement and is a Board member of the American Association of People with Disabilities.

Justin Dart

Co-Founder, Justice For All
Washington, DC

Paul Marchand

Chairman, Consortium of Citizens with Disabilities
Washington, DC

In addition to serving as CCD Chair for 25 years, Paul is the Director of Government Affairs for The Arc. He has been instrumental in updating the original MiCASSA to address the needs of people with mental retardation and developmental disabilities.

Andy Imparato

President and CEO, American Association for People with Disabilities (AAPD)
Washington, DC

AAPD is a young but increasingly influential disability organization -- the only national umbrella organization representing people with all types of disabilities. AAPD was the principal sponsor of this year's Spirit of ADA Torch Relay.

Deborah Kaplan

Executive Director, World Institute on Disability (WID)
Berkeley, CA

WID administers a variety of research projects, including a Rehabilitation Research and Training Center on Personal Assistance Services (PAS). Debbie is a long-time leader in the disability rights movement and an expert in PAS and accessible technologies.

Mike Oxford

Vice President, National Council on Independent Living (NCIL)

Topkea, KS

In addition to his leadership of NCIL, Mike is the Executive Director of the Topeka Independent Living Resource Center. He is also a long-time member of ADAPT and once of the most articulate spokespersons of ADAPT's interests in long term services and supports.

Bobby Silverstein

Director, The Center for the Study & Advancement of Disability Policy
Washington, DC

Bobby was formerly the lead staff of the Senate Disability Committee under Senator Harkin. He is responsible for the redrafting of MiCASSA and has worked closely with ADAPT and other organizations to make their proposals more viable in Congress.

Barbara Toomer

ADAPT
Salt Lake City, UT

Barbara was one of the four ADAPT representatives who met with John Podesta on October 3, and the person to whom Podesta addressed his letter promising a presidential meeting. She is the President of the Disabled Rights Action Committee in Utah.

Nancy Weiss

Executive Director, TASH
Baltimore, MD

TASH is an international association of people with disabilities, their family members, other advocates, and professionals fighting for disability rights.

2000 EXPAND
MEDICAID COVERAGE.

Disability File

PRESIDENT CLINTON ANNOUNCES NEW ACTION TO EXPAND MEDICAID COVERAGE FOR PEOPLE WITH DISABILITIES

Invests Approximately \$1 Billion To Provide a New Coverage Option Nationwide

October 27, 2000

Today, in a meeting with national disability groups, the President will announce a major new administrative action to expand Medicaid eligibility for people with disabilities and promote the use of home and community-based services and supports. He will also call on the Congress to refocus their priorities from excessive and unaccountable HMO payment increases and towards investments in coverage expansions for workers and children with disabilities, as well as new grants to help states expand alternatives to institutionalization. The proposed regulation invests \$960 million over five years in a new option for states to expand Medicaid coverage for tens of thousands of people with disabilities, preventing them from having to become impoverished and allowing them to move from institutions into community based care settings.

THE NEED TO IMPROVE ACCESS TO HEALTH INSURANCE FOR PEOPLE WITH DISABILITIES.

- **State options for Medicaid coverage for people with disabilities are limited.** Thousands of people with disabilities and senior citizens only qualify for Medicaid if they have very high medical expenses that force their incomes below the poverty level. Since Medicaid is the only available source of health care and essential personal assistance services for many people, they are forced to keep their incomes low in order to qualify. As a result, they must choose between paying for essentials such as food or shelter and critical health expenses in order to lower their income to the "medically needy" income levels currently required.
- **Families of disabled children are forced into poverty in order to retain Medicaid eligibility for their children.** Current data indicates that over 60 percent of the thousands of families with special needs children are turning down jobs, raises, and overtime in order to ensure that they stay in the income bracket that qualifies their child for Medicaid.
- **There are insufficient home and community-based services and supports for people with disabilities.** For decades people with disabilities who need long-term care services, both old and young, have advocated for "real choice" about where to receive those services and asked for alternatives to nursing homes and other institutions where they receive long-term care services. Every state Medicaid program must provide nursing home services, but community-based services are optional. In part, this is because the institutional bias in Medicaid precludes the development of community based services and supports.

PRESIDENT CLINTON TAKES STRONG NEW ACTION TO EXPAND MEDICAID ELIGIBILITY FOR PEOPLE WITH DISABILITIES. Today, President Clinton will announce new action to expand Medicaid eligibility for people with disabilities. The proposed regulation, which costs \$960 million over 5 years, allows states to further "disregard" portions of an individual's income when determining their eligibility, such as the amount spent on food or shelter. States can use these broader rules to provide Medicaid coverage to people who would not otherwise be eligible, and move people from institutions into the community by allowing them to retain additional income to pay for food, clothing, and shelter. In addition, the broader rules can be used to encourage people to return to work or continue to work by ensuring that they will not lose their health insurance coverage if their income increases slightly.

