



# Development of an Employment/ Eligibility Services (EES) System

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# Abstract

In 2015, the Social Security Disability Insurance (SSDI) Solutions Initiative invited policy proposals designed to address the pending exhaustion of the Disability Insurance (DI) Trust Fund, projected at the time to occur in 2016. In response to that invitation, the authors of this paper proposed an integrated Employment/Eligibility Service (EES) System. We designed the EES to ensure that workers who are able to stay in the labor force with available support would do so; those unable to stay in the labor force would obtain the benefits to which they are entitled; and both would receive support expeditiously. The proposed system would continue to ensure a minimum level of support to disabled workers nationwide but preserve the ability of states and the private sector to deliver workforce retention services that are adapted locally. The system's establishment would take an extraordinary effort over a long period and require extensive, complex changes to laws, rules, regulations, programs, and institutions at the federal and state levels. It would also require the agreement of a broad spectrum of political interests for a sustained period. One response to the task's magnitude is to not take it on at all. But that would leave us with a system that has functioned poorly for decades and is conceptually outdated.

Given the extraordinary nature of developing an EES system, this paper presents an incremental approach that initially has low risks and costs, but only addresses some of the difficult issues alluded to above. This approach would build on emerging public efforts to improve the workforce retention supports (WRS) available when workers first experience work loss because of a serious injury or illness. Initially state-led EES systems would only target participants in WRS systems who are unable to return to substantial work within five months—coincident with the current SSDI waiting period. Eight states are already working on developing such WRS systems under grants from the U.S. Department of Labor. Some of those states will presumably become good candidates to develop the first EES systems within a few years. Policymakers would have the evidence from these initial tests before making commitments to expand to other states and, eventually, to all workers who miss at least five months of work because of a significant medical condition.

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## The McCrery-Pomeroy SSDI Solutions Initiative

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# I. Introduction

In 2015, the Social Security Disability Insurance (SSDI) Solutions Initiative invited policy proposals designed to address the pending exhaustion of the Disability Insurance (DI) Trust Fund, projected at the time to occur in 2016. Our response to that invitation, Stapleton et al. (2016), addressed two more specific problems. The first problem is that significant numbers of workers exit the labor force and apply for SSDI benefits because they fall through the cracks in the service system—that is, they experience needless work disability because they failed to obtain timely, evidence-based supports (Ben-Shalom et al. 2018). The second problem is the poor performance of the SSDI disability determination process: long processing times, many appeals of denials, unexplained variability in decision outcomes, and a disability determination process that struggles to adapt to changes over time in what constitutes inability to work. As we argued in the previous paper, both of these problems are exacerbated by a fragmented employment support system that operates in isolation from the SSDI disability determination process. Further, misaligned incentives often cause these institutions to work at cross-purposes—for instance, incentives for state agencies and private insurers encourage entry into SSDI rather than return to work.

Our proposed solution is an integrated Employment/Eligibility Service (EES) System—a new institutional structure designed to ensure that workers who are able to stay in the labor force with available support, do so; those unable to stay in the labor force obtain the benefits to which they are entitled, and both receive support expeditiously. The proposed EES system would integrate a federal system responsible for ensuring a minimum level of support to disabled workers nationwide with the delivery and financing of workforce retention services provided by state vocational rehabilitation agencies, workforce development agencies, health agencies, health insurers, disability or workers’ compensation insurers, health systems, other vendors, and employers. It would reorganize existing supports with the intent of improving outcomes for workers and increasing efficiency, rather than replacing these supports with a whole new system. The proposed EES system would ensure a minimum level of support to disabled workers nationwide but preserve the ability of states and the private sector to deliver workforce retention services that are adapted locally.

## A. The EES concept has broad appeal

The concept that a well-designed and well-implemented EES system could lead to better outcomes for workers with significant medical problems and lower expenditures for their support has broad appeal. Numerous experts and stakeholders from across the political spectrum confirmed this perception in their reviews of an earlier draft of this paper. Further, one key idea embodied in the EES—ensuring that workers have the opportunity to receive support for returning to work before they apply for SSDI—has a long history in U.S. policy discussions, although it has never been implemented nationally. A version of this idea was debated at the inception of SSDI, in the form of ensuring that applicants have access to vocational rehabilitation (VR) services as they entered SSDI (Kearney 2005/2006). The 1996 report of the Disability Policy Panel of the National Academy of Social Insurance (NASI) discussed the importance of providing VR services to SSDI applicants before they enter SSDI (NASI 1996, p. 188) and the original proposal for the Ticket to Work program included SSDI applicants (Berkowitz 1996). In 2006, the Social

Security Advisory Board (SSAB) envisioned a system that is similar in this respect. At about the same time, the Council of State Administrators of Vocational Rehabilitation (CSAVR)—an association of the directors of state vocational rehabilitation agencies—developed a more specific proposal along these lines (CSAVR 2007).<sup>1</sup>

Our EES proposal adds an important conceptual idea to these antecedents. Specifically, the EES would incorporate return-to-work (RTW) supports in the disability determination process itself. That is, certain workers who would be eligible for SSDI under the current disability determination process would only initially be eligible for time-limited benefits coupled with support for return to work under the EES. If they do not succeed in returning to substantial work, the EES would redetermine their eligibility for SSDI when their time-limited benefit expires. In the redetermination process, the EES would incorporate information from the RTW effort. This is a key point. The supports would be designed to ensure that workers return to substantial work if they are able, while at the same time producing better information about the worker’s ability to engage in substantial work with available support. Time-limited cash benefits would ensure that those initially offered employment support are at least as well-off financially as if they were receiving SSDI benefits during their attempt to return to work.

## B. Development of an EES system would be challenging

The establishment of an EES system would take an extraordinary effort over a long period. It would require the development, blending, and financing of employment supports delivered by state agencies or private organizations with the benefits delivered by a federal program that by design is supposed to provide a uniform, minimum level of support nationwide. That implies extensive, complex changes to laws, rules, and regulations at the federal and state levels. It also would mean transformation of adjudicative, appeals, and oversight processes and new training for adjudicators, service providers, and others. It would also require improvement and expansion of the nation’s capacity to deliver RTW services to those who might otherwise enter SSDI. In addition, it would require changes in long-established relationships between institutions, and may change some institutions themselves. Finally, it would require the agreement of a broad spectrum of political interests for a sustained period. In short, it would be a Herculean task.

One response to the task’s magnitude is to not take it on at all. But consider the alternative: fixing the dysfunctional, conceptually flawed set of current policies and programs for workers who are at high risk of SSDI entry. Federal and state policymakers have been attempting to do so for decades, with essentially no progress in improving outcomes for ill or injured workers or in reducing their reliance on public programs. Many stakeholders who have watched or participated in this effort feel that they are forever pushing a boulder up a hill, never getting any closer to their goal—like the mythical Sisyphus. Policymakers have a choice: continue the Sisyphean task to fix a conceptually flawed system or embark on a Herculean effort to build a conceptually sound one.

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<sup>1</sup> The CSAVR’s 2007 proposal is called “CSAVR Employment First.” It should not be confused with the Employment First initiative of the Office of Disability and Employment Policy at the U.S. Department of Labor.

## C. An incremental approach to EES development

We present an approach to development of an EES system that is more incremental than a version that we had proposed in an earlier version of this paper. Comments from a number of keen reviewers of the earlier version convinced us of the need for a more incremental approach. Reviewers asked for more details about the design, development, testing, costs, and benefits. They wanted to know how all of the institutional, legal, and process issues would be addressed. Some sought assurance that no ill or injured workers would be worse off. Others wanted firm evidence that the system would reduce public expenditures, not increase them. These are all important issues to raise, but they cannot be adequately addressed without actually starting a development process, at least tentatively. The more incremental approach here would reduce the risks and initial costs but also the scope of the difficult issues that need to be addressed immediately. The development process would eventually address those issues by building upon early successes and lessons learned.<sup>2</sup>

The incremental approach presented here would build on emerging public efforts to improve the workforce retention supports (WRS) available when workers first experience work loss because of a serious injury or illness. More specifically, initial state EES systems would only target those workers who are first served by well-organized WRS systems but are unable to return to substantial work within five months—coincident with the current SSDI waiting period. In other words, the target population would only include workers who, despite the availability of WRS services, are unable to return to substantial work within five months.

Eight states are already working on developing such WRS systems under grants from the U.S. Department of Labor (DOL), as described further in Section IV. Some of those states will presumably become good candidates to develop the first EES systems within a few years. The Social Security Administration (SSA) would provide support and oversight for any such effort, as well as focus on the adjudicative responsibilities of the EES. The U.S. Departments of Labor, Education, and Health and Human Services would need to collaborate because of their oversight roles for state agencies that would potentially provide services to individual workers. Once a state EES successfully serves the workers initially targeted, it could expand its capabilities by targeting workers who have been provided with WRS by a workers' compensation insurer, private disability insurer, or self-insured employer. Expansion to other states and eventually to all workers expected to miss at least five months of work would follow, building upon earlier experience.

## D. Other updates

Important comments from multiple reviewers led to other significant revisions to our original development approach. First, for institutional reasons, the EES described in this paper would have little or no responsibility for providing RTW supports to workers expected to return to substantial work within five months of initial job loss. Delivery of services within those five months can be critical, but we envision that they will largely be the responsibility of state and private WRS systems. The EES and its development should be designed to support the development of high quality WRS systems, with goals that are synchronized with those of the EES. Ideally, workers unable to return to substantial work within five months after

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<sup>2</sup> Readers interested in the more ambitious and rapid development approach presented in the first draft of this paper should contact the authors.

receiving WRS support should experience a seamless transition to the EES system. This change from previous descriptions of the EES is designed to address numerous concerns raised by reviewers about the challenges of integrating a federal program, SSDI, with workforce programs that are primarily the responsibility of states and the private sector.

Two reviewers noted that SSA could use the commissioner’s regulatory authority to develop and test new features of the SSDI eligibility determination process, rather than the SSDI demonstration authority. Presumably, SSA would only need to rely on the latter authority to develop and test aspects of the system that concern changes in the legal definition of SSDI eligibility or in SSDI benefits. The EES proposal leaves SSDI benefits intact and does not change the statutory definition of eligibility. In the last three decades, SSA has used the commissioner’s regulatory authority to develop, test, and in some cases adopt numerous significant innovations in the disability determination process.<sup>3</sup> Conceptually, the development and testing of the EES is the same. The commissioner’s regulatory authority applies because the EES represents a fundamental change in the disability determination process, not a change in rules governing the effects of earnings on benefits of existing SSDI beneficiaries. One past effort to obtain medical data of SSDI applicants from large electronic health record systems provides a useful model for EES development. As we will discuss further, however, the early phases of the proposed EES development approach leaves the option of using the current SSDI disability process in place until it can be demonstrated that the EES system consistently provides better outcomes for workers.

Finally, the revised proposal puts more emphasis on system development and formative evaluation—that is, assessing whether components are set up and functioning as intended and addressing limitations before proceeding to formal evaluation of the system’s impacts on key outcomes—rather than building and conducting a summative test of a full-fledged prototype. As reviewers have argued, this approach is more practical and safer. It means that rigorous evaluations of system components will be performed as they are developed and deployed, then modified as needed to meet system requirements. Summative evaluation—that is, evaluation of the impacts of the system on key outcomes for workers and programs—remains important, but would be deferred until an EES system is delivering services to a specific target population as intended.

In what follows, we first describe the status quo, provide a high-level description of the EES system, and compare the two (Section II). We then present a more detailed vision of the EES system, including descriptions of its major components and functions and how important elements build on current capabilities (Section III). We then describe our three-phase approach for developing the EES over an extended period (Section IV). Our concluding remarks point to the central role that a EES system could be expected to play in further efforts to modernize disability policies and programs (Section V).

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<sup>3</sup> Descriptions of several of these efforts may be found in Office of the Inspector General (2010, 2018); Government Accountability Office (2007); and Social Security Advisory Board (2015).

