Being American: the Way Out of Poverty
Poverty and Disability in the U.S.

SUMMARY
Joshua Berezin, World Institute on Disability

In 2004, the U.S. employment rate of working-age people with disabilities was 37.5 percent, compared to 77.8 percent for working-age people without disabilities. Government programs in place now have two ways of addressing this issue. One is to support employment through work and tax incentives. This aspect of current policy is ineffective for the portion of that population who are ready and able to work, but are not currently in the workforce. For those who show that they are unable to work, current policy is more successful. Government programs provide crucial wage replacement income for this population. We propose new solutions that will protect and improve wage replacement for those who show they cannot work, while providing employment supports to those who can.

Background

Many people with disabilities who are not working lack income from wages and access to employer sponsored health coverage. Some lack the unique home and community based supports only available through the Medicaid program. Many are unable to afford individual health insurance, and most of those who could pay for it would be ineligible because of pre-existing conditions. Without income or health coverage, 28.8 percent of working-age people with a work limitation live under the poverty line.

Currently, there are a number of policies designed to address poverty and unemployment among people with disabilities. For one, there are a variety of public and private programs that provide employment supports. Vocational rehabilitation departments and One-Stop Career Centers offer training, counseling, financial support for education, transportation, and other services designed to help people with disabilities find and retain jobs and live in their communities. These types of services are for people who are looking for work, and want and need these types of supports.

For those who show they cannot work, the federal government has two programs that provide income. The Social Security Disability Insurance program (SSDI) pays a monthly benefit for people who have worked for a certain amount of time and then cannot work because of a disability. As the name implies, SSDI is an insurance program. Workers pay a premium through automatic monthly Federal Income Contributions Act (FICA) deductions from their paychecks, which go into a Social Security Trust Fund. If workers have had FICA taxes deducted from their paycheck for a long enough period of time and meet SSDI’s rules, they are eligible for a benefit.

The concept is similar to other types of insurance, like health, life, or fire coverage. Like these insurances, there are defined eligibility rules. SSDI defines disability, for example, as an inability to earn more than a certain level of income ($860 per month in 2006) for at least 12 months due to a disabling condition, or as having a disabling condition that is likely to kill you. SSDI beneficiaries also receive health coverage through Medicare after a two-year waiting period.

The other federal program that provides income for the unemployed disabled is the Supplemental Security Income program (SSI). This is not an insurance program; rather, it is designed to alleviate poverty. It provides a monthly check for people who show they cannot work, have limited income and assets, and do not have a substantial work record. SSI uses the same definition of disability as the SSDI program. Most people who are eligible for SSI receive health coverage through Medicaid.

Both of these Social Security disability programs have attempted over the years to encourage beneficiaries to work. SSDI, for example, allows beneficiaries to have a Trial Work Period during which they can earn above the income limits without jeopardizing their benefits. SSI has programs like Plan for Achieving Self Support (PASS), which allows recipients to use income to save money for a work goal without losing their SSI benefit. These are just two examples of work incentives and supports that are currently part of Social Security disability programs.

While employment support programs and Social Security work incentives attempt to encourage employment, the U.S. tax code tries to achieve similar goals through tax incentives. In her 2003 paper on disability and employment, tax expert Francine Lipman identifies three ways the tax code encourages employment. First, it offers employers the chance to recover certain costs associated with making their workplace accessible through a Disabled Access Credit and a separate Barrier Removal Deduction. Second, it offers employers a credit for hiring a member of specifically defined low-income groups through the Work Opportunity Tax Credit. Since SSI recipients and those referred by vocational rehabilitation departments are two of those groups, the Work Opportunity Tax Credit applies to some people with disabilities. While these three provisions encourage employers to hire people with disabilities, the Earned Income Tax Credit (EITC) encourages low-income potential employees to work. This regulation often gives people under a certain income level, a group that includes people with disabilities, a refund on their income taxes.