URGES THE CONGRESS TO ACT NOW TO ADDRESS HEALTH CARE PRIORITIES FOR PEOPLE WITH DISABILITIES. Today, the President will call on the Congress to refocus their priorities from excessive and unaccountable HMO payment increases and towards investments in coverage expansions for workers and children with disabilities, as well as new grants to help states expand home and community based services and supports. As part of this effort, he will urge the Congress to act now to address critical health care priorities for the disability community, including:

- **Increasing access to Medicaid for working families with disabled children.** Today, the President will urge the Congress to pass the bipartisan Grassley-Kennedy-Sessions-Waxman Family Opportunity Act of 2000 (S. 2274 and HR 4825), which was sponsored by a bipartisan majority in the Senate and a growing coalition in the House. This bill, which is the next logical step beyond the Jeffords-Kennedy Work Incentives Improvement Act, invests \$2.1 billion over five years to establish a new Medicaid buy-in option for thousands of children with disabilities who lose their Medicaid coverage because of increased family income due to employment and a time-limited demonstration that extends Medicaid coverage to children who have a disabling condition that, without health care coverage, would cause them to become so severely disabled as to be eligible for SSI.
- **Enhancing state capacity to provide home and community-based alternatives to institutionalization.** The President will join Senator Harkin in urging the Congress to fund \$50 million in new grants to conduct intensive outreach efforts to educate people with disabilities about the home and community based options currently available to them; create new one-stop-shopping centers that streamline application and eligibility processes for home and community-based services and supports; and identify, develop, and implement strategies to modify state policy that results in the unnecessary institutionalization of people with disabilities rather than the provision of home and community based services. As a condition of receiving funds, states would actively involve people with disabilities and their families in the development of programs enabling people with disabilities to choose where they want to live and receive services. Senator Harkin has been a tireless advocate for this critically important initiative.

- **Finish the job on the Work Incentives Improvement Act.** The bipartisan Work Incentives Improvement Act, enacted by the Clinton-Gore Administration last year, extends Medicare coverage for eight and a half years for people with disabilities who return to work, ensuring that everyone with a disability returning to work have access to health care coverage, even if they live in a state that does not take the Medicaid option. The President will urge the Congress to finish the job on the Work Incentives Improvement Act by providing permanent Medicare coverage to people with disabilities returning to work.
- **Additional health care priorities important to people with disabilities.** The President will reiterate the importance of a series of other high-priority health care initiatives, including: a voluntary Medicare prescription drug benefit; a strong and enforceable Patients' Bill of Rights; a \$3,000 long-term care tax credit for people of all ages; and a new \$1,000 tax credit to offset the formal and informal employment related costs incurred by working people with disabilities.

THE CLINTON-GORE ADMINISTRATION'S LONGSTANDING COMMITMENT TO WORKING ON BEHALF OF AMERICANS WITH DISABILITIES. Throughout this Administration, President Clinton and Vice President Gore have worked hard to achieve the equality of opportunity, full participation, independent living, and economic self-sufficiency for people with disabilities. This Administration has vigorously defended the ADA in court cases across the Nation; collaborated with State Medicaid directors to implement the Supreme Court's 1999 *Olmstead* decision, which prohibits unjustified isolation of institutionalized persons with disabilities; helped ensure that 80 percent of America's public transit buses are now accessible; implemented the Ticket to Work and Work Incentives Improvement Act, which the President signed into law last December; and developed far-reaching policies for a comprehensive, coordinated employment agenda through the Task Force on Employment of Adults with Disabilities.

HELEN L.
VS. DESARLO**Q and As on the Helen L. Letter**

Q1: Why is HCFA issuing this letter to states on the Americans with Disabilities Act at this time?

A1: The purpose of the letter is two-fold--to remind states that the ADA applies to their Medicaid programs and to inform them of recent trends and court rulings involving Medicaid and the ADA.

Q2: What is the effect of the court cases cited in the letter on state Medicaid programs?

A2: The courts' decisions in the cases cited are binding only in the affected circuits. However, under the ADA, states have an obligation to provide services to people with disabilities in the "most integrated settings appropriate" to their needs so long as such placements do not fundamentally alter the nature of their programs. In one case cited in the letter to the states, Helen L. v. DiDario, a paralyzed Medicaid recipient living in a nursing home wanted to live in her own home with her children. She wanted services from a state-funded attendant care program that would allow her to do that. The Third Circuit Court of Appeals ruled that for the state to deny such service was in violation of the ADA, particularly in light of the fact that the cost of providing services in her home was substantially less than the cost of providing services in an institution.

Q3: Did you hold this letter to release on the anniversary of the ADA?

A3: No. These are complicated legal issues, and the Department just completed its review and clearance this week..

Q4: Will states be required to expand Medicaid-funded home and community-based service options for persons with disabilities?