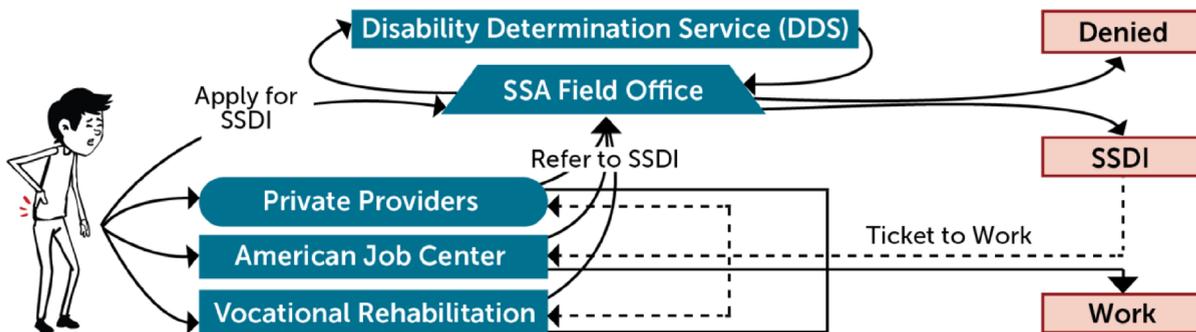
## II. The EES System Compared to the Current System

The proposed EES system represents a conceptual approach to addressing both needless work disability and the challenges of updating the SSDI disability determination rules and processes. It would fundamentally change what can, at least euphemistically, be termed “the current system” for providing employment support and disability insurance benefits to such workers. The EES system would integrate (1) the timely provision of support to help people continue to work and maintain their household incomes and (2) a modernized SSDI eligibility determination process. The goals of the integrated system are to (1) ensure that all workers have rapid access to RTW assistance with temporary financial support before entering SSDI and (2) quickly award SSDI to workers as soon as it becomes apparent that available RTW supports are unlikely to enable substantial work within 12 months, if ever.

### A. The current system

Currently, when workers have a medical condition that threatens their ability to stay in the workforce, they have several options (Figure II.1): apply for SSDI, seek assistance that would allow them to stay in the labor force (from either the private or public sectors), or pursue both paths simultaneously. There is little or no coordination of these efforts, and they often have conflicting objectives. Further, state Disability Determination Services (DDSs), which initially adjudicate medical eligibility on behalf of SSA, do not consider how services and supports might improve the worker’s ability to stay in the labor force. The Government Accountability Office (GAO), the SSAB and others have long recommended greater consideration of such services and supports (for example, GAO 2012; SSAB 2006). It is problematic to do so, however, in a determination process in which adjudicators make decisions by comparing information about the claimant to eligibility criteria established by SSA. SSA would need to overlay the already complex eligibility criteria with complex information about the services and supports.

Figure II.1. The current gateway to SSDI

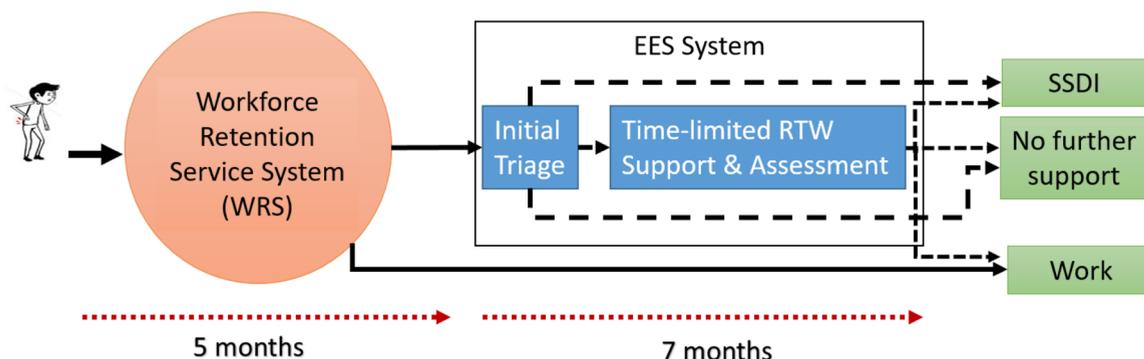


## B. The EES proposal

The EES would be an integrated system for delivering SSDI or time-limited RTW support, potentially followed by SSDI to those unable to return to work within five months due to a medical condition. The EES would have an obvious interest in services and supports available to the worker within the first five months and could potentially influence them in an intentional manner, but it would not be responsible for providing them.

Figure II.2 illustrates a situation that is ideal from the perspective of assuring the best outcomes for workers. In this scenario, the worker has support from a well-functioning WRS system that has the goal of helping the worker return to substantial work within five months of work loss, if feasible (see Section IV). The WRS may be a public or private entity. Presumably, a substantial majority of those served by the WRS system would in fact return to work. The remainder, however, would not be able to do so. In some cases that may become apparent when job loss first occurs because of the nature and severity of the illness or injury and the requirements of the job, but in many cases inability to return to work within five months may not become apparent until several or even all of the five months have passed. Either way, once WRS staff recognize that the worker will be unable to return to work within five months, they will be in a position to help the worker apply for EES supports. Ideally, EES supports would start at the beginning of Month 6. The WRS and EES would work cooperatively to ensure that the transition from WRS support to EES support is as seamless as is feasible.

**Figure II.2. An EES system for workers who are first served by a WRS system**



Key features of the EES system would include:

- **Application.** The WRS would facilitate application for EES support. This would include transmission of extensive electronic records about the worker’s medical condition, medical and vocational services received to address the medical conditions and support the worker’s return to work, past work, return-to-work goals, and recommendations for support to be provided by the EES.

- **Triage.** An EES adjudicator would verify that the applicant qualifies for at least some support, then determine whether the applicant is qualified for an immediate SSDI award or time-limited RTW support. Conceptually, only those with essentially no prospect of returning to substantial work within 12 months from initial work loss (7 months from the expected start of EES support) would qualify for SSDI, while others would qualify for time-limited RTW support.
- **Time-limited RTW support.** All others would receive RTW support that would last until Month 12, after the first work loss due to the worker’s medical condition. The assistance would include time-limited monthly cash benefits that are the same as those the worker would receive if the worker had been awarded SSDI but are contingent upon the worker’s pursuit of an approved RTW plan. An EES counselor and the worker would develop the RTW plan, including a timetable and elements related to health care, rehabilitation, accommodations, assistive technologies, transportation assistance, personal assistance, transitional work, employer incentives, and temporary cash assistance.
- **Redetermination of SSDI eligibility.** Workers receiving time-limited RTW support could request a redetermination of SSDI eligibility at any time. Conceptually, SSDI would only be awarded if new information convinces an EES adjudicator that the worker is unable to return to substantial work within 12 months from the initial work loss.

The 5-month waiting period for EES support would coincide with the 5-month waiting period for SSDI. In addition, the specification that time-limited support would end 7 months later would coincide with the statutory definition of disability for SSDI—that is, inability to engage in substantial gainful activity for at least 12 months because of a medically determinable condition. We picked the specific time periods to synchronize the EES process with these statutory features of SSDI.

For purposes of thinking about the development of an EES system, it is helpful to first think about an EES system for workers that have the advantage of services provided by a well-designed WRS system, for up to five months. Of course, today many workers experiencing work loss because of a medical condition are not served by a WRS system at all. Many do obtain services but not necessarily in a fashion that will minimize work loss and usually not within a WRS system. Others may fail to receive critical services when they need them. Ultimately, the EES would need to serve workers with a wide variety of experiences in the first five months of work loss if it is to be the only gateway to SSDI. Hence, the gateway illustrated in Figure II.2 is incomplete.

As mentioned in the introduction and described in more detail in Section IV, there is already a federal effort to encourage and help states develop WRS systems. Development of the EES could be an important complementary activity—one that could potentially encourage the development of well-designed WRS systems as well as benefit from their development. For that reason, our proposed first phase of EES development focuses on building a system designed only to serve workers who have already been served by a WRS.

## C. Potential benefits of an EES system

The most important benefit of an EES system is that it would reduce premature exit from the labor force and entry into SSDI of workers with significant medical conditions who have experienced at least five

months of work loss already. It would do so in part by increasing the number of workers who receive quality RTW services early and in part by removing the incentive to wait until after an SSDI award to return to work.

Workers and their families are likely to be the largest economic beneficiaries because compensation from continued employment is typically well above the value of SSDI and other benefits. A well-designed system would also benefit employers because of expansion in the workforce and the government because of lower benefit expenditures and higher tax revenues. The potential for program savings is high because the present value of federal and state government expenditures for the average SSDI awardee likely exceeds \$300,000 (for SSDI, Supplemental Security Income [SSI], Medicare, and Medicaid combined), whereas the cost of RTW support that may reduce SSDI awards is likely on the order of \$10,000 per worker (Section C of the Appendix).

It is difficult to consider the implications of the EES system for government expenditures without also considering how the EES interacts with the RTW supports that are available to workers in the five months before EES supports can begin. Evidence presented in Stapleton et al. (2016) implies that well-designed WRS and EES systems, combined, could produce tens of billions in benefit savings every year. Hence, net government savings could be realized even if the cost of RTW support must be provided to a substantial number of workers in order to reduce the number entering SSDI by one.

Existing evidence does not allow us to assess the fiscal effects of either a WRS system or an EES system on its own. If a WRS system is in place already, the addition of an EES system may produce very little additional savings. In the absence of a WRS system, however, savings from an EES system could be substantial, although not as large as the savings from the combination of a WRS and EES. An important fiscal reason to support development of the EES is that development of the two systems would be complementary.

We return to a discussion of the costs and benefits of an EES system in Section V. We also consider one other major advantage of the EES system relative to the current disability determination process: its greater potential to support a wide array of changes to the support system for all working-age adults and for children with significant, long-lasting disabilities.

### **III. A Fully Developed EES System**

This section presents a more detailed description of a fully developed EES system—one that is designed to serve all workers following at least five months of work loss due to a significant medical condition. Our intent in describing a fully developed system is to identify the many challenges that need to be addressed in the development process. Those challenges inspired the development approach that we propose in Section IV.

In the subsections that follow, we describe major features of the proposed prototype: the institutional structure, outreach and applications, initial eligibility determination (triage), time-limited EES employment supports, redetermination of SSDI eligibility after employment supports, and appeals of EES decisions.

## A. Institutional structure

The most fundamental challenge to developing the EES system is that it requires substantial institutional change. At a high level, the integration of support for return to work with the disability determination process requires coordination and integration of activities of a federal program (SSDI) with the activities of a wide array of public and private entities that vary by state, including some which receive federal support from agencies other than the one that administers SSDI—that is, SSA.

### 1. Current institutional structure for RTW support and SSDI entry

SSDI is a federal program designed to be implemented uniformly across all states. A state agency, the DDS, plays an important role in the disability determination process for each state, but it does so with funding and under the direction and watchful eye of a federal agency, SSA. Further, every DDS decision on individual cases is potentially subject to SSA review, and SSA is ultimately responsible for effectuating each decision. This institutional arrangement serves the policy goal of making a minimum, uniform level of support available to disabled workers throughout the country while allowing SSA to protect the financial integrity of the DI Trust Fund.

In contrast, to the extent they are currently available, RTW supports for workers with medical problems are provided by an array of state and private entities in a manner that varies greatly by state and is generally not systematic. The state entities that may be involved in RTW supports—most notably VR, workforce development, health and mental health agencies—receive funding and are subject to rules and oversight from a set of federal agencies—most notably, the Departments of Education, Labor, and Health and Human Services. On the private side, health care systems, health insurers, private disability insurers, self-insured employers, unions, and an array of vendors all play important roles. Workers' compensation insurance systems span the public and private sectors in ways that vary across states. The RTW activities of all of these entities are subject to a complex web of federal and state regulations.

In an important sense, currently available RTW supports are already integrated with SSDI. Regulations, institutional structures, and the systems and activities of entities involved in RTW supports have evolved around the existing SSDI program and its disability determination process over a period of approximately six decades. Integration has occurred because stakeholders external to SSA have adapted to SSDI in ways that make sense from the stakeholder's perspective. However, such adaptations are often not in line with the policy objectives of (1) avoiding labor force exits and entry into SSDI when, with a modest amount of support, the worker could have continued to work at a substantial level and (2) ensuring that workers can quickly obtain SSDI benefits when return to substantial work is not a realistic objective.<sup>4</sup> In general, such adaptations are unintended consequences of SSDI.