The Limits of Current Employment Supports

Social Security disability benefits currently provide an invaluable safety net for those who cannot work. Employment support programs and Social Security work incentives, which are supposed to encourage employment for those who can work at various levels, are not meeting their goals as successfully. The persistence of flat employment rates in the face of these solutions shows that

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6 For a brief explanation of these tax incentives, see: Steven Mendelsohn, “Tax Laws and Asset Accumulation for People with Disabilities,” EQUITY (January 2005); available from http://www.wid.org/publications/?page=equity&sub=200501&topic=ss
they are not meeting their objectives. Recent data from the Social Security disability programs further demonstrate this. Between 2003 and 2004, just 0.5 percent of SSDI beneficiaries had a change in cash benefit status because of employment. The statistics from the SSI program are no more reassuring in terms of the effectiveness of work incentives. Since 2000, when new work incentive programs began to be implemented, there has been a marked decrease in the percentage of all SSI recipients who have earned income, from 6.7 percent in 2000 to 5.6 percent by the end of 2005. The Social Security Advisory Board summarized the situation by saying they found “little evidence” that work incentives “have substantially encouraged self-sufficiency in the disabled population.”

There are many possible reasons for this lack of success. Underlying most of them is the fact that Social Security disability programs are, fundamentally, not designed to support employment. They are designed to replace income for those who cannot work. Congress mandates Social Security to spend SSDI Trust Funds on wage replacement income, not employment supports. To the same end, SSI supplements income for those with little or no work history. Social Security’s new core mission and creation of an Office of Employment Support did not change these core funding structures significantly. It is no wonder that programs designed for people who cannot work are having a hard time effectively encouraging employment among their beneficiaries.

This confusion of purpose is reflected by incredibly complex rules for work incentives that can be nearly impossible to explain to someone without years of benefits planning experience. One source of the confusion is that the rules to get on the program run completely counter to the goals of encouraging employment. On one hand, you have to show that you are unable to work to get SSI or SSDI. Meeting this restrictive requirement secures income support and health coverage. Social Security then attempts to administer programs that encourage you to return to work, but that is the very thing you had to prove you could not do to get on the program in the first place. The confusion creates a fear that going to work will lead to a loss of benefits, particularly health coverage. For example, a 2001 Urban Institute study found that 20.1% of non-working adults with a disability cited “fear of losing health insurance or Medicaid” as a reason for being discouraged from looking for work.

The importance of health insurance could also explain why employment support programs like vocational rehabilitation have not been more successful in improving the numbers of people with disabilities who work. These programs do not offer people health coverage while they look for a job. Along those lines, they provide support for people who are likely to be able to work, and Social Security provides support for people who cannot work. But there are few options available for people who find themselves somewhere between these extremes. People looking for a job, for example, will have no health coverage unless they find employer sponsored health coverage, or become so disabled that they are no longer able to work.

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8 Social Security Administration, SSI Disabled Recipients Who Work, 2005 (Baltimore, MD: Social Security Administration, 2006); available at http://www.ssa.gov/policy/docs/statcomps/ssi_workers/2005/sect01.html#table1
Underlying these issues is the fact that disability advocates sometimes work at cross purposes. Some focus on guaranteeing disability rights, which are synonymous with civil rights and have an assumption that people with disabilities must be treated equally as other groups. Others focus on guaranteeing employment supports, which assumes that people with disabilities have needs that are different from other members of society. Policy makers thus hear different views that can appear to conflict. The language in the Americans with Disabilities Act (ADA), for example, reflects the civil rights approach, while programs like SSDI reflect the employment support approach. The lack of a more coherent advocacy agenda leads to a lack of integrated policies.

