



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

Office of Retirement and Disability Policy
Social Security Administration

Via regulations.gov

November 16, 2021

Re: Request for Information on Potential Disability Insurance and Supplemental Security Income Demonstrations, Docket Number SSA-2021-0025

The undersigned co-chairs of the Consortium for Citizens with Disabilities (CCD) Social Security and Employment Task Forces write in response to the Social Security Administration Request for Information (RFI) referenced above. The CCD is the largest coalition of national organizations working together to advocate for federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society. We appreciate the opportunity to supply information about potential Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) demonstrations. SSI and SSDI benefits are important to millions of people with disabilities. Doing demonstrations in a way that improves the experience of claimants and beneficiaries without harming them or creating additional risks to them is crucial.

Broad demonstration principles

CCD's Social Security Task Force crafted demonstration principles in 2014, and we encourage SSA to follow them in any SSI or SSDI demonstration. They can be found at http://c-c-d.org/fichiers/CCD_SS-Disability_Demonstration_Principles-Final-1-14.pdf. Among the demonstration principles are:

- Participation must be voluntary and withdrawal from participation can occur at any time: this is consistent with current law (Section 234(e)(1) of the Act). We strongly oppose SSA's vague legislative proposal from 2020 to modify this protection for beneficiaries in any way.¹
- Participants should experience no loss of income: as the RFI states, "SSI demonstrations cannot result in a substantial reduction in any individual's income because he or she participated in a demonstration." We encourage SSA to go beyond this, permitting no

¹ SOCIAL SECURITY ADMINISTRATION, ANNUAL REPORT ON SECTION 234 DEMONSTRATION PROJECTS (Sept. 30, 2020), <https://www.ssa.gov/legislation/Demo%20Project%20Report%20Released%20-%20Section%20234%20Report%202020.pdf>.

reduction in income, substantial or not, from participation in a demonstration, and applying it to both SSI and SSDI demonstrations.

- Employment demonstrations should focus on competitive, integrated employment at a level that allows people to be better off financially than they were prior to return to work.
- There should be stakeholder feedback in designing demonstrations.
- Demonstration findings should be publicly reported.
- There must be adequate funding so that demonstrations can be properly performed, and so they do not reduce SSA's ability to perform its other workloads.
- No trust fund or Limitation on Administrative Expenditure (LAE) dollars should be used for demonstrations involving people who are not current SSI or SSDI beneficiaries, but SSA should provide technical expertise and other non-financial support to agencies such as the Department of Labor or the Department of Education if they are performing demonstrations that might affect disability claimants or beneficiaries.

Additionally, we encourage SSA to consider various types of equity (race, ethnicity, sex, geographic location, type of disability, etc.) when the agency decides which demonstrations are chosen and how they are designed. We are including a list of suggested demonstration proposals below. With regards to SSA's demonstration authorities, the proposals address SSI, SSDI, and both programs. SSA's current Section 1110 would allow for demonstrations of all of the SSI proposals listed below, but the limited scope of Section 234 might not allow for the SSDI-specific or proposals to improve both programs. However, SSA would need authority beyond that of Section 234 to conduct some of the proposals below, including the early intervention idea, a version of which SSA is already testing via the Promoting Work through Early Interventions Project (PWEIP). While Section 234 authority will expire, we believe that the scope of Section 1110 is much more comprehensive and would prefer that SSDI demonstrations should simply be added to that authority rather than Section 234 being expanded. In particular, given the problems that recent Congressional hearings have emphasized with regards to service delivery issues, ensuring that the programs work well for beneficiaries should be a focus of all demonstrations and these are not contemplated by the Section 234 authority.² We look forward to working with SSA and Congress to see thoughtful and useful demonstrations created.

Potential demonstration ideas

SSI

Temporary institutionalization: we believe this demonstration is already in the planning process and encourage SSA to quickly implement it.

- Specific policy goal: keep SSI recipients who experience temporary institutionalization from having benefits suspended or receiving overpayments

² U.S. SENATE COMMITTEE ON FINANCE, HEARING: SOCIAL SECURITY DURING COVID: HOW THE PANDEMIC HAMPERED ACCESS TO BENEFITS AND STRATEGIES FOR IMPROVING SERVICE DELIVERY (Apr. 29, 2021), <https://www.finance.senate.gov/hearings/social-security-during-covid-how-the-pandemic-hampered-access-to-benefits-and-strategies-for-improving--service-delivery>; U.S. COMMITTEE ON FINANCE, SUBCOMMITTEE ON SOCIAL SECURITY, PENSIONS, AND FAMILY POLICY, HEARING: POLICY OPTIONS FOR IMPROVING SSI (Sept. 21, 2021), <https://www.finance.senate.gov/hearings/policy-options-for-improving-ssi>.