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<sup>4</sup> For example, private disability insurers routinely provide coverage with 60 percent to 70 percent wage-replacement rates at premiums that are on the order of 40 percent below what they would need to charge in the absence of SSDI (Anand and Wittenburg 2017). Disability insurers are able to charge relatively low premiums for such coverage by routinely including offset provisions that reduce the private benefit by \$1 for every \$1 of SSDI benefits for which the claimant is eligible. The high replacement rates reduce the incentive for the worker to return to work, while the \$1 for \$1 SSDI offset reduces the incentive for the insurer to help the worker return to work.

## 2. Proposed changes to the institutional structure

We are proposing to change the gateway to SSDI in a manner that would intentionally encourage the same public and private entities to adapt in ways that support the objectives of reducing avoidable labor force exit and SSDI entry. This is not a change that SSA could implement on its own. At a federal level, it would require the cooperation of other federal agencies capable of influencing the behavior of the same entities for the same purposes. At a minimum, these include the Departments of Labor, Education, and Health and Human Services.

SSA would, however, need to have primary responsibility for the EES system itself if policymakers wish to continue to provide a minimum, uniform federal cash benefit to disabled workers as well as strong federal stewardship of the DI Trust Fund. Even so, the EES system could involve state entities and the private sector in ways that are different from their involvement with the current disability determination process. Such entities would continue to provide the bulk of RTW supports in ways that vary from state to state.

A practical way to address the fact that the RTW support landscape varies across states and involves state agencies is to establish a state-run EES in each state that would be supported by federal funding and under SSA's oversight. The state-run EES would be the successor to the state-run DDS. Some EES functions would be quite similar to those of a DDS, but others would be quite different. For instance, currently, an SSA field office takes each application from a worker; determines technical eligibility (that is, whether the applicant's earnings history meets SSDI's work history requirement); and then passes the application on to the state DDS for the medical determination. Under the EES system, the worker would apply directly to the EES and the EES would make both technical and medical decisions, with assistance from SSA as needed.<sup>5</sup>

A second important example of EES responsibilities concerns employment supports: the EES would have some administrative responsibilities for managing the funding, delivery, and financing of employment services to workers awarded time-limited RTW support. The services themselves would be delivered by other state agencies (most likely the VR agency, the workforce development agency, and the health agency) and private sector vendors. Public and private service providers would enter into agreements with the EES under which they would deliver RTW services to workers awarded RTW support without requiring the worker to submit a full application for support.

Like the current DDS, the EES would have many adjudicative responsibilities. Our expectation is that the EES would need to pass its eligibility decisions on to SSA for review and approval prior to implementation. The EES would also play an important role in implementation of any RTW support (described further below). As currently, SSA would implement SSDI benefit payments on its own.

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<sup>5</sup> SSA's test of the Disability Claims Manager model demonstrated that state agencies—specifically the DDS agencies—are capable of taking claims directly from workers and adjudicating nonmedical as well as medical eligibility. See Subcommittee on Social Security (2003).

## B. Outreach and applications

We propose a significant change in outreach to workers who might be eligible for benefits. Whereas SSDI's current outreach approach might be characterized as passive, we propose a much more active, targeted approach. Currently, SSA conducts very little direct outreach to workers who might be eligible for SSDI. Information is available in the community and online about SSDI benefits. In addition, SSA delivers individualized annual statements to workers about the size of their potential future Social Security benefits due to either disability or retirement. Quite recently, SSA has made the benefit information available on the Internet to individuals who create a secure account, called *my* Social Security.

For the EES, we recommend an approach to outreach that targets workers who have already or almost certainly will experience at least five months of work loss for medical reasons. Although any worker could apply, the proposed EES is designed to serve workers who have no prospect for returning to substantial work within a five-month period because of a medical condition. Clearly targeting such workers is important to discourage applications from workers who are likely to return to work within five months.

In what follows, we first describe outreach and applications for workers served by WRS systems, because of their importance to the first phase of EES development. We then consider outreach and applications for other workers.

### 1. Workers served by WRS systems

Some candidates in the EES target population will first be served by a recognized, cooperating WRS system. As discussed in Section IV, the EES in a state should proceed in a manner that encourages and supports development of highly functioning WRS systems. From the perspective of workers served by a WRS, seamless entry into an EES would become the fallback outcome if the worker is unable to return to substantial work within five months. The EES would offer rapid entry into SSDI for WRS participants clearly unable to return to substantial work within 12 months and time-limited benefits with RTW supports to most others.

We would expect the EES to develop referral relationships with WRS systems that function well and meet certain requirements (not yet specified). Staff from a qualified WRS system would help workers apply to the EES when they first determine that the worker is not capable of returning to work within five months; they do not need to wait a full five months. The qualified WRS would be expected to provide detailed electronic records on the worker's medical condition and all services provided while enrolled in the WRS—both medical and vocational. The EES would use this information to support its initial triage process, as described further below. In sum, a qualified WRS would essentially prescreen workers for EES eligibility and submit an application for EES services on their behalf.

## 2. Other workers in the EES target population

Some workers in the EES target population—perhaps the majority—will not obtain services from a recognized WRS system, even in a world where the EES and other federal agencies vigorously support the development of WRS systems. As a result, the EES would need to conduct outreach to ensure widespread awareness of the types of workers most likely to benefit from application for EES services—namely, workers with such significant medical problems that they are unable to work for at least five months. The goal is to saturate the community with information about the temporary employment supports available to qualifying workers as well as access to SSDI for those unable to return to substantial work. Specific targets of outreach could include workers who already have medical problems, employers, labor and employer organizations, practitioners, health systems, rehabilitation providers, and insurers. Most people in the community will not need the information when they are first exposed to it. Ideally, however, they would learn enough about the available support to find more information should they need it later—in the same way they are aware of and could obtain more information about health care services and assistance in filing claims for disability benefits. To the extent feasible, it would be useful to provide information about the decision criteria for the initial triage so that potential applicants better understand their options.

Workers not served by a qualified WRS would need to submit an application to the EES on their own, in a manner similar to the way they would apply for SSDI benefits today. The initial application process should minimize burden on the applicant by providing multiple options for submission (Internet, telephone, or in person), as SSA does today. SSA currently uses a 12-page application form ([SSA-3368](#)) for SSDI. Although material from this form would need to be incorporated in the EES form, the current form would need to be altered because it would serve a different purpose—that is, to support an initial determination about eligibility for work supports or SSDI (see below).<sup>6</sup> For example, the new form would likely request information about efforts to return to work during the first five months following job loss. In addition, the applicants would need to allow the EES to collect medical and vocational service records from any providers they used during that period.

### C. Initial eligibility determination (triage)

The initial eligibility determination for the EES would be a triage mechanism under which an EES staff member would make an initial decision concerning the eligibility of the applicant for employment supports or SSDI. Possible outcomes include the following: (1) eligible for neither SSDI nor EES employment supports, (2) eligible for employment support, or (3) eligible for SSDI. For initial development purposes, we recommend decision criteria that are a simplification of the current SSDI decision criteria (depicted in Figure III.1). For those unfamiliar with the current process and criteria, we describe it below. Others may skip to the description of the EES criteria and decision process.

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<sup>6</sup> The new form would not be a “Report of Disability” (the title of the current SSA form) but rather an “Application for Assistance Because of Work-Limiting Medical Condition,” or similar.

### Figure III.1. Current SSDI eligibility criteria



#### 1. Current eligibility criteria and decision process

The current decision process proceeds as follows. An SSA employee first checks whether the worker meets the program’s earnings history requirement, called disability insured status. If the worker does meet the requirement, a disability examiner (DE) at a DDS determines whether the applicant is currently employed at what the program defines to be a substantial level (Step 1). If not, the DE determines whether the applicant’s medical condition is sufficiently severe (interferes with basic work activities) and long-lasting to warrant further consideration (Step 2). The application may be denied for any of these three reasons. Next, the DE considers whether the applicant’s condition meets or equals a listing” (Step 3)—that is, the extensive listings of impairments that identify qualifying medical conditions and their required severity. If the DE determines that the condition meets or equals the listing, the DE allows the application—that is, finds that the applicant is eligible for SSDI.

If the application is not allowed at Step 3, the DE determines the residual functional capacity (RFC)—an assessment of the remaining physical and medical capabilities of the applicant—and moves on to Step 4. At that step, the DE considers whether the applicant’s RFC would allow the applicant to be substantially employed in a type of job that the applicant has performed in the past. If not, the DE considers whether there are other substantial jobs in the economy that the applicant’s RFC would be sufficient to perform (Step 5). For applicants not determined eligible for SSDI at Step 3, the DE may only determine that the applicant is eligible if the applicant’s RFC is not sufficient to perform either past substantial work or any substantial work in the economy. Based on the most recent published statistics, approximately half of all SSDI allowances are made on the basis of this criterion.<sup>7</sup>

In completing Steps 4 and 5, the DE must consider vocational factors—that is, the age, education, and work experience of the applicant—and the relevance of these factors to the applicant’s ability to perform substantial work. Over many decades, SSA has developed extensive, practical rules for the use of vocational factors. Unfortunately, the evidence to support these rules is scarce (Mann et al. 2014). As a result, SSA

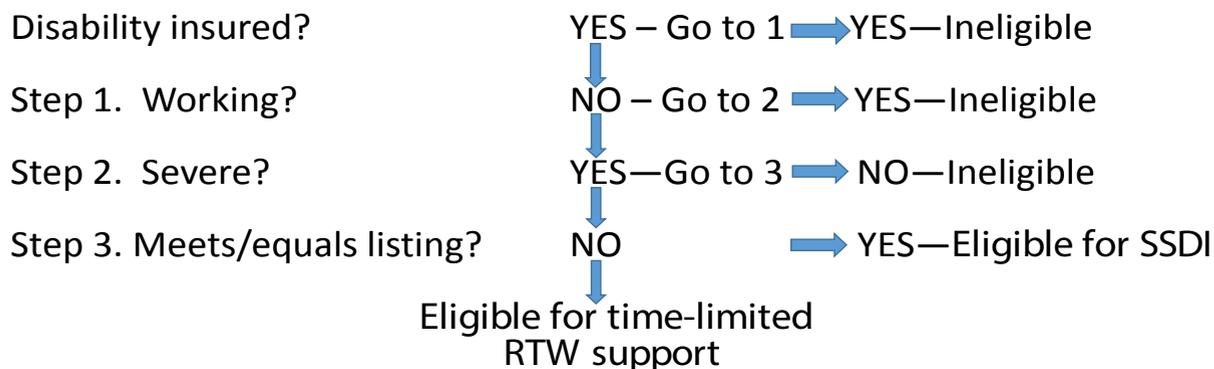
<sup>7</sup> In 2016, 44.3 percent of all SSDI allowances to disabled workers were made at Step 3; 46.2 percent were made at Step 5; and 13.1 percent were made on a basis that was not clearly documented, usually at the appeals level (SSA 2018, Table 64).

is unable to verify that current use of vocational factors in the adjudicative process accurately determines whether an applicant is capable of substantial work. Further, SSA does not have an evidentiary base for updating its use of vocational factors as the nature of work and the ability of individuals to perform work changes.

## 2. EES triage criteria and decision process

We propose using a simplified version of the current disability criteria as the starting point for EES triage decisions, as depicted in Figure III.2. As under the current process, the EES would deny eligibility for any support if the applicant is not disability insured, is engaged in substantial work, or has a condition that is not sufficiently severe or long-lasting to warrant further consideration. However, the outcomes at Step 3 would change and Steps 4 and 5 would be eliminated. All applicants not found ineligible for support before Step 3 would be eligible for some support. Those whose condition meets or equals a listing would be eligible for SSDI. All others would be eligible for time-limited RTW support.<sup>8</sup>

**Figure III.2. Recommended starting point for triage decisions**



We propose the above criteria as a starting point for reasons of convenience. They are intended as just a starting point, however. As SSA proceeds with plans to develop and test the EES, it could examine this scheme in more detail and move away from the starting point—but always with the goal of making immediate SSDI allowances to workers truly unable to return to work within 12 months while providing all others with temporary RTW supports. Once an EES system is established, the criteria would need to continually evolve by adapting to changes in medicine, technology, and the requirements of substantial work.

