Problem Solving and Advocacy: As requests and referrals come in for the benefits specialist, information and counsel will inevitably need to be provided. This type of support is typically classified as either short- or long-term in nature. Most problem solving and advocacy is short-term in nature and consists of questions and needs for information pertaining to eligibility for various benefit programs, utilization of work incentives, and community referral. However, in some cases there may be a need for ongoing or long-term support with problem solving and advocacy. In this type of case, these services and supports are much more of a benefits management nature that will be discussed later in this introduction.

Benefits assistance is critical for individuals who may require long-term BP&O services and supports and picks up where initial planning may end. That is, actually supporting the individual in establishing a plan and developing long-term supports that may be needed to ensure success.

Support Planning: Whether deciding to prepare for employment, attach to work, maintain employment, or advance in work, planning is a core function of a benefit specialist’s duties. It requires the practitioner to be skilled in existing service plan delivery mechanisms and understand how each is designed, implemented, and evaluated across an array of systems. For example, transition-aged youth may often have an Individual Education Program (IEP) and an Individual Transition Plan (ITP) that provides a mechanism by which management goals may become a part of the child’s education program. Individuals currently in the vocational rehabilitation system may have an Individual Plan for Employment (IPE) or individuals in the mental retardation / developmental disabilities system may have an Individual Service Plan (ISP) both of which provide additional mechanisms for integrating benefits management and long-term support into existing service delivery constructs. Should the individual not be attached to a current service delivery system or goals not be appropriate to integrate into existing service delivery plan, the practitioner may need to consider the development of a benefits support plan that outlines support areas, activities, responsibilities, timeframes, and criteria/indicators for successful outcomes.

Benefits Assistance: Proactive benefits monitoring is the key to success at this level of support potentially focusing on regular intermittent contact with individuals, consistent communication, crisis management, information and referral, problem solving and advocacy, and assistance with management of the individual’s benefit status. Benefits assistance is known by the long-term nature of services and supports needed by the consumer that may include ongoing data collection, analysis, counsel, and benefits reporting.

Follow-Up: In many cases, some individuals may not need benefits assistance, but rather intermittent spot-checking to maintain their financial well being. Proactive benefits monitoring may also serve as a key to success at this level of support as well.
iii. Provide consultation to — and legal representation on behalf of -- beneficiaries when such services become necessary to protect the rights of such beneficiaries. To the extent possible, alternative dispute resolution procedures should be used.

iv. Assist beneficiaries with disabilities in disputes before SSA involving work related program decisions and benefits overpayments that are clearly a barrier to obtaining employment. PABSS personnel may not receive legal fees for these services.

v. Advocate to identify and correct deficiencies in entities providing VR services, employment services, and other support services to beneficiaries with disabilities, including reporting to the program manager on identified deficiencies related to employment networks and other concerns related to the Ticket to Work and Self Sufficiency program.

Within these priorities, it appears that PABSS programs can provide any advocacy services that fall within a P&A’s traditional categories of service. One exception is that PABSS programs cannot use this new grant money to pursue appeals or litigation against SSA, its commissioner, or any SSA official. See discussion of condition four below. 5 PABSS programs may pursue appeals and litigation against other federal agencies for issues directly related to securing or regaining employment.

Within priority category one, SSA clearly envisions that PABSS programs will represent beneficiaries in disputes with the new employment networks under the Ticket to Work and Self Sufficiency program. This will involve the Ticket’s dispute resolution system as set forth in regulations expected to become final later this year. 6 The Ticket program will be implemented in 13 states during the latter part of 2001,7 with the remaining 37 states to be phased in during 2002 and 2003. PABSS programs could also handle beneficiary disputes with state and private VR programs under this priority, but many of those cases are expected to be referred to CAP programs.

5 The extent of SSA-related advocacy and appeals done through the other P&A programs will vary from state to state. A number of state P&A agencies have established priorities, within their PADD, PAIR and PAIMI programs, to pursue SSI and SSDI issues on behalf of persons with disabilities.

6 The proposed Ticket regulations were published on December 28, 2000, with comments received by SSA through February 26, 2001. 65 Federal Register 82843. Final regulations are expected to be published in late 2001.

Priority two creates a mandate similar to what is expected of the newly created BPA&O projects; that is, to provide information and technical assistance to beneficiaries, advocates, and a range of provider agencies regarding the SSI and SSDI work incentives and related provisions. What PABSS programs do under this mandate may depend, in part, on previous expertise in doing similar work under existing grants, work currently done by only a few P&As. It may also depend on collaborative agreements they negotiate with the BPA&Os in their states. In many states, we expect that PABSS programs will collaborate with BPA&Os to maximize their combined resources and jointly embark on efforts to provide training, disseminate materials, and provide technical assistance to beneficiaries and the providers that serve them.

Priority three provides authority for PABSS programs to provide consultation and legal representation to beneficiaries, when necessary to protect their rights. As long as the issues involved have a connection to employment, we can expect PABSS attorneys and advocates to be potentially available to provide consultation or representation on the following types of cases: special education; vocational rehabilitation; enforcement of the ADA or section 504 as related to employment, training, college programs, transportation, or anything else that stands as a barrier to employment; and denials of funding for goods and services (including AT) through Medicaid, Medicare or private insurance companies. In all their advocacy work, PABSS programs are required to first pursue administrative remedies, where available, before initiating litigation in a state or federal court, unless doing so would compromise the rights of the beneficiary.