- Target population: SSI recipients who experience temporary institutionalization
- Specific statute, regulation, or other policy being suggested for change: Section 1611(e)(1)(G) of the Social Security Act and related regulations and guidance
- The proposed service: Continue benefits for first three months of institutionalization if all other eligibility criteria are met; do not create overpayments for first three months of institutionalization if beneficiary met other eligibility criteria during those months.
- Why the policy change or service is expected to achieve the policy goal for the target population: it would provide benefits during temporary institutionalization
- Partnerships if any, we should consider to implement the demonstration: SSA already has data-sharing agreements with CMS for hospitalization and nursing home admissions and should leverage them here.

Expanded online SSI application: we encourage SSA to develop various versions of an online SSI application with various claimant populations and create one available to all SSI claimants.

- Specific policy goal: allow people to apply for SSI online.
- Target population: SSI claimants.
- Specific statute, regulation, or other policy being suggested for change: there is nothing keeping SSA from creating an online SSI application now. SSA might have to change some of its practices about when it inquires about certain eligibility criteria before awarding or effectuating benefits.
- The proposed service: Develop an SSI application that is accessible and simple, using input from people with disabilities and those who represent and assist them.
- Why the policy change or service is expected to achieve the policy goal for the target population: it would lead to an online SSI application that people could use.
- Partnerships if any, we should consider to implement the demonstration: Code for America, US Digital Service, 18F, US Digital Response

SSDI

Use information from other agencies' demonstrations to see what effect early intervention might have on disability applications and benefits.

- Specific policy goal: encourage SSDI claimants and beneficiaries to work
- Target population: SSDI claimants and beneficiaries
- Statute, regulation, or other policy being suggested for change: n/a
- The proposed service: Study other agencies' early intervention demonstrations
- Why the policy change or service is expected to achieve the policy goal for the target population: SSA should learn from work done by other agencies.
- Partnerships if any, we should consider to implement the demonstration: Department of Labor, Department of Education.

Expand childcare dropout years:

- Specific policy goal: increase the number of people insured for SSDI and the amount for which they are insured; encourage people to have and care for children without financial hardship.
- Target population: SSDI claimants and beneficiaries

- Statute, regulation, or other policy being suggested for change: 42 U.S.C. §415(b)(2)(A)(ii); 20 C.F.R. §404.211(e)(3).and related regulations and guidance.
- The proposed service: Increase the number of child care drop out years available, consider ways of crediting years where there are non-zero earnings that are low enough to reduce the AIME.
- Why the policy change or service is expected to achieve the policy goal for the target population: Making child care drop out years more generous would increase the number of people who are insured for SSDI and their financial stability if awarded benefits.
- Partnerships if any, we should consider to implement the demonstration: state agencies offering paid parental leave; Office of Personnel Management.

Improve expedited reinstatement

- Specific policy goal: encourage work for SSDI beneficiaries; increase financial stability for people whose benefits were ceased for work and then have earnings below the substantial gainful activity level; increase payment accuracy.
- Target population: SSDI beneficiaries who earned more than the substantial gainful activity level and then experience a reduction in earnings.
- Statute, regulation, or other policy being suggested for change: 20 C.F.R. §404.1592b *et seq.* and related regulations and guidance.
- The proposed service: Eliminate the 60-month time limit for applying for expedited reinstatement and provide provisional cash and medical benefits until SSA processes the request for reinstatement (current rules limit provisional benefits to 6 months, but during the pandemic it has taken SSA far longer than that to make many expedited reinstatement determinations).
- Why the policy change or service is expected to achieve the policy goal for the target population: People who trust that expedited reinstatement will be available to them, and that they can get provisional benefits while they wait, may feel more encouraged to work and will be more financially stable if their incomes decrease. There will be fewer underpayments of benefits if provisional benefits continue until a decision is made on the expedited reinstatement request and SSA will be motivated to make those decisions more promptly.
- Partnerships if any, we should consider to implement the demonstration: Work Incentive Planning and Assistance (WIPA) grantees, state vocational rehabilitation agencies

Both programs

Improve the disability determination process: for this topic, we recommend that SSA study the effects of several different changes, so we have not listed the specific statutes or regulations that would be changed as there would be many depending on which combination of the following changes SSA wished to consider. The target population would be claimants for SSI and/or SSDI, and the specific policy goal would be to reach more timely and accurate disability determinations, awarding benefits as quickly and efficiently as possible to people who meet the statutory definition of disability. To improve the disability adjudication process, we recommend that SSA demonstrate the following, either in a single demonstration or in multiple demonstrations that consider the individual and combined effects of each change:

- Expand expedited screening programs: add to the lists of conditions that qualify as Compassionate Allowances and/or presumptive disability, broaden the formula for Quick Disability Determinations to cases with a slightly lower chance of award, and provide critical case flags for people experiencing homelessness (even if they have shelter) and other groups that research indicates would benefit from quicker processing.
- Increase the substantial gainful activity level to the blind level for all impairments. This is important for purposes of disability determinations, but would also serve as a work incentive.
- Consider work done only in the past 10 years as potentially past relevant work at step 4 of the sequential evaluation process. It is our understanding that the National Association of Disability Examiners also supports reducing the time frame for past relevant work to less than the current 15 years; see <https://www.nade.org/wp-content/uploads/2019/07/Summer-2019-1.pdf#page=3>.
- Provide access to all sections of electronic case files and a status report for representatives for cases at the DDS levels. This change does not need to be done through a demonstration, and we would encourage SSA to simply provide it to all authorized representatives with Appointed Representative Services accounts, but if a demonstration is necessary to indicate the positive effects of providing this access (for example, fewer calls to field offices and state agencies, quicker submission of medical evidence) we would urge it to be implemented as quickly and broadly as possible.
- Study the effect of performing more Targeted Denial Reviews, determining which cases are most likely to be overturned on appeal and thus in need of more review, as well as the best ways to provide feedback and retraining to DDS staff who are making erroneous denials. We encourage SSA to include outcomes at ALJ, Appeals Council, and federal court stages to determine which denials are most likely to be overturned, and to include outside stakeholders in the process of determining which cases are targeted for denial reviews.
- Improve consultative examinations: one part of such a demonstration could involve seeing if specific outreach and/or higher payments for would make treating sources more likely to perform them. Another demonstration could involve revising the forms and expectations sent to consultative examiners to make sure they are closely tied to the disability standards and provide adjudicators with the information needed to make decisions. For example, an examination of a claimant with a musculoskeletal impairment should indicate whether an assistive device is medically necessary, and if so, whether the device is one-handed or two-handed. That would help adjudicators determine whether the claimant met a musculoskeletal listing.

After the Award: like the disability determination set of suggestions, we believe these changes could be tested separately or together, and they could implicate different statutory provisions or regulations depending on which combination of changes are tested. We will note that we would fully support SSA and/or Congress simply making these changes without a demonstration because we are convinced that they would assist people with disabilities. We recommend them for demonstrations only to the extent that doing so might be more expedient than making a permanent change or might convince those with the ability to make permanent changes that it would be beneficial to do so. The target population for the changes would be SSI and/or SSDI

beneficiaries. The goal would be to increase their financial stability and knowledge of the disability programs. We recommend that SSA perform demonstrations on the following:

- Removing the “negligent failure” standard so that all people whose benefits are misused by their representative payees can be repaid, not just those who have organizational or larger payees. This would increase the financial security of beneficiaries who have been determined to be unable to manage their own benefits and through no fault of their own had their funds misused.
- Provide more funding to PABSSs and WIPAs. This would increase knowledge of SSA’s programs and their rules, which could increase payment accuracy and reduce SSA’s need to answer questions from beneficiaries. The PABSS and WIPA grantees also play an important role in identifying situations where SSA may need more training, funding, or policy changes to operate more accurately and effectively.
- Ticket to Work issues: SSA may want to perform demonstrations that close the law’s current disconnect between its eligibility standard and Social Security’s full retirement age; allow those working past age 65 to participate in a Medicaid buy-in; allow Ticket holders to receive more than one Ticket; and eliminate the requirement that a beneficiary wait 24 months after reinstatement to the benefit rolls before he or she can use the work incentives again. These changes would help beneficiaries who want to try work, especially those who are older, to have additional assistance in doing so.
- An estoppel provision for overpayments: For beneficiaries who have reported their earnings, SSA should test a provision that if the agency fails to act within the four months to adjust benefits and notify the beneficiary, SSA would be prohibited from collecting back overpayments. Since fear of overpayments is a significant work disincentive, this is likely to increase work participation and wage reporting.

We appreciate the opportunity to share ideas for demonstrations with you and would be very glad to discuss any of these in greater detail with you.

Sincerely,

Social Security Task Force Co-Chairs:

Stacy Cloyd, National Organization of Social Security Claimants’ Representatives
Tracey Gronniger, Justice in Aging
Bethany Lilly, the Arc of the United States
Jeanne Morin, National Association of Disability Representatives

Employment Task Force Co-Chairs:

Julie J. Christensen, Association of People Supporting EmploymentFirst (APSE)
Phillip Pauli, Respectability
Susan Prokop, Paralyzed Veterans of America
Dahlia Shaewitz, Institute for Educational Leadership