If the adjudicator finds that the worker is eligible for some support, the adjudicator would also need to establish what SSA refers to as the disability onset month—the first month of inability to engage in substantial work for medical reasons—just as a DE would under current law. Once the adjudicator establishes the disability onset month, it would be protected, again just as it is under current law. This month would be the first month of the five-month waiting period for EES support—whether SSDI benefits

<sup>8</sup> The EES could offer the option of RTW support to those found eligible for SSDI, as an alternative.

or RTW supports—as well as the first month of the 29-month Medicare waiting period should an SSDI award eventually be made. SSDI’s current rules governing changes in the disability onset month would apply. Any return-to-work attempts deemed unsuccessful under those rules would not result in a change.

## a. Projected triage outcomes

In Section B of the Appendix, we develop a sense of the potential distribution of initial triage outcomes for disability-insured applicants based on published statistics for 2016 outcomes of SSDI medical determinations (SSA 2018). Assuming no change in the number of disability-insured applicants, the differences between current process outcomes and EES projected outcomes under the proposed criteria would be dramatic. The percentage of decisions allowed SSDI would drop from about 48 percent (494,000 in 2016) to about 23 percent, but the percentage allowed a benefit of some sort—SSDI or time-limited RTW support—would increase from 48 percent to 85 percent (877,000). Given the current number of SSDI applications in 2016, the number awarded time-limited RTW support (641,000) would be larger than the approximately 500,000 state VR applicants determined eligible for VR services annually (Rehabilitation Services Administration 2018).

The total number of applicants could be larger or smaller than the number of medical determinations made under the current disability determination process. If successful, efforts to develop WRS systems would reduce the number of workers seeking support via the EES. Further, some workers who would seek SSDI benefits under the current system might not seek support via the EES because they know they will not be eligible for SSDI and are not interested in obtaining time-limited RTW supports. At the same time, however, the availability of the employment supports via the EES may induce applications from workers who think they are not eligible for SSDI but are likely eligible for time-limited RTW supports.

These changes have major implications for post-decision program costs. Although a large number of applicants would receive the new 7-month RTW benefits, fewer would receive an SSDI award (initially and after redeterminations) and the savings from the latter may more than pay for the extra benefits, because under the current process the latter will receive benefits for multiple years, on average. We analyze the potential effect on government expenditures in more detail in Section C of the Appendix and summarize the findings in Section V.

## b. Resources for initial triage

Implementation of initial triage would draw heavily on many of the resources that state DDS agencies currently have. However, the EES would need additional resources and there would need to be some changes in the procedures that DDS agencies currently use to accommodate triage. Currently, DDS agencies do not receive applications directly from claimants; instead, they are received by an SSA field office, which checks the disability insured status and forwards the application to the DDS. In the past, some DDS agencies have taken claims directly on an experimental basis, and by all accounts have performed

well.<sup>9</sup> Because SSA holds the earnings data required to determine disability insured status, the EES would need to perform the task via an automated query process to SSA.

DDS agencies are responsible for collecting medical information about the applicant from existing providers as well as, when necessary, via consultative examinations by providers selected by SSA. The addition of time-limited RTW supports as a potential outcome would make it valuable to include vocational information in the data to be collected. This is most obviously true for applicants who have been served by a WRS system. In many cases, the records of the WRS system may include extensive information about unsuccessful RTW efforts during the five-month EES waiting period, including efforts that are ongoing. Such information could be very useful for purposes of implementing allowances for RTW supports.

Support tools embedded in management information systems could greatly increase the capacity of adjudicators to quickly and consistently make the many hundreds of small decisions that must be made in an adjudicative process such as the EES initial triage process. Although SSA and the state DDS agencies have struggled for many years with the development of a system that includes such tools (Disability Claims Processing System, or DCPS), the agency reported major progress since 2017 at a recent congressional hearing (Heckman 2018). Continued success in the development of the DCPS could make an important contribution to the development of the EES.

## D. Time-limited RTW supports

EES time-limit RTW supports would consist of both a cash benefit and services to support return to substantial work. The EES would require those eligible for employment supports to complete an acceptable RTW plan prior to the receipt of any cash benefits. Once the EES made a time-limited RTW support award, it would assign a professional counselor to assist the worker with plan development and execution. The counselor should be well trained on the types of services and supports that workers with such conditions may need to return to work and how they can be obtained locally. The worker and counselor may engage other stakeholders, such as providers and employers, in the development of the RTW plan. The plan would have provisions for cash support, services, and how they would be financed, terminated, and potentially extended (as outlined below). Ultimately, the worker and the counselor would need to reach agreement on the RTW plan before employment support could begin.

Operationalization of EES RTW support would require development of a template and process for developing RTW plans. We recommend drawing on RTW plan models and expertise from VR, Ticket-to-Work providers, private disability insurance, and social disability insurance in other countries. An EES administrator would be responsible for reviewing and approving RTW plans.<sup>10</sup>

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9 Under the test of the Disability Claims Manager (DCM) model, SSA tested having a single individual—the DCM—be responsible for accepting applications as well as completing all aspects of the initial eligibility determination. Of the 34 DCM offices, 11 were operated by DDS agencies in 10 states. The state DCM offices used DEs who were trained for the DCM position. Although the test was successful in many respects, especially with respect to processing time and claimant satisfaction, SSA ultimately decided to move forward with other changes to the disability determination process instead (Subcommittee on Social Security 2003).

10 One issue that needs to be addressed in the RTW plan is the geographic area within which the worker is willing to work. Many workers may be unwilling to move or move far in order to obtain a job. This issue is potentially relevant to the worker’s eligibility for SSDI if the RTW effort is not successful, because the Social Security Act’s definition of disability refers to inability to “engage in any kind

## 1. Time-limited cash support

Conditional on the completion and continued pursuit of an accepted RTW plan, the worker would be eligible to receive a time-limited RTW cash benefit that is equivalent to the benefit that SSA would pay an SSDI beneficiary with the same earnings history, provided only that the worker has already met the five-month SSDI waiting period, for up to seven months.<sup>11</sup> If authorized, SSA could make this payment from the DI Trust Fund, but policymakers could potentially fund these time-limited payments from other sources of revenue. Because the EES would target workers who are unable to return to work within five months of an initial work loss and would not accept applications from workers who have just stopped working unless it is clear that the worker is unable to return to work in five months, a large majority of those eligible for RTW support would likely be eligible for cash payments upon award of RTW support. This result is especially likely for those who received WRS services before applying for EES support. We also recommend making those workers who are awarded employment supports eligible for SSI if they meet the SSI means test. Those with sufficiently low assets and incomes would receive a supplement to the RTW cash benefit identical to the SSI benefit they would be eligible for as an SSDI beneficiary. Should the EES later allow SSDI benefits after a reconsideration of eligibility, the worker would not be eligible to receive retroactive SSDI benefits for the months in which the worker received RTW cash benefits.

Workers eligible for time-limited RTW cash benefits may potentially be eligible for other cash benefits from public or private sources in the same months. Eligibility for unemployment insurance (UI) benefits would be relatively rare, except during significant recessions when UI eligibility is often extended for longer than the usual 26-week (six-month) maximum. More workers may be receiving workers' compensation or private disability insurance benefits. To avoid problematic incentives and reduce EES program costs, we recommend reducing RTW cash benefits by \$1 for every \$1 of other public or private cash benefits received by the worker because the worker is unable to work. We recognize that SSDI's treatment of workers' compensation and private disability benefits is more generous than the treatment we have proposed for RTW cash benefits. We think the proposed treatment is necessary to avoid the displacement of other insurance benefits by RTW cash benefits and to maintain whatever incentives the other insurers have to support return to work.

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of substantial gainful work which exists in the national economy," not in the worker's area. That may become relevant if the worker's RTW effort is not successful and if the outcome might have been different had the worker been willing to take a job outside of the worker's chosen area. Our sense is that it is not the intent of policymakers to require the worker to consider work available anywhere in the national economy, as many will have strong ties to an area—especially older workers. Instead, we suggest the development of guidelines that govern the definition of the relevant area. To establish the area for the RTW plan, the counselor would be expected to apply the guidelines to the local geography. Potentially, the RTW plan could also specify assistance with moving to a different area as one of the services to be provided.

11 This provision is intended to ensure that applicants awarded RTW support are no worse off financially than they would be under current law while they receive employment supports. There are many other potential options for providing cash support to recipients of EES employment supports. It would be worthwhile to develop and test attractive options during the EES development process. These should include options that provide positive incentives for successful return to work, such as the bonus payments that were available to enrollees in DOL's Personal Reemployment Account demonstrations (Kirby 2008).

## 2. RTW services and accommodations

The RTW plan would include a description of the services and accommodations that the enrollee is expected to need in order to successfully return to work and how they would be obtained. Among other things, these may include medical care, physical therapy, assistive devices, or training to address functional limitations; worksite accommodations; and job modifications.

## 3. Termination

The RTW plan would specify that EES employment supports are time-limited, but with an option for an extension. We suggest using the end of the seventh month after the date on which the EES allows employment supports as the default termination date, with exceptions allowed under various circumstances. Under that specification, the default termination date for those allowed EES employment supports exactly five months after their disability onset date would correspond to the 12-month anniversary of disability onset. If the worker has not yet returned to substantial work because of a medical condition and despite an RTW effort, the EES would likely determine that the worker is eligible for SSDI (below). Of course, EES allowances may be made later than the fifth month after disability onset, in which case the 12-month anniversary of disability onset would occur before the termination date for employment supports. Our sense is that RTW supports should continue for the full seven months, unless there is another reason to terminate them.

The EES may terminate RTW support before the specified termination date for one of two reasons. First, the worker's RTW counselor could recommend early redetermination of SSDI eligibility because of strong evidence that the worker will not return to substantial work by the planned termination date, even with support—for example, because of an increase in the severity of the worker's medical condition. We would expect the EES to allow SSDI for most such cases. Second, the counselor may recommend termination because of the worker's persistent lack of cooperation in the RTW effort (that is, termination for cause). Lack of cooperation will be evidenced by failure to meet appointments; failure to adhere to evidence-based treatment; failure to apply for substantial work when work within the individual's performance capacity is available in the community; or for behaviors that reduce the likelihood of employment, such as criminal activity or substance abuse.<sup>12</sup> The RTW plan would specify possible reasons for termination for cause, and the worker would agree to the conditions by signing the plan. If RTW support is terminated for cause, the worker could request a redetermination of SSDI eligibility, but the expectation is that the EES would not make an allowance. At that point, the worker's only recourse would be an appeal to SSA (outlined later in this section).

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12 We assume the EES would not actively track criminal activity. The high prevalence of opioid abuse for treatment of pain is likely to make avoidance and treatment of substance abuse an important component of RTW plans. One option is to require the RTW plan to include treatment for substance abuse if a problem is identified, then provide qualified providers with some discretion to determine when to terminate cash support for failure to cooperate. In such instances, substance abuse would likely be material to the work disability, which would make the worker ineligible for SSDI under current law.

## 4. Potential extension

We suggest giving the EES some discretion to extend the employment supports beyond the initial termination date if requested by the enrollee. Extensions would only be granted to those enrollees who have cooperated and only after they have presented an acceptable extension to their RTW plan, with a viable rationale.

## 5. Financing

The issue of financing is difficult, for institutional reasons. Because the EES system would be led by a federal agency, it seems reasonable to make that agency responsible for funding the system's administrative functions, just as SSA is currently responsible for funding the DDS. The same is true for time-limited RTW cash benefits, which would replace the SSDI benefits that some would receive under the current program over the same period.

It would be problematic, however, to make SSA or the federal government more broadly financially responsible for all of the RTW services that would be delivered to those receiving EES employment supports. Doing so would result in a major shift in a financial burden already borne by a variety of other public and private entities. It would also create large incentives for such entities to encourage workers with significant medical problems to seek EES services rather than return to substantial work within five months. SSA could potentially supplement funding for some services but in a manner intended to encourage all stakeholders to support RTW efforts within 12 months, rather than entry into SSDI. SSA's funding for employment services provided for SSDI beneficiaries, currently under the Ticket to Work program, is a precedent for such support.

