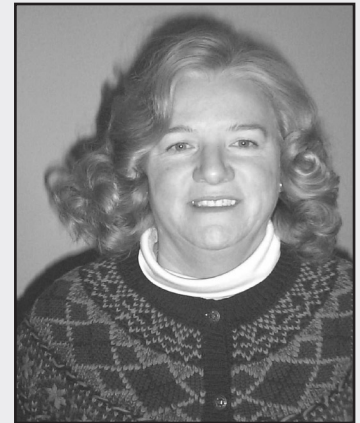


New Team Member Joins Working Healthy

Mary Ellen O'Brien Wright assumed her new job as the Benefits Specialist Team Leader on January 2. Mary Ellen will be responsible for hiring, training, and managing the 11 Benefits Specialists who will work at the area SRS offices with consumers interested in enrolling in Working Healthy. Mary Ellen brings a broad background in disability issues to her job, including her most recent experiences as the Executive Director of KATCO, a loan program for people who need assistive technology. She also worked for more than seven years with the Kansas Association of Centers for Independent Living (KACIL). Mary Ellen can be reached at (785) 296-5217 or emailed at meow@srskansas.org.



Policy

Updates

On December 4th & 5th Marianne Deagle and Sharon Johnson attended the Center for Medicare and Medicaid Services (CMS) conference "Access to Employment: Getting the Most Out of Your Infrastructure Grant." On December 6th, they attended the National Consortium For Health Systems Development (NCHSD) Annual Meeting. Both meetings were held in Baltimore, Maryland. NCHSD provides technical assistance to states awarded Infrastructure grants by CMS. Representatives from many of the states who attended the conference related similar challenges in implementing their programs. Some of the important topics discussed at this national meeting are highlighted on the following pages.

States Face Budget Crises

The issues most every state attending the conference are facing are declining revenues and massive budget shortfalls. November reports from the National Governor's Association and the National Council of State Legislators report that 46 states have significant revenue shortfalls and diminishing reserves.

At issue for Medicaid Infrastructure Grant (MIG) states is the implementation or expansion of Personal Assistance Services (PAS) as required by the MIG. States developing programs, including Kansas, have asked CMS for guidance regarding the scope of PAS offered to all who qualify under the State Medicaid Plan. This question must be addressed in order to assist the state in containing costs in the face of an ever rising state Medicaid budget, and rapidly diminishing state revenues.

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To date, CMS has not allowed states to define levels of work in order to access PAS. The inability to require participants to be engaged in a certain level of work, defined by number of hours worked, in order to obtain PAS could potentially deepen the financial problems states are struggling to resolve.

Kansas remains committed to making PAS available to people to expand their work levels or return to work. Shannon Jones, Gina McDonald and Mike Lynam, members of the Working Healthy Advisory Council, along with Sharon Johnson, Marianne Deagle and Jean Hall are forming a subcommittee to discuss the many issues associated with providing personal assistance services in the work place. Their recommendations will be presented to the Working Healthy Advisory Council in the future.



Supreme Court to Review Disability Definition

The U.S. Supreme court has agreed to review the definition of disability used for Social Security Disability Insurance (SSDI) and Social Security Insurance (SSI). In *Barnhart v. Walton*, the court will address the question of whether an individual's impairment meets the statutory definition of disability when he/she returns to the substantial gainful activity (SGA) level within twelve months of the date of the onset of the person's disability. The Court will also take up the question of whether an individual who has returned to SGA within 12 months of onset and before adjudication is entitled to a trial work period (TWP).

Initial eligibility criteria for SSI/SSDI are the same, unless an applicant is under 18 years of age. These criteria are:

- Individuals must have a disability that can be documented by a qualified medical examiner and they must meet a certain level of disability;
- The disability must be expected to last 12 or more months or be expected to result in death;
- Individuals cannot be working at the time of application, or, if working, cannot be earning more than the SGA level of \$740 per month for individuals with a disability other than blindness or \$1,240 if they are blind;
- By federal law, individuals who are blind and applying for SSI do not need to meet an SGA test but rather a test to ascertain a level of blindness.