Priority four allows PABSS programs to represent cash beneficiaries who encounter adverse, work related decisions from SSA concerning their benefits, such as work related continuing disability reviews and work related over-payments. PABSS activities permitted under this condition include, but are not limited to, assisting and/or representing a beneficiary during the pursuit of a waiver or reconsideration of an overpayment assessed due to excess earnings (up to and including the Administrative Law Judge hearing), explaining the SSA appeal process to beneficiaries and assisting with the completion of necessary paperwork, assisting continuing disability review, and providing advice and information to assure complete consideration by SSA of potential employment subsidies, impairment related work incentives, and plans for achieving self support.

Priority four, as mentioned above, does not allow the pursuit of any litigation, e.g., the filing of a Federal Court Complaint for Judicial Review, using PABSS funds. There is no prohibition that will prevent the use of alternative P&A funding streams to bring this type of claim however.
Priority five is best described as performing a watchdog function over the existing and new VR and employment systems that are available to serve individuals with disabilities. Under this priority, we can expect PABSS programs to: monitor the existing state and private VR systems; monitor the new one-stop agencies established pursuant to the Workforce Investment Act; and monitor the employment networks serving beneficiaries under the Ticket program, reporting concerns to the program manager who will oversee that program. Here again, we expect that many PABSS programs will collaborate with BPA&Os to identify how best to accomplish this priority. We expect that in many states, the PABSS program will seek to address this priority by attending public meetings or seeking appointments to boards that oversee the functions of the systems described above. In addition, individual complaints from beneficiaries about these systems can be regularly referred by the BPA&Os to the PABSS staff.

PABSS Programs have been typically staffed with a Project Coordinator, a lead staff person with program reporting responsibilities, PABSS Specialists who provide direct line services, and other administrative support personnel. A sample composite job description, detailed by the NAPAS, is provided for reference in Appendix A.

The following is taken from the NAPAS Standards for Advocacy Programs Serving People with Developmental Disabilities and People with Mental Illness. Originally developed by a workgroup, these standards were later adopted by the NAPAS Board of Directors for use by all P&A agencies.

Principles

The following principles govern the way in which advocacy services are organized and delivered:

1. People with disabilities share with all citizens of the United States and its territories, basic human, legal, and civil rights.

2. The primary role of advocates is to establish, expand, protect and enforce the human, legal and civil rights of people with disabilities.

3. The role of the advocate is to inform the client about options, to assist the client to express preferences, and to ensure that these preferences are heard and vigorously pursued within the scope of the law.

4. Advocacy efforts are sensitive and responsive to the unique needs of individuals from diverse ethnic, racial, and cultural backgrounds.

5. Advocates appreciate the realities that confront clients and take meaningful direction from clients.
6. Advocacy programs are accessible and reasonably available to the places where people live and work.

7. The availability of advocacy services is known to potential clients, the location of services is physically accessible and the program possesses the resources necessary to communicate with its clients.

8. When a decision or meaningful choice cannot be or is not expressed by a client, or when consent is not available from or provided by a client or legally authorized substitute, advocates safeguard and advance the human, legal and civil rights of the person with a disability in a way that does not limit the client's options for choice.

9. Advocates assist people with disabilities to speak for themselves regarding their personal, programmatic and service goals and desires.

10. Advocates seek access to, and participate in forums such as state rule making, state planning, legislative and policy development processes that affect the rights and opportunities for people with disabilities.

11. Advocacy programs are accountable to the people whom they represent and such accountability is reflected in the policies and practices of the program as well as in the ethnic, racial, cultural, and consumer composition of the governing authority and staff.

12. Advocates employ multiple means of action and redress such as individual and class representation, legislative and other systemic advocacy, training and consumer education.

13. Advocacy programs are administratively independent and physically separate from service providers and state agencies responsible for the provision of services to persons with disabilities.

14. Advocacy priorities include the special concerns of people in segregated settings and promote opportunities for integration in work, education, leisure, and housing.

15. Advocacy resources and priorities address the human, legal, and civil rights of those individuals in the greatest jeopardy and with the greatest needs.

16. Advocacy efforts recognize and promote the right to a range of appropriate and humane treatment and habilitation.
**Values and Philosophy**

Advocacy for persons with disabilities is based on the following values:

**Equality, Equity and Fairness**

People with disabilities are full and equal citizens under the law. They are entitled to equal access to the same opportunities afforded to all members of the society. People with disabilities are entitled to be free from abuse, neglect, exploitation, discrimination, and isolation, and to be treated with respect and dignity.

**Meaningful Choice and Empowerment**

People, regardless of age, type and level of disability have the right to make choices and to have their choices acted upon. These choices are exercised both with respect to daily routines and major life events.

**Supports and Participation**

Services and supports are shaped by the unique needs and preferences of each individual, and assure and enhance opportunities for integration in all aspects of life. Services are age appropriate and premised on the fact that people with disabilities, continue to learn, grow and develop throughout their lives. For children, such growth is best accomplished within families, and for adults, within integrated communities rather than institutions.

**Independence**

Advocacy services are based on a philosophy of equal access, peer support and self-determination to be achieved through individual, professional and system advocacy. Services are delivered in a manner that maximizes leadership, independence, productivity and integration of individuals with disabilities.

Advocacy services reflect, and are responsive to, the diverse cultural, ethnic and racial composition of society.