Financing for services and accommodations would need to primarily come from existing sources. An important caution is that those sources may need additional funding to maintain their existing services and accommodations for other groups. Financing also would need to be provided in a manner consistent with the goals of the EES. This is not a new challenge. Ongoing efforts to develop WRS systems would likely need to address some of these financing issues to achieve substantial success. Concurrent development of the EES can potentially support that effort by monitoring the pre-EES receipt of services by EES applicants, establishing rules and regulations for the funding of services to workers eligible for EES employment support, and creating incentives to encourage the delivery of effective RTW services.

Health insurance will be an important source of funding for many workers, but some will not have health insurance, especially in states that did not opt to expand Medicaid to previously uncovered low-income groups under the Affordable Care Act. In most instances, workers with coverage would be expected to pay insurance deductibles and co-payments themselves. Other financing would come from VR agencies, American Job Centers, workers' compensation insurers, private disability insurers and self-insured employers. We consider these sources of funding further in Section A of the Appendix.

Despite the numerous existing financial resources for employment supports, they will likely be inadequate relative to the resources required for optimal RTW plans in some, possibly many instances. For this reason, it will be important to provide some level of additional funds for RTW services, but in a manner that supports the goal of reducing needless work disability. We recommend following a self-directed approach for this purpose, building on positive evidence about the efficacy of this approach for providing employment and long-term care services (see Box 1). This approach provides financial power to the consumer, with professional support from an EES counselor, to purchase services in an efficient manner.

### **Box 1. Self-directed funding**

Under self-directed funding, counselors provide clients with a limited amount of funding to shop and pay for services that have been included in a specified plan. Payments can potentially be made with a debit card attached to a special account in the individual's name. In the context of the EES, the counselor could potentially open an RTW account on behalf of the worker and enable the worker to use the account for the purchase of services specified in the worker's approved RTW plan. The worker would have control over how the funds are spent within the constraints of the RTW plan. In concept, the counselor should set the total amount of funding at an amount that is commensurate with the potential for the services and accommodations to increase the worker's earnings and reduce reliance on public benefits prior to retirement. During development of the EES demonstration, the development team could consult with experts on self-directed services, such as those at the National Resource Center for Participant-Directed Services, for the purposes of developing the rules and financial instruments for such funding.

Recent evidence from DOL's Individual Training Account (ITA) demonstration for job seekers has shown that providing enrollees with substantial vouchers for services in combination with counselor discretion over the size of the voucher and counselor guidance is a cost-effective way to improve employment outcomes relative to other approaches (Perez-Johnson et al. 2011). Such ITAs embody the self-directed financing approach that had previously been shown to be cost-effective for financing personal assistance services for people with disabilities under the Cash and Counseling Demonstration (Carlson et al. 2007). It has since become an important feature in many states' Medicaid programs. Some service providers under SSA's Ticket to Work program also use a self-directed services model.<sup>13</sup>

## **E. Redetermination of SSDI eligibility**

If the EES terminates RTW support and the worker has not returned to work, the worker would be entitled to a redetermination of eligibility for SSDI. Some of these workers may now have medical conditions that meet the initial triage criteria for an SSDI allowance, but many others will not. SSA would need to develop a new approach for determining SSDI eligibility for the latter group, based on evidence from the worker's unsuccessful RTW attempt with work supports. The inability of a worker to return to substantial work within 12 months with RTW support is evidence that, given the worker's medical condition and available supports, the worker meets the statutory requirement for SSDI—inability to work substantially for at least 12 months due to a medically determinable condition. The SSA adjudicator would need to review the medical and nonmedical evidence accumulated while the worker was receiving RTW support and potentially collect additional evidence if needed. It would be important to establish mechanisms for documenting the worker's RTW experience to support the redeterminations.<sup>14</sup>

<sup>13</sup> See <https://yourtickettowork.ssa.gov/employment-networks/consumer-directed-en.html>.

<sup>14</sup> The geographic area specified in the worker's RTW plan could be a consideration. Unless the decision is based on work within the specified area only, the adjudicator could decide that the worker is capable of working at jobs available outside of that area, and therefore not allow SSDI eligibility. We think it would be more reasonable to specify a substantial area in the work plan, then have the adjudicator consider the narrower question of whether the worker is capable of performing substantial work within that area, given the individual's medical condition, residual functional capacity, and available employment supports.

The EES RTW counselor could play an important role in the redetermination process because the counselor would have witnessed the efforts of the worker; the counselor could help the adjudicator understand the information in the record. The redetermination process would need to guard against subjective biases that counselors may have, either for or against allowance of SSDI benefits to the worker. If employment supports were implemented as intended, the redetermination allowance rate would be high except among workers who request redetermination after the EES terminated RTW support for cause.

## F. Appeals

An established EES system must have an appeals process to protect applicants against decision errors with respect to triage and redeterminations, similar in purpose to the appeals system for the current disability determination process. The appeals system would also need to address disputes over content of RTW plans and termination of employment supports for cause. We recommend using the EES development process to gradually develop such a system. In the initial phase of EES development (see Section IV), we expect that workers using the EES system would have the opportunity to drop out of the EES and pursue SSDI benefits under the current disability determination process. That option would provide considerable protection to those who would seek support via the EES system.

## IV. EES Development Process

We envision a three-phase development process:

1. For the first phase, one option could be to build on current efforts to develop state WRS systems, such as the one administered under the Centers on Occupational Health and Education (COHE) for the state of Washington’s public workers’ compensation fund (Franklin et al. 2015), or those underway in the Retaining Employment and Talent After Injury/Illness Network (RETAIN) demonstration (Box 2). The RETAIN demonstration provides a promising infrastructure because some states are developing WRS systems that could eventually support an EES. If the RETAIN evaluation produces sufficient evidence of success starts to emerge in some states, SSA could invite those states to collaborate in an effort to develop and test initial EES systems. The only workers targeted in this phase would be those who have received services from the state’s WRS. Phase 2 would proceed only after successful testing in Phase 1.
2. The second phase would expand EES capacity to other states and to other WRS systems, including qualified private systems.
3. The third phase would expand EES capacity to serve all SSDI applicants, including those not served by WRS systems first.

## Box 2. The RETAIN demonstration

DOL has made Phase 1 RETAIN grants to eight states: California, Connecticut, Kansas, Kentucky, Minnesota, Ohio, Vermont, and Washington. During Phase 1, each state is designing and implementing a pilot system for providing early coordination of health and employment services that workers may need to successfully return to work. Many states are focusing on workers with musculoskeletal conditions because past research has demonstrated that timely, evidence-based interventions can prevent long-term work disability. Each pilot system is adopting some or all of the following approaches to improving return to work:

- Training in occupational health best practices for participating health care providers
- Active involvement of an RTW coordinator to facilitate continued employment
- Enhanced communication among workers, employers, and health care providers
- Accommodations and job modifications
- Retraining and rehabilitation services

Based on the Phase 1 findings, DOL will award Phase 2 grants to a smaller number of these states for the purpose of completing a rigorous test of the impacts of the state's system on return to work and entry into SSDI. SSA is responsible for conducting the evaluation.<sup>15</sup>

In concept, this development process would follow SSA's process for developing the capacity to obtain electronic health records, known as the Medical Evidence Gathering and Analysis Through Health IT (MEGAHIT) initiative (Box 3). Notably, MEGAHit started by working with just two health IT networks. After demonstrating substantial success with those networks, SSA went on to add other networks, now including at least one in every state, and continues to do so.

## Box 3. SSA's MEGAHit initiative

Under MEGAHit, SSA developed, tested, and is now expanding its capacity to obtain applicant medical records electronically from electronic health records systems. Starting in 2008, MEGAHit built on the earlier efforts of health care organizations to develop electronic health record systems—just as the proposed EES development process would build on RETAIN. Initially working with two health care organization partners, SSA developed the capacity to electronically request and obtain the medical records of SSDI applicants who had received care from the partner organization.

Small-scale tests found sharp reductions in the time and resources required to obtain applicant records and to complete initial disability determinations. Building on that experience, SSA invited more health care organizations to partner with the agency for this purpose. As of September 2018, SSA is able to obtain records electronically from health care organizations operating in all 50 states and the District of Columbia.<sup>16</sup> A 2015 evaluation found that medical records were received, on average, within one day of the request, compared to 19 days when requested by traditional means. DDS examiners made initial decisions an average of 21 days faster in cases where only electronic records were requested.<sup>17</sup>

### A. Phase 1

DOL expects to make grants to at least four RETAIN states for purposes of testing their new WRS systems in 2020. SSA's evaluation of RETAIN is scheduled for completion in 2023. If the evaluation finds sufficient evidence of success in some states, SSA and its federal partners could initiate an effort to establish

15 See <https://www.dol.gov/odep/topics/SAW-RTW/how-to-apply.htm>.

16 See <https://www.ssa.gov/hit/our-expertise.html>.

17 Most cases took longer because SSA had to request some of the applicants' records via the traditional process. SSA's expectation is that a larger and larger share of decisions will require only electronic records as the system grows.

relatively small prototype EES systems in the same states. When SSA and its federal partners initiate the development process in a state, they would work with the state's DDS, VR agency, and potentially other agencies and private organizations to support the development and implementation of a prototype EES. The WRS, which is presumably operating under the auspices of a state agency, would also play a significant role in the development process.

SSA could presumably use the commissioner's regulatory authority to proceed with Phase 1. Although the commissioner could make the prototype EES the only door to SSDI for workers in the prototype's target population, there are equity reasons to leave the current process in place for such workers, especially in Phase 1. Other workers residing in the same states but outside of the prototype's target population will still be able to pursue SSDI allowances through the current process. In practice, that means that workers in the prototype's target population could file an SSDI application via the current process rather than enter the EES process. To maximize EES use by the workers in the prototype's target population and minimize their use of the current process, we would include an EES appellate process under which an adjudicator could make an SSDI allowance under current rules in cases where an SSDI allowance would not be supported by EES rules.

In what follows, we briefly describe the capacity that each prototype EES would need to develop in Phase 1 and resources that would be useful for that purpose. We then describe the federal functions that SSA and its federal partners would need to develop to support the prototype EES systems. We conclude the discussion of the first phase of EES development with recommendations on its evaluation.

## 1. Target population and EES entry process

The target population in each EES prototype state would be participants in the state's RETAIN program (that is, its public WRS system) who are unable to return to substantial work within 5 months. The RETAIN program would be asked to help such workers apply for support from the EES. Some of these workers would be eligible for SSDI immediately, but others may only receive RTW support because, despite their recent experience under RETAIN, they have good prospects for returning to work within 12 months. Given that many of the state RETAIN initiatives are primarily targeting workers with musculoskeletal conditions, it might make sense to initially offer EES services to RETAIN participants with such conditions.

## 2. Initial triage

It would not be necessary to fully develop the initial triage process because all those seeking support via the EES would have, in essence, been prescreened by the state's RETAIN program. DEs detailed from the state's DDS could readily verify whether the worker is eligible for some support, as recommended by the RETAIN program, potentially based solely on documentation provided by the program. DEs would be able to establish the disability onset month and complete triage by using tools and skills that they already have. The WRS could potentially establish and document a provisional disability onset month before the worker's transition to the EES.

### 3. Implementation of awards for RTW support

SSA along with each state's prototype EES would need to establish the capacity to manage awards for RTW support. The EES would need to hire and train RTW counselors for this purpose—potentially counselors on detail from the state's VR agency. As described in Section III, the RTW counselor would help the worker develop an RTW plan that is acceptable to both the worker and the EES. SSA would presumably pay time-limited benefits via the system that it uses to pay SSDI benefits, but only if the worker's RTW counselor confirms that the worker is following an acceptable RTW plan.

SSA and its partners would need time to establish the process for developing RTW plans and for managing those plans. As indicated in Section III, multiple models are available, but considerable effort would be required to review those models and develop a model tailored to the needs of the EES.