The tax incentives have also been ineffective in encouraging employment. Lipman, drawing on a Government Accountability Office (GAO) analysis, notes that in 1999, just .15 percent of corporations and .06 percent of individuals claimed the Disabled Access Credit, and even fewer percentages claimed the Work Opportunity Tax Credit.11 She also notes that while the EITC has been a successful regulation by many accounts, people with disabilities have not been equally well served by it.12 The reasons presented by the GAO and by Lipman for these findings are similar to the reasons listed above. The GAO found that “lack of familiarity” was the most frequent reason for the underutilization of the access provisions and also cited, among other reasons, complex and potentially conflicting rules and regulations. The Disabled Access Credit, for example, is tied to the ADA definition of disability and reasonable accommodation, while the Barrier Removal Deduction meets different definitions from the Department of Treasury.13

Policy Reform

The reasons for the lack of progress suggest two avenues of policy change. The first is to decouple the two conflicting goals of the Social Security disability programs. Providing supports to help people find and maintain a job would be a separate program from providing income when people are physically or mentally unable to work. An employment support insurance program would provide health coverage through a new model of Medicare, benefits planning for those looking for work, and referrals to existing vocational rehabilitation, One-Stop, and other employment services. This Employment Support Insurance (ESI) program would operate under a social insurance model similar to the one that SSDI uses, with automatic FICA payroll deductions serving as premiums. ESI would provide better transitions between looking for work, employment, and having to go on SSI or SSDI. For those who are unable to work, the current SSDI program would maintain its successful earnings replacement components under the auspices of an Earnings Replacement Insurance (ERI) program. Medicare health coverage would be made available right away in the new ERI program. The ESI program would provide income support, health coverage, benefits planning, and referral services to people transitioning off the ERI program when returning to work. Beneficiaries would be able to apply for the ESI or ERI depending on their needs. This two-plan approach protects the successful aspects of the current system while addressing its deficiencies.

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11 Lipman, “Enabling Work,” 418, 432
12 Ibid., 444-445
13 Ibid., 419-422, 424
Tax code reform could similarly keep what works and fix what is broken. Lipman recommends combining, simplifying, and expanding the two existing access provisions under one new disabled access credit. The new credit would use one definition for reasonable accommodation, namely, the ADA. This definition would also apply for revised and expanded versions of the Work Opportunity Tax Credit. This expanded definition would make more employers eligible for the credit. The EITC would also be expanded.

Conclusion

National public policy on employment and benefits is stuck in a morass of confusing program rules and conflicting advocacy positions. Both the rule makers and the advocates are struggling with how to support employment while protecting health and income benefits for those who rely on them most. To sum up: “There is a terrible tension between eligibility to get benefits versus getting employment help.”

Designs for a two-plan model, reinforced with tax reform, would feasibly address these issues. The rules and programs would continue to have a level of complexity, but the mind-bending process of proving an inability to work before getting work incentives would get resolved. There would be a health coverage program for those looking for work. Advocates for employment supports would no longer be at odds with those demanding a safety net for those who need one. Tweaking Social Security rules has not worked up to this point, and there is little reason to believe it will work in the future.

On our organization’s db101.org website, we have four life situations to help introduce concepts related to disability benefits and work. One of them is called Mike’s Story. Mike is between jobs when he finds out that he has Multiple Sclerosis. In the scenario, Mike is lucky in that he can afford health coverage between jobs. But if Mike could not pay for health coverage, or could not get it in the first place, he would be out of luck. Mike can only get health coverage from SSI or SSDI if he proves that he is unable to work. Essentially, this means that he has to wait until his disability becomes severe before he can access health coverage. Once he is to that point and gets coverage through Medicare or Medicaid, it is not surprising that Mike would not do things that he thinks might jeopardize his benefits. Do the policies that create this situation make sense? Is this the best we can do for people like Mike? What if we could offer Mike the opportunity to have access to health coverage before he becomes severely disabled? We think that the answers to these questions are obvious.

The correlation between poverty and disability is unacceptable from both a moral and economic standpoint and the time has come to better serve the needs of Americans with disabilities.

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14 Ibid., 423-6
15 Ibid., 436, 446
16 William P. Molmen, General Counsel, Integrated Benefits Institute, San Francisco