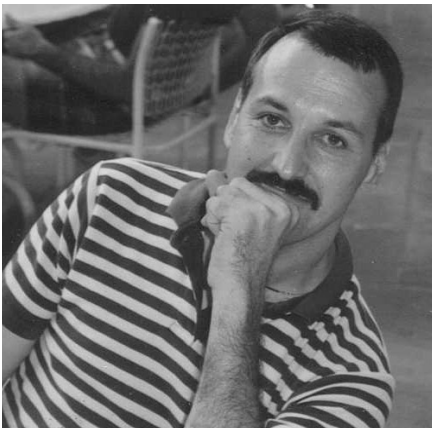
Each state has a Disability Determination process administered by Social Security Administration. Disability Determination Services (DDS) does an evaluation of the individual applying for SSI/SSDI. DDS follows a five step process to determine the presence or absence of a disability. Those five steps are:

- Is the person working at a substantial level?;
- Is the individual's medically determinable impairment or combination of impairments considered "severe"?;
- If the impairment is determined to be severe, does it meet or medically equal the severity of a listing in SSA's Listing of Impairments?;
- If the impairment is severe, but does not meet or equal the severity of a listing, does the individual retain the capacity to do his or her past relevant work?;
- If past relevant work is precluded, does the individual retain the capacity to do any other kind of work which exists in significant number in the national economy, considering the individual's residual functional capacity and the vocational factors of age, education and work experience.

Reviewing again the questions in SSA's petition to the Supreme Court:

1. Is an SSA disability claimant entitled to disability benefits under the SSI and SSDI programs if he or she has a physical or mental impairment that has lasted or can be expected to last at least 12 months, but this inability to engage in substantial gainful activity by reason of that impairment has not lasted or cannot be expected to last 12 months.

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Howard Ray Moses

December 6, 1950 - October 28, 2001

“Howard Moses was a simple man - but simple only in the respect that he knew all of the basic ingredients that make up a FULL life. With his keen knowledge of human character and his unflinching belief in the goodness of people, he profoundly affected the lives of all of us here and indeed, the lives of millions of others around the world.”

D. Ray Fuller, Jr.
3 November 2001

“Howard Moses will be remembered as a public policy strategist and enlightened intellect whose commitment to human and civil rights was an inspiration to those who knew him. Howard influenced every piece of major disability rights legislation in the last fifteen years including the ADA, the reauthorization of the Rehabilitation Act, TW-WIIA, and the IDEA.

Howard grew up in Kansas and began working at the grassroots level to improve the lives of people with disabilities immediately after graduating from college. He later used his innate political skills working for Democratic candidates in Kansas and then came to work in Washington in the 1980's. He was a civil servant in the Department of Education working with Justin Dart, Commissioner for the Rehabilitation Services Administration and worked with the late Evan Kemp at the Equal Employment Opportunity Commission. In 1993, he was named by President Clinton and Secretary Richard Riley to be the Deputy Assistant Secretary for the Office of Special Education and Rehabilitative Services at the US Department of Education.

Most recently, Howard returned to Kansas to work on implementation of the TW-WIIA and the Olmstead decision. Kansas was thrilled that he returned home to work on these critical pieces of legislation. This allowed him to use his wealth of experience to continue to fight for the civil and human rights of disabled people.

Howard's tenaciousness must be carried on by those who knew and loved him and by those who believe in his dream of Justice for All.”

The Washington D.C. Blade
30 October 2001

“Howard was a man of profound intellect, profound principle, profound courage and especially, profound love. Howard radiated love from every aspect of his being. If the term ‘saint’ refers to an existence of love and courage rising to the sacred, Howard was a saint.

Howard made monumental contributions to the quality of human being. These contributions of love and truth will warm the lives of millions in future generations - millions who will never know his name, but who will be lifted by his love.

Let us honor Howard by multiplying in our lives his heritage of advocacy for a society of love, truth and justice. We love you.”

Justin and Yoshiko Dart
28 October 2001

All of us involved with the Working Healthy program would like to extend our love and respect for Howard. His vision for the world, the nation, the state of Kansas and this program will be a part of us as we do our work each day. We thank Howard for the work he did throughout his life and we vow to carry on and to persevere to make his vision a reality.

Ticket to Work Regulations Finally Published!

After a great deal of debate, the final regulations for the Ticket to Work program have been published in the Federal Register. The regulations confirm that Kansas will become a Ticket state sometime during calendar year 2002. They also contain a question and answer section about how tickets will be issued, how consumers can use them, and how providers will be reimbursed.