### 4. Redeterminations

Each EES prototype would also need the capacity to conduct SSDI eligibility redeterminations for workers who take up the offered RTW supports but do not succeed in returning to substantial work within 12 months. This would largely be a new process. Although not without precedent in other systems, its development would require considerable time and effort. Focusing on musculoskeletal conditions, as suggested above, would reduce the effort required to develop this process for purposes of Phase 1.

### 5. SSA functions

SSA and its federal partners would need to develop new capacities in support of the prototype EES systems. We suggest establishment of a centralized federal unit for this purpose, potentially with representatives working within each prototype state. This office would be responsible for all of the functions listed in Box 4.

#### **Box 4. SSA support required for prototype EES systems**

- Support determination of disability insured status for initial triage.
- Review SSDI allowances made at initial triage or redetermination and either implement or return to the EES for further consideration.
- Review time-limited RTW allowances and either approve or return to the EES for further consideration.
- Implement payment of time-limited RTW cash benefits in coordination with EES.
- Establish performance management system to ensure integrity of EES decisions and quality of RTW support.
- Receive and adjudicate workers' appeals of EES decisions.

The most challenging of the functions of the SSA office would be to receive and adjudicate workers' appeals of EES decisions. All workers seeking support via the EES would be able to appeal initial triage and redetermination decisions. SSA would need to develop and implement the capability to review appeals based on the EES rules. As with EES redeterminations, focusing on musculoskeletal conditions in Phase 1 would reduce the level of effort to develop SSA support for the prototype EES systems.

Because workers who use the EES prototype would presumably have the option of using the current process rather than the prototype process, one of the grounds for appeal could be that they would have received an SSDI allowance under the current law even though they do not meet the criteria for an SSDI allowance under the EES rules. If the EES follows the adjudicative criteria described above, such cases would be workers whose medical conditions do not meet or equal the listings but who might be eligible for SSDI because of the vocational factors used in the current process. SSA could presumably draw upon its existing capability to adjudicate appeals under the current law criteria.

## 6. Phase 1 evaluation

Evaluation of the Phase 1 EES prototypes would be critical to the continuation of EES development. Much of the evaluation should be formative in nature. That is, the evaluation should consider whether the implemented EES rules and processes, including the transition from the WRS to the EES, are functioning as intended and how they could be improved.

If findings from the formative evaluation show that the EES is functioning as intended and is of sufficient scale, the evaluation could proceed to a summative evaluation focused on the estimation of impacts on key outcomes and analysis of costs and benefits. An experimental design could potentially be used to produce rigorous impact estimates. Under such a design, some workers in the prototype’s target population would be randomly offered EES services and others would not. No worker would be denied the right to obtain SSDI under current legal rules because both the treatment process (EES prototype process) and control process (current process) could lead to an allowance under current law. If SSA tests the prototype under the commissioner’s regulatory authority for disability determinations rather than under the SSDI demonstration authority, the test could assign workers from the target population to one process or the other without requiring that they be informed volunteers.

There are also various non-experimental designs that could be used to produce less comprehensive but nonetheless rigorous impact estimates. An example of such a design is outlined in Box 5. To maximize the quality of a non-experimental design, it will be critical to develop and follow an implementation plan that can support a high quality evaluation.

### **Box 5. Example of a non-experimental design**

The Phase 1 prototype might only serve a subset of those in the WRS target population, based on location, condition, age, or other criteria. In that case, those not eligible for the EES could serve as a comparison group. Unlike with experimental treatment and control groups, however, systematic differences in the average outcomes of the groups would not necessarily be due to EES impacts—because their outcomes might systematically differ even if neither had the opportunity to use the prototype EES. Data on workers served by the WRS before the EES is implemented could be used to estimate the average differences due to factors other than the prototype EES. More specifically, the evaluation could estimate average outcome differences for the workers in the two groups who exit WRS support in the pre-EES period, then net them out of the differences for workers served by the WRS during the EES period. This technique is often called difference-in-differences. For it to work well, the implementation of the EES prototype would need to be delayed until a sufficient number of workers had been served by the WRS to produce reliable estimates of pre-EES differences.

Completion of a cost-benefit analysis also would be important. We recommend using a cost-benefit framework that considers all costs and benefits to society but also assesses cost and benefits from the perspective of workers, employers, and public expenditures—similar to the one that appears in Section C of the Appendix, Table A.2. Policymakers will almost certainly want Phase 1 evidence on the costs and benefits for workers, employers, and federal and state governments before authorizing Phase 2.

## B. Phase 2

Presumably, Phase 2 would proceed once policymakers were satisfied with the findings of an evaluation of the Phase 1 prototype systems. Exactly how is likely to depend upon a great deal of information from Phase 1, as well as upon the success and continuation of efforts to develop state WRS systems. Hence, we only sketch our ideas for how Phase 2 would proceed.

Phase 2 would have two goals: (1) continue to support the development of WRS systems beyond those established under RETAIN and (2) start prototype EES systems in all states. The additional WRS systems would include those developed in other states as well as qualified disability management systems financed by workers' compensation carriers, private disability insurers, or employers. Washington's COHE system, mentioned above, is an important example. The COHE system is serving as a model for development of WRS systems in RETAIN states. If the prototype EES systems focus exclusively on workers with musculoskeletal conditions, Phase 2 would provide them with the opportunity to serve workers with other conditions.

Perhaps the greatest challenge for Phase 2 would be working with existing WRS systems, most of which are privately managed and likely vary widely in quality. Given existing incentives, it would be a mistake to conclude that the employment supports provided by these systems are optimal from the perspective of workers or society as a whole. Further, the introduction of the EES could reduce the incentive for existing disability management systems to support workforce retention in the first six months after work loss starts. Under Phase 2, SSA and its state EES partners would do the following:

- Develop standards for disability management systems.
- Test the processing of applications from workers exiting qualified systems without substantial employment.
- Consider and recommend options for incentivizing disability management systems to increase the availability and quality of WRS.

Phase 2 could also include the processing of applications from disabled veterans, with the U.S. Departments of Defense and Veterans Affairs as the WRS system.

Ideally, Phase 2 would be a major component of a larger national effort to (1) expand access to WRS systems for workers with significant medical conditions and (2) reduce preventable work disability. Whether that happens seems likely to depend upon the success of the WRS systems to be tested under RETAIN. Phase 2 would be the optimal time to develop and test policies to ensure that the WRS and EES systems are in sync with each other with respect to the objectives of reducing preventable long-term work disability, rather than working at cross-purposes.

## C. Phase 3

Phase 3 could potentially start while Phase 2 is still in process. The goal of Phase 3 would be to expand the capacity of EES systems to serve all workers after five months of work loss due to medically-determinable conditions, including those not previously served by a WRS system.

The main challenge of this phase would be to develop the outreach, application, and initial triage processes for workers who have not been served by a WRS system. Numerous questions would need to be addressed. For example, should the conditions under which a worker is denied access to all EES services be modified relative to those applied to workers served by WRS systems? What evidence will the EES need to collect to support initial triage and potential initiation of RTW support in the absence of evidence accumulated by a WRS? The extent of the challenge will be inversely related to the extent to which the nation expands worker access to WRS systems under Phase 2.

## V. Summary and Discussion

Below we provide a short summary of the EES development proposal, discuss information about the costs and benefits of an EES systems to various stakeholder groups, and consider the role that an EES system would likely play in the broader disability program and policy landscape. Finally, we consider the implications of the recently improved financial status of the DI Trust Fund for EES development.

### A. Summary

We are proposing the development of an EES system that differs in one important respect from the EES system we previously proposed. Instead of serving workers as soon as they experience work loss because of a significant and potentially long-lasting medical condition, as we had previously proposed, the system proposed here would only serve those who miss at least five months of work because of their condition—a period that would be coincident in most cases with the current five-month SSDI waiting period. Another change is the more gradual development approach. Under the new approach, the proposed system would build upon ongoing efforts to develop RTW support systems for workers when they first experience work loss due to significant medical conditions under RETAIN—what we have called WRS systems. This change recognizes the difficulty of integrating a national benefit designed to provide income support to disabled workers in a uniform manner throughout the nation with state and local RTW supports that by their nature will vary with the local economic, policy, and service landscapes.

If any RETAIN program shows success and will continue to operate after the RETAIN evaluation is concluded, the RETAIN program and the EES would collaborate to develop a process under which qualified workers could transition seamlessly from WRS support to EES support after Month 5. We recognize, however, that many workers unable to work for at least five months because of a medical condition will not have WRS support. Eventually, EES systems would need to develop the capacity to serve all such workers before fully replacing the current SSDI disability determination process.

As in our previous proposal, at intake the EES would triage workers into SSDI, time-limited RTW support, or no support. No support would be provided if the applicant is not disability insured, is already working substantially, or does not have a condition that is sufficiently severe or long-lasting. Those awarded time-limited RTW support would receive seven months of cash benefits equivalent to what they would receive as an SSDI beneficiary, but only on the condition that they work with an EES counselor to develop and pursue an RTW plan. Those awarded RTW supports would be entitled to redetermination of their eligibility for SSDI. They should be found eligible for SSDI if the medical and vocational evidence accumulated under 7 months of RTW support demonstrates that they are unable to return to substantial work within 12 months. In effect, the RTW supports become a real-world test of whether the worker can return to work within 12 months by using available services and supports.

Like SSDI benefits, RTW cash benefits would be federally financed. We have left to others to determine whether their financing should come from the DI Trust Fund. Funding for RTW services would substantially come from sources that provide financing for such services now, notably private and public health insurance, VR agencies, workers' compensation insurers, private disability insurers, self-insured employers, and to a limited extent the worker. Because of gaps in available financing, we see a need to provide additional, last-payer coverage for some workers.

Rather than undertake the risky and inherently difficult process of fully developing and testing an EES system, we recommend a three-phase development process that would complement the ongoing development of WRS systems. The first phase would take advantage of the first successful public WRS systems to emerge from the current effort, likely in just a few states. The EES prototypes in those states would only serve workers unable to return to substantial work after five months of WRS support, after which they would transition into EES services. Testing this small version of an EES would be much less risky than proceeding with development and testing of a full-blown EES and would build the evidence base needed to develop the EES system further. If first-phase tests are sufficiently successful, later development phases could proceed to establish prototype EES systems in all states; serve workers who have been served by a larger variety of WRS systems, including those run by insurers and self-insured employers; and eventually serve all workers who are unable to work for at least five months because of a significant medical condition.

## **B. The benefits and costs of an EES**

In Section IV, we recommended that the Phase 1 evaluation include a cost-benefit analysis, because policymakers will need to be convinced that, net of costs, the benefits to workers, employers, government budgets, and society as a whole will be sufficient to justify moving forward. Of course, policymakers would like to be convinced of such favorable outcomes before starting Phase 1. But they must also be willing to accept a lower standard of evidence, because the primary purpose of Phase 1 is to build the evidence on costs and benefits. Phase 1 would only involve a few states and only a subset of workers in those states. If Phase 1 is unsuccessful, policymakers can terminate the EES development effort without causing major disruption to the status quo.

We do not have the resources to conduct a full, preliminary cost-benefit analysis. In Section C of the Appendix, however, we describe an appropriate cost-benefit framework and present readily available information to draw a number of useful conclusions. We consider benefits net of costs from the perspective of workers, employers, federal and state budgets, and society as a whole.

Overall, the preliminary analysis implies that there is substantial potential for large net gains for workers and society as a whole, including smaller net gains for employers and governments. This result is primarily driven by the fact that the present value of government expenditures for the typical SSDI awardee is enough to pay for time-limited RTW benefits for a large number of workers. The resulting expansion in the workforce is expected to increase government revenues at all levels, and increase employer profits as well. Combined, these projections imply a large net benefit for society as a whole. Against this promising finding, policymakers must weigh the real possibility of small gains for workers and possible losses to government due to increases in program expenditures that are not fully offset by higher tax revenues.

A more extensive analysis of the costs and benefits of the EES might change the nature of our findings. We would encourage scoring experts at the Congressional Budget Office and elsewhere to pursue such analyses. Our sense, however, is that it will be necessary to proceed with Phase 1 testing in order to substantially improve the ability of analysts to project the economic costs and benefits of adopting an EES system. Given the likely high degree of uncertainty, policymakers need to consider whether the potential for gains from an EES are sufficient to risk the cost of investment in Phase 1 testing. Fortunately, that cost is quite low relative to the potential gains because it would involve building only limited EES capabilities in just a few states to serve a subset of workers with significant medical problems, all of whom have not worked substantially for at least five months.