A4: All states currently provide Medicaid services, funded either under the state plan or under a waiver authority, to persons with disabilities in home and community-based settings. These services may include, for example, home health aide services, nursing services, medical equipment, and personal care services. States that provide these services must do so in compliance with the ADA. We encourage all states to continue to strive to meet the objectives of the ADA by expanding existing home and community-based services options so that persons with disabilities may live in the most integrated setting appropriate to their needs.

Q5: Does the ADA require that all persons with disabilities be deinstitutionalized and served in the community?

A5: No. The Department of Justice regulations implementing the ADA require that "a public entity shall administer services, programs, and activities in the most integrated setting

appropriate to the needs of qualified individuals with disabilities." These regulations also require that "[a] public entity shall make reasonable modifications. . . when. . . necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity." As noted in the letter to states, at least one court has recognized that the ADA does not necessarily require a state to serve everyone in the community, but that decisions regarding services and where they are to be provided must be made based on whether community-based placement is appropriate for a particular individual in addition to whether such placement would fundamentally alter the nature of the program. A state must take reasonable steps if a treating professional determines that an individual living in a facility could live in the community with the right mix of support services.

Q6: Currently states can limit the number of persons served under a home and community-based services waiver. Is this permissible under the ADA?

A7: The ADA requires that persons with disabilities be served in the most appropriate setting. It does not mandate what that setting should be. States must take reasonable steps to provide services in the community to a person with a disability living in an institution, if the treating professional determines that the person could live in the community with the right mix of support services.

Q8: How will states know whether they are meeting the requirements of the ADA?

A8: The ADA required states to do a self-evaluation to ensure that their policies, practices, and procedures promote, rather than hinder, integration. This self-evaluation should have included consideration of the ADA's integration requirement.

Q9: What if a state has not completed its self-evaluation process?

A9: To the extent that any state has not fully completed its self-evaluation process, it should do so now in conjunction with the disability community and its representatives as required by the regulations promulgated by the Department of Justice.

Q10: Why aren't you releasing the DeSario letter?

A10: This is a very complicated issue and the Department of Health and Human Services is reviewing it at the appropriate levels. We hope to issue guidance to the states within the next week.

Not PUBLIC
INTERNAL
HCFA
FYI ONLY

Questions and Answers
Helen L. Letter

Q. Why is HCFA issuing this letter to States on the ADA at this time?

A. HCFA wishes to remind States that the requirements of the ADA apply to their Medicaid programs and to inform them of recent trends involving the interface between Medicaid and the ADA.

Q. What is the effect of the court cases cited in the letter on State Medicaid programs?

A. The courts' decisions in the cases cited are binding only in the affected circuits. However, under the ADA States have an obligation to provide services to people with disabilities in the most integrated settings appropriate to their needs so long as such placements do not fundamentally alter the nature of their programs.

Q. Will States be required to maintain Medicaid-funded home and community-based service options for persons with disabilities?

A. No, but all States do, in fact, currently provide Medicaid services, funded either under the State plan or under a waiver authority, to persons with disabilities in home and community-based settings. These services may include, for example, home health aide services, nursing services, medical equipment, and personal care services. States that elect to provide these services must do so in compliance with the ADA. We encourage all States to continue to strive to meet the objectives of the ADA by maintaining and enhancing home and community-based services options so that persons with disabilities may live in an integrated setting.

Q. Does the ADA require that all persons with disabilities be deinstitutionalized and served in the community?

A. No. The Department of Justice regulations implementing the ADA require that "a public entity shall administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities." These regulations also require that "[a]

public entity shall make reasonable modifications. . . . when. . . necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity." As noted in the letter to States, at least one court has recognized that the ADA does not necessarily require a State to serve everyone in the community, but that decisions regarding services and where they are to be provided must be made based on whether community-based placement is appropriate for a particular individual in addition to whether such placement would fundamentally alter the nature of the program. Reasonable steps must be taken by a State if a treating professional determines that an individual living in a facility could live in the community with the right mix of support services.

- Q.** Currently States can limit the number of persons served under a home and community-based services waiver. Is this permissible under the ADA?
- A.** Section 1915(c) of the Social Security Act permits States to limit the number of persons served under a home and community-based services waiver through the waiver of 1902(a)(10)(B) requirements related to comparability. The ADA and implementing regulations require that persons with disabilities be served in the most integrated setting appropriate to the needs of the individual. This does not necessarily mean that an individual must be served under a home and community-based services waiver. However, States must take reasonable steps to provide services in the community to a person with a disability living in an institution if the treating professional determines that that individual could live in the community with the right mix of support services to enable them to do so.
- Q.** How will States know whether they are meeting the requirements of the ADA?
- A.** The ADA required States to do a self-evaluation to ensure that their policies, practices, and procedures promote, rather than hinder, integration. This self-evaluation should have included consideration of the ADA's integration requirement.
- Q.** What if a State has not completed its self-evaluation process?
- A.** To the extent that any State has not fully completed its

self-evaluation process, it should do so now in conjunction with the disability community and its representatives as required by the regulations promulgated by the Department of Justice.