Look for more information about this important topic in our next newsletter (April 2002). In the mean time, you can access a copy of the regulations at the following web site by scrolling down to Social Security Administration, Rules:

http://www.access.gpo.gov/su_docs/fedreg/a011228c.html

Frequently Asked "Ticket" Questions

What is a ticket under the Ticket to Work program?

This ticket is issued to a consumer by the Social Security Administration under the Ticket to Work and Self-Sufficiency Program. If he or she wants help in returning to work or going to work for the first time, he or she may offer this ticket to an Employment Network of his or her choosing or take it to the State Vocational Rehabilitation agency for services. If a consumer chooses an Employment Network and it agrees to take the ticket, or if he or she chooses a State agency and qualifies for services, these providers can offer the services needed to go to work.

An Employment Network provides the services at no cost to consumers. The Social Security Administration will pay the Employment Network if a ticket is assigned to it, and the Employment Network helps the consumer go to work and complies with other requirements of the Program. An Employment Network serving under the Program has agreed to abide by the rules and regulations of the Program under the terms of its agreement with the Social Security Administration for providing services under the Program. The State agency can inform consumers about its rules for getting services.

Who is eligible to receive a ticket under the Ticket to Work program?

A SSDI disabled beneficiary must be age 18-64, and a SSI disabled beneficiary must be age 18-64 and be eligible for disability payments under the disability standards for adults.

What do I do when I receive a ticket?

A consumer's participation in the Ticket to Work program is voluntary. When a ticket is received, consumers are free to choose when and whether to assign it. If he or she wants to participate in the program, the ticket can be taken to an Employment Network of his or her choosing or to the State Vocational Rehabilitation (VR) agency.



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2. Whether a claimant under the SSDI program may be under a disability and entitled to a trial work period if, at the time his/her disability insurance benefits claim is adjudicated, his/her impairment no longer prevents him/her from performing substantial gainful activity.

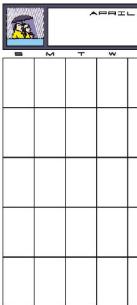
Michael Cheek, Director of the American Public Human Services Association's (APSHA) Center for Worker's with Disabilities, has summarized the implications of the Court's decision on Medicaid Buy In Programs. He points out that a major concern of states operating or developing these programs is reconfiguring the process used to decide the presence or absence of a disability. The Balanced Budget Act of 1997 and the Ticket to Work and Work Incentives Improvement Act of 1999, for the purposes of eligibility, allow state DDS agencies to ignore the first step in the five step evaluation process, and, to ignore the presence of work activity when considering working persons with disabilities. States have taken different approaches to factoring out SGA and work in the disability determination process. However, most states need clearer guidance from SSA and CMS on how to address this policy issue while also providing states legal shelter and protection for individuals already enrolled in Buy-In Programs. *Barnhart v. Walton* brings to the forefront this policy difficulty of considering impairment, but also requiring the absence of work at or above SGA as a necessary step in determining disability.

The Supreme Court will hear the case January 16, 2002. CMS and SAA have recognized the need for policy clarification and legal guidance on this issue. Both agencies are committed to working together to resolve these issues, and will begin meeting early in 2002.

Regional Meeting Held in Chicago

KU and SRS staff members as well as two consumers from Kansas attended one of three regional meetings hosted by the National Consortium on Health Systems Development (NCHSD). The meeting was held in Chicago on January 15 and focused on measurement capacity and development for Medicaid Buy-In programs. The emphasis of the meeting was what information and data is important to collect and how best to collect it. The meeting also provided the opportunity for states at different stages in their programs to share successful strategies and barriers encountered. NCHSD will provide a summary of all of the meetings in late February, and we will share highlights of that summary in the next newsletter (April 2002).

Mark Your Calendar...



Working Healthy will hold its first statewide outreach conference in conjunction with the Kansas Conference on Social Welfare. The conference will be held at the Lawrence Holidome, April 7-9. We are very pleased that Bryon R. MacDonald will be our keynote speaker. Bryon is a Public Policy Advocate with the World Institute on Disability in Oakland California, a board member at large of the National Council on Independent Living, and a presidential appointee to the Ticket to Work and Work Incentives Advisory Panel. For many years, he has developed employment support and benefits counseling programs and served as a consultant to various advisory committees on employment support for persons with disabilities. For more information about the conference, please contact:

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<http://das.kucrl.org/medicaid.html>**

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