Successful development of WRS systems will actually reduce the net benefits of an EES system, assuming that the success of WRS development is independent of whether the government proceeds with the development of an EES system. Successful WRS systems will reduce the number of workers seeking assistance from an EES, reduce the share of such workers awarded time-limited RTW support, and reduce the number who return to substantial work rather than enter SSDI. Hence, policymakers might conclude that they should wait to assess the success of recently initiated efforts to develop WRS systems before deciding whether development of an EES system is worthwhile. That ignores the potential role that development of the EES system can play in advancing the development and success of WRS systems, however. We return to that topic in the next section.

## C. The role of an EES system in the disability program and policy landscape

The proposed EES system focuses on workers who are at risk for SSDI entry, with the goal of helping them avoid labor force exit and entry into SSDI. Many reviewers of an earlier draft astutely recognized that the proposed EES system has numerous other ramifications for disability programs and policies, both public and private. The fundamental reason for this is that other public and private programs and policies will adapt to these changes, just as they have been adapting to SSDI and the current disability determination process since SSDI's inception in 1956. Reviewers also noted that the EES process could facilitate the development and implementation of improvements to the design of SSDI benefits themselves.

The current effort to build state WRS systems under RETAIN can be characterized as an effort by stakeholders to improve the fragmented services and supports currently available to workers before they become eligible for SSDI. There are important synergies between the development of WRS systems and EES systems. It is apparent that establishment of successful WRS systems would help the establishment of EES systems by reducing the number of workers seeking support, facilitating the EES entry of those who need further assistance, and increasing the likelihood that such workers will return to substantial work within 12 months. Although less apparent, the EES system could also contribute to the success of WRS systems in a least three ways.

First, the ability of a WRS to facilitate transitions to EES services would bring with it an ability for the WRS to offer valuable services to workers that they could not offer under the current disability determination process. WRS counselors would be better able to serve those workers least capable of returning to work within five months by helping them get on the long-term path that is best suited for them and facilitating their transition to EES services.

Second, an EES system could include incentives that are designed to both support WRS systems and improve their performance. In general, these would be designed to improve outcomes for workers. Examples include (1) requiring insurer-based or employer-based WRS systems to pay for the time-limited RTW supports that the EES provides workers first served by the WRS, (2) requiring the WRS to meet certain service standards in exchange for the opportunity to facilitate transitions of workers to the EES, and (3) providing payments for performance in meeting those standards.

Third, the EES would have the ability to monitor the performance of WRS systems and provide information that either the WRS systems could use to improve performance or policymakers could use to change policies designed to improve WRS performance. The EES system would electronically collect medical and vocational data from all workers served by WRS systems and could monitor those data for trends in medical conditions, medical treatments, or other services that are suggestive of systemic problems. Consider, for example, what an EES system might have accomplished when the opioid epidemic first started. Many of those addicted to opioids were likely workers who started using opioids as a treatment for an injury. An EES system would have had the opportunity to spot increases in the prevalence of opioid use and misuse among workers transitioning from WRS to EES services and how those increases varied across WRS systems. Although it is not possible to know for certain, policymakers may have become aware of the crisis and gained an understanding of its causes much sooner than they actually did.

There are two other roles that an EES system could play:

1. An EES system could play a central role in ensuring that transition-age youth with disabilities and adults with disabilities who are not disability insured have access to vocational supports before they become eligible for adult SSI disability benefits or Social Security benefits as disabled adult children or disabled widow(er)s.

2. An EES system could facilitate improvements to the design of SSDI benefits themselves, most notably by serving as the mechanism to sort applicants into those eligible for full benefits and those eligible for partial benefits designed to encourage work—eventually replacing complex SSDI work incentives that are difficult to understand, difficult to administer, and to the best of our knowledge ineffective. Several proposals for such benefits appear in McCrery and Pomeroy (2016).

We develop these two points further in Section D of Appendix.

## D. Implications of recent improvements in the financial status of the DI Trust Fund

The financial status of the DI Trust Fund has substantially improved relative to its status in 2015, allowing us to close on a positive note. The Fund's poor status in 2015 stimulated our original EES proposal as well as numerous others. The fiscal improvement is partially due to temporary diversion of some payroll tax revenues from the Old-Age and Survivors Insurance Trust Fund (OASI) to the DI Trust Fund, per the Bipartisan Budget Act of 2015. The improvement is also partly due to an unexpectedly large decline in the number of SSDI awards, for reasons that are not well understood. The Board of Trustees of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds (2018) projects that the DI Trust Fund will be exhausted in 2032 and the OASI Trust Fund in 2034. Hence, while fiscal pressure to reduce SSDI expenditures remains, it is not nearly as strong as it was in 2015.

Although caution is important because of the uncertain projections for the DI Trust Fund, the reduced fiscal urgency makes the phased development of an EES system more attractive than it was when we first proposed it. It now seems that there is enough time to essentially piggyback EES development on federal efforts to build state WRS systems under RETAIN. It is important to start soon, however, so states that succeed in developing WRS systems can move quickly to develop EES prototypes. The goal should be to establish a robust, national EES system before another fiscal crisis occurs. Achieving that goal could help delay or even avoid a future fiscal crisis. However, should such a fiscal crisis occur, a robust EES system could give policymakers more attractive options to address the crisis than they had in 2015. The ability of SSA's commissioner to proceed with Phase 1 testing under the commissioner's regulatory authority, rather than SSDI demonstration authority, may help expedite the planning and implementation of Phase 1 testing.

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# Appendix: Additional Analysis

This appendix provides: additional information on financing for RTW services (Section A); projections of triage outcomes (Section B); a preliminary cost-benefit analysis (Section C); and further discussion of the role that an EES could play in future improvements to the disability support system (Section D).

## A. Financing for RTW services

Health insurance coverage will be very important for many workers before applying for EES support, as well as for those receiving EES support. Many workers will have health insurance, so the insurer can be expected to be the primary payer for covered health services. For uninsured workers, enrollment in an acceptable health insurance plan could be an element of the EES RTW plan. Currently, meeting such a requirement would be relatively easy for low-income workers in states that have expanded Medicaid to all adults with income under the 138 percent federal poverty threshold, but not in others. In all states, workers with household incomes above this threshold and below 400 percent of the poverty threshold would be eligible for a subsidy based on a sliding scale.

Workers who receive EES employment supports may need services from American Job Centers, state VR agencies, state mental health agencies, or other state agencies. We would expect those agencies to finance services as they normally would. Each state EES should have a cooperative agreement with the relevant state agencies to ensure the timely availability of services to those who are eligible for EES employment services. These agreements, along with well-designed RTW plans for such workers, could be instrumental in facilitating timely access to such services.

Some EES applicants will also be workers' compensation or private disability insurance claimants. A goal of EES development should be to encourage insurers, whether private or public, to support and develop high quality WRS systems. Further, insurers could potentially be required to pay for EES RTW services or some portion thereof. The same would apply to employers that self-insure for workers' compensation or disability benefits. Such financial requirements would provide the insurers and employers with greater incentives to provide RTW support in the first five months of work loss.

The final existing source of financing is the worker. We expect workers to be responsible for health insurance deductibles and co-payments as they normally would. Workers could be asked to make a contribution to other uncovered expenses but with limitations based on some measure of ability to pay. Sliding scale premium schedules for health insurance subsidies under the Affordable Care Act and those used by some state Medicaid Buy-In programs may provide useful models.

## B. Projection of triage outcomes

Table A.1 presents projections of triage outcomes based on current process outcomes in 2016 and the proposed changes to the eligibility criteria under an EES. We omitted consideration of decisions for those applicants found to be ineligible for SSDI because they were not disability insured.

The left-hand side of Table A.1 shows the actual 2016 outcomes determined at each of the five steps of the current medical-vocational criteria. The categories for “other allowed” and “other denied” were for the small numbers of allowances and denials, respectively, for which SSA was not able to report the step. The right-hand side of Table A.1 and the arrows between the two sides show how these outcomes were mapped to the projected EES outcomes.

**Table A.1. Projection of EES triage outcomes**

Current Process Outcomes (2016)			Projected EES Triage Outcome		
Outcome	Number (000s)	Percent	Outcome	Number (000s)	Percent
	<b>1,032</b>	<b>100.0%</b>		<b>1,032</b>	<b>100.0%</b>
<b>Allowed SSDI</b>	<b>494</b>	<b>47.9%</b>	<b>Allowed SSDI</b>	<b>236</b>	<b>22.8%</b>
Step 3	219	21.2%			
Step 5	259	25.0%			
Other allowed	17	1.6%	<b>Allowed</b>	<b>641</b>	<b>62.1%</b>
<b>Ineligible</b>	<b>538</b>	<b>52.1%</b>	<b>Employment Support</b>		
Step 1	155	15.0%			
Step 4	60	5.8%			
Step 5	219	21.3%			
Other denied	104	10.1%	<b>Ineligible</b>	<b>155</b>	<b>15.0%</b>

Source: For current process outcomes: SSA (2018, Tables 63 and 64). Triage outcomes projected by authors.

## C. Cost-benefit analysis

### 1. Cost-benefit framework

Table A.2 illustrates the framework for a cost-benefit analysis that focuses on the costs and benefits to workers, employers, governments, and society as a whole. As indicated in Column 1, workers will presumably gain from their increased productivity, via increases in wages and benefits, and from time-limited RTW cash benefits. However, they will ultimately pay more taxes and experience reductions in SSDI, SSI, Medicare, Medicaid, and possibly other government benefits. Employers will also gain from the greater productivity of the labor force, although those gains will also be partly offset by higher taxes. Governments (Column 2) will experience increases in tax revenues and savings from reductions in SSDI, SSI, Medicare, Medicaid, and possibly other benefits, but will experience increases in expenditures for time-limited RTW benefits. Society as a whole (Column 4) will benefit primarily from the increased productivity of workers, measured as the increase in wages and the value of fringe benefits, but must devote resources to RTW services. Changes in taxes, revenues, and program benefits are changes in transfers from one component of society to another, so they do not have a direct effect on costs and benefits to society as a whole. They do, however, have an indirect effect because of “deadweight loss,” the economic term for inefficiencies created by the distortionary effects of transfers on prices and wages—the greater the transfers, the greater the deadweight loss. Whether the EES would increase deadweight loss (a cost to society) or reduce it (a benefit) depends upon whether the EES increases or reduces total government transfers to support workers.

**Table A.2. Framework for cost-benefit analysis**

Benefit or cost component	1. Workers	2. Employers	3. Governments	4. Society
Worker productivity	+	+		+
OASDI revenues	-	-	+	
Other federal tax revenue	-	-	+	
State tax revenue	-	-	+	
Time-limited RTW support	+		-	-
SSDI, SSI, Medicare, Medicaid	-		+	
Other government programs	-		+	
Deadweight loss				?
<b>Total</b>	<b>?</b>	<b>?</b>	<b>?</b>	<b>?</b>

+ = expected benefit; - indicates expected cost

Because each stakeholder group experiences benefits and costs, we cannot predict whether any stakeholder’s net gain is positive or negative without knowing more about the sizes of the various components. Our back-of-the-envelope analysis provides some sense of what the key components will be.

The analysis below first demonstrates that an EES could reduce SSDI entry by 10 percent every year (counting entry both at initial triage and following redetermination) and would plausibly be cost neutral with respect to government expenditures for SSDI, SSI, Medicare, and Medicaid—after netting out new expenditures for time-limited RTW cash benefits and services. We then consider various factors that could lead to net increases or decreases in expenditures, as well as the consequences for the size of the economy, the incomes of workers, the incomes of employers, and tax revenues. As a starting point, we assume that the number of annual EES applicants and their decision outcomes in a typical year were those projected in Table A.1, which was based on SSDI eligibility determination outcomes in 2016. We project the present values of key cost and benefit components for these approximately 1 million workers under both current law and a fully developed EES system.

## 2. Government expenditures

Consider first the implications for government expenditures to support these workers under SSDI, SSI, Medicare, Medicaid, and time-limited RTW supports (Table A.3). The numbers of workers represented in the top rows of the table were taken from Table A.1. The estimated present value of expenditures for SSDI, SSI, Medicare, and Medicaid to SSDI awardees were based on Riley and Rupp (2015).<sup>18</sup> Their estimate, inflated by wage growth to 2016 values, implied that the present value of expenditures to the average SSDI awardee until full retirement age or death (whichever comes first) was \$320,521 in 2016.<sup>19</sup> We used this value to estimate the present value of expenditures for those awarded SSDI under current law (\$158 billion) and after initial EES triage (\$75 billion).

18 Riley and Rupp (2015, Table 4) present projections for SSDI-only and concurrent (SSDI/SSI) beneficiaries separately. We weighted these by their figure for percentage of awards to each group (71.0 and 29.0, respectively) to obtain \$292,052 for all SSDI beneficiaries in 2012 dollars.

19 We inflated to 2016 to correspond to the year of the projections in Table A.1. We used SSA’s Average Wage Index (AWI) to adjust for inflation. SSA uses AWI to adjust past wages in determining the SSDI benefit amount for awardees. As a result, average awardee SSDI benefits increase annually at about the same rate as the increase in AWI. We did not attempt to adjust for the fact that SSI benefits are indexed to prices and often grow at a slower rate than the AWI or that Medicare and Medicaid expenditures per capita often increase at a rate that is higher than the growth rate of AWI.

For those awarded time-limited RTW support under the EES, we assumed that the average cash benefit paid over a total of seven months would be \$9,445—seven times the December 2016 total of SSDI and SSI benefits paid to the average SSDI awardee (SSA 2018, Table 43). We assumed that total expenditures for RTW services for these same workers would be \$3.8 billion, based on fiscal year 2016 total federal and state expenditures for VR services and the fact that the number of workers awarded RTW supports was approximately the same as the number of individuals entering VR services each year (Rehabilitation Services Administration 2018, p. I6).<sup>20</sup> This estimate was equivalent to \$5,678 per worker receiving RTW support. Adding this estimate to estimated RTW cash support per worker yielded an estimated cost per worker of \$15,123 for time-limited RTW support.

The final program expenditure item under the EES is for SSDI, SSI, Medicare, and Medicaid paid to those who enter SSDI after receipt of time-limited RTW support. We based the number entering SSDI at this point on our assumption of an overall 10 percent reduction in total SSDI entry once time-limited RTW support has ended. That reduction implies that 233,000 of the 641,000 of workers awarded RTW support will enter SSDI after time-limited support ends. The present value of SSDI, SSI, Medicare, and Medicaid expenditures per worker for this group was estimated to be the same as for those awarded SSDI at initial triage minus the per worker value of cash payments received under RTW support (\$9,445): \$311,076.

**Table A.3. Projected changes in annual program expenditures with 10 percent reduction in SSDI entry**

	Current	EES	Change
Workers (annual, thousands)	1,032	1,032	0
Immediate SSDI	494	235	-259
Time-limited RTW support	-	641	641
SSDI after RTW support	-	233	233
Ineligible	538	155	-383
Government expenditures (present value in \$ billions)			
Immediate SSDI	158.4	75.4	-83
Time-limited RTW support	-	9.8	9.8
SSDI after RTW support	-	72.5	72.5
Ineligible	-	-	0
<b>Total</b>	<b>158.4</b>	<b>157.8</b>	<b>-0.7</b>

Projected by authors. See text for methodology.

These projections imply that an EES that results in a 10 percent reduction in SSDI entry would be essentially cost neutral with respect to the present value of total government expenditures. The projected present value of expenditures under the EES would be \$0.7 billion less than the current law estimate of \$158.4 billion. This back-of-the-envelope result is plausible, although by no means guaranteed. The key assumption of a 10 percent reduction in SSDI entry is in-line with evidence about the effects of other interventions designed to reduce long-term work disability.<sup>21</sup> That evidence is not definitive, however, because the interventions

20 Estimated VR grants to states were reported as \$3.118 billion. We increased this value by 21.3 percent to obtain a total of \$3.782 billion.

21 See Stapleton et al. (2016) for a discussion of relevant evidence. A more recent study found that the COHE initiative in Washington’s public workers’ compensation (WC) program reduced SSDI entry of WC claimants by 26 percent as of the eighth year after filing their WC claim (Franklin et al. 2015).

differed and were implemented in different programmatic and institutional environments. If there were no impact on SSDI entry, total expenditures would increase by approximately \$7 billion—the cost of the RTW services and cash supports paid to workers who would be ineligible for SSDI under current law. On the positive side, a larger reduction in SSDI entry would lead to substantial net reductions in expenditures—an estimated \$9 billion annually for a 20 percent reduction in SSDI entry and an estimated \$17 billion for a 30 percent reduction.

### 3. Net benefits for workers, employers, and the government

Ultimately, the direction and size of net benefits for all stakeholders would depend upon the impacts of the EES on economic output. Those impacts would depend upon how many workers returned to substantial work as a result of replacing the current system with the EES system, how long they continued to work, and the marginal value of their productivity. These impacts are hard to predict, but their magnitudes are all very likely to be positive and could be very large. To illustrate, suppose that of those awarded RTW supports (projected at 641,000 per year) the number returning to substantial work was 10 percent higher than it would be under the current system (64,100), and there were no other effects. If we assume that the average present value of their earnings (wages plus benefits) is \$300,000 (equivalent to \$30,000 in present value per year over 10 years), the total present value of these workers' earnings would increase by \$19 billion. Every 5 percentage point increase (reduction) in the impact on return to work increases (reduces) the impact on the present value of earnings by approximately \$10 billion. Thus, for instance, a 15 percent increase in RTW would increase earnings by a projected \$29 billion.

From the perspective of workers, the \$19 billion increase in earnings generated by a 10 percent increase in return to work translates into a smaller increase in income plus benefits after taxes, but is still substantial. The increase in earnings is augmented by the RTW cash benefits (an estimated \$10 billion) and reduced by reductions in benefits from SSDI, SSI, Medicare and Medicaid (an estimated \$11 billion), and higher taxes. If total payroll and income taxes on earnings increase by \$5 billion (26 percent of the \$19 billion earnings increase), the net impact on after-tax income and benefits would be approximately \$13 billion. For those who return to work because of the change to the EES system, this figure translates into just over \$200,000 per worker in the present value of after-tax income. These workers would also benefit from the fact that their additional earnings would increase their Social Security retirement benefits at their full retirement age.

Substantial impacts on worker productivity make it very likely that net benefits to employers would be positive and increase the likelihood that net benefits to governments would be positive rather than neutral or even negative. Although the bulk of gains in worker productivity would likely accrue to the workers themselves, employers are not likely to employ them unless they experience some gain in after-tax profits. Governments at all levels would receive higher tax revenues from both the workers (the \$5 billion dollars in payroll and income taxes in the illustration above) and their employers.

## D. Future role of an EES

### 1. Eligibility determinations for other populations

SSA's current disability determination process also determines eligibility for other disability benefits administered by SSA. These include disabled adult children and disabled widows and widowers who are eligible for Social Security based on the benefit status of a parent or spouse who is disabled, retired, or deceased. They also include children (younger than age 18) and adults age 18 to 64 with sufficiently low income and assets. SSA uses the same medical eligibility criteria for all adults, regardless of the nonmedical reason for eligibility. Because children do not normally work, the conceptual basis for their medical eligibility criterion is medically determinable physical or mental impairment or impairments that result in marked and severe functional limitations.

Our expectation is that Phase 1 of EES development would focus on workers, as described in Section IV. If successfully completed, SSA and its federal partners would need to consider how to incorporate eligibility determinations for these other populations into the EES. In principle, the EES could serve adults in these other populations in the same way it would serve workers. Their monthly cash benefits would be the same as under current law, whether paid as time-limited RTW cash benefits or as long-term SSDI or SSI benefits. Because many in these populations will not have substantial recent work experience, if any, the services they would need to achieve substantial employment might be quite different than those designed for workers who have recently left their jobs. An EES could potentially develop relationships with other entities that serve these applicants, such as welfare programs and mental health clinics. Like the relationship we have proposed between the EES agencies and WRS systems, such relationships could be designed to both improve employment outcomes for those served and ensure timely receipt of long-term SSDI or SSI benefits for those unable to support themselves through work because of a medical condition.

The EES could presumably determine eligibility for SSI child benefits just as SSA does now, by using the existing DDS and SSA capabilities. When SSI children approach age 18, the EES could play an active role in federal and state efforts to help them establish themselves in the labor force rather than rely primarily on government support. Some SSI children could be offered time-limited adult benefits that are designed for this purpose—conceptually similar to time-limited RTW supports but likely of longer duration and greater intensity. Information accrued during the time-limited RTW support period could be used in determining continuation of the RTW support and transitions to long-term SSI or SSDI eligibility.

### 2. Facilitation of improvements to SSDI

The EES system could facilitate improvements in SSDI benefits themselves. For example, the EES would develop more extensive and relevant information about the work capabilities of those awarded time-limited RTW supports than is available under the current process. In addition to medical information, the EES would also know about the worker's skills, services that the worker may need to exploit those skills, the local availability and financing of such services, and opportunities for workers in the local environment.

In recent years, there have been many proposals for awarding partial, long-term SSDI benefits to some disabled workers. Arguably, the most significant challenge of partial benefits would be determining which workers should receive partial benefits and which partial benefits they should receive. Time-limited RTW supports under an EES system would provide a new approach to making such determinations. Essentially, they would amount to a field test of what the worker is actually capable of earning in the local environment. The worker would need to cooperate with the test in order to receive support and potentially be reconsidered for SSDI when the time-limited support ends. Using the same test, the EES could determine whether the worker was eligible for a permanent partial benefit to either defray disability-related costs or allow the worker to obtain an after-tax income level based on the worker's earnings history. The same field test could be used to determine which workers would be eligible for a new disability earned income tax credit—as long as they continued to work (rather than seeking permanent SSDI benefits).

The EES would also be well suited for helping workers with significant medical conditions during economic recessions and increasing their chances of returning to work during the subsequent economic recovery (rather than entering SSDI and remaining permanently out of the labor force). Unemployed workers with significant medical conditions would likely become eligible for time-limited RTW support even if their prospects for returning to substantial work within 12 months were poor because of the recession. In addition, once the recovery starts they may have difficulty finding a job because of their medical condition. The EES could be given the option of extending the time limit on employment supports until the economy recovers. Under current law, the same worker might be induced to apply for SSDI, receive an award, and be much less likely to return to work (and give up benefits) as the economy recovers.

# About the McCrery-Pomeroy SSDI Solutions Initiative

The McCrery-Pomeroy SSDI Solutions Initiative is a project dedicated to identifying practical policy changes to improve the Social Security Disability Insurance (SSDI) program and other policies for people with disabilities. Launched in 2014, the initiative originally commissioned a number of accomplished policy experts from a variety of backgrounds to put forward 12 different policy proposals, each addressing a unique issue with current disability policy. These papers were peer-reviewed, presented at the Initiative's 2015 SSDI Solutions Conference, and ultimately published in the 2016 book *[SSDI Solutions: Ideas to Strengthen the Social Security Disability Insurance Program](#)*. The Initiative's work helped to elevate SSDI to the attention of policymakers and has led to the proposal, enactment, and implementation of numerous legislative and regulatory improvements.

Beginning in 2018, the SSDI Solutions Initiative commissioned seven additional papers designed to build upon the work of the 2016 book. These papers will present additional research, offer implementation guidance, or offer new ideas to further improve disability policy in the United States.

The SSDI Solutions Initiative is co-chaired by former Congressmen Earl Pomeroy (D-ND) and Jim McCrery (R-LA), both former Chairmen of the House Ways & Means Social Security Subcommittee. The SSDI Solutions Initiative is a project of the Fiscal Institute at the Committee for a Responsible Federal Budget.

More information about the SSDI Solutions Initiative is available at <http://www.SSDISolutions.org/>.