



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

July 11, 2016

Office of Regulations and Reports Clearance
3100 West High Rise Building
6401 Security Blvd.
Baltimore, MD 21235

Docket No. SSA-2014-0016
Unsuccessful Work Attempts and Expedited Reinstatement Eligibility

SUBMITTED VIA REGULATIONS.GOV

The undersigned members of the Consortium for Citizens with Disabilities (CCD) Social Security and Employment and Training Task Forces are pleased to submit the following comments in support of the notice of proposed rulemaking published on May 11, 2016. CCD is a coalition of national advocacy, rights, consumer and provider organizations representing the nation's approximately 57 million people with disabilities. The CCD Social Security Task Force focuses on disability policy issues in Social Security's Title II and Title XVI disability programs and the Employment and Training task force focuses on issues affecting opportunities for employment for people with disabilities, including the removal of barriers to work for people receiving Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI).

Both CCD Task Forces have long advocated for simplifying the SSDI and SSI program rules regarding work. The work incentives in these programs are complex and can be confusing to beneficiaries and their families.

We applaud the Social Security Administration (SSA) for proposing changes to make the unsuccessful work attempt (UWA) and expedited reinstatement (EXR) rules simpler and easier to understand. The proposed changes will help beneficiaries comprehend and use the rules, thereby encouraging and supporting attempts to work.

Unsuccessful Work Attempt (UWA)

SSA is proposing to simplify the UWA work incentive by removing some of the criteria that it uses in evaluating unsuccessful work attempts for employment that lasts between 3 and 6 months. Currently, SSA considers work of three months or less to be unsuccessful if the claimant or beneficiary stopped working or reduced the work and earnings below SGA earnings level because of the claimant beneficiary's impairment, or because of the removal of special conditions which took into account the claimant or beneficiary's impairment and permitted the claimant or beneficiary to work. However, for work attempts lasting between 3 and 6 months a beneficiary must meet those conditions as well as meeting these additional conditions: (1) Been frequently absent from work because of his or her impairment, (2) performed the work unsatisfactorily because of his or her impairment, (3) worked during a period of temporary remission of his or her impairment, or (4) worked under special conditions essential to his or her

performance and those conditions were removed.¹ SSA proposes to eliminate these additional conditions for work attempts lasting between 3 and 6 months.

The undersigned members of Social Security and Employment and Training Task Forces fully support this change. The current rules are complex and time consuming for SSA to administer, with no seeming benefit to beneficiaries or the Trust Funds. Determining whether any of those additional conditions exist requires significant time for Social Security field office staff to develop. The existence of these additional factors are not necessary to show that a work attempt is unsuccessful and this change should not have any impact on whether a work attempt is determined to be unsuccessful. The proposed change will simplify administration of this important work incentive and will be easier for beneficiaries and their families to understand. SSA should move forward with this change as proposed.

Expedited Reinstatement (EXR)

SSA is also proposing to allow previously entitled beneficiaries to apply for expedited reinstatement (EXR) in the same month in which they stop performing substantial gainful activity (SGA). Under current rules, the beneficiary must wait to request EXR until the month after he or she stops work but earnings exceeded SGA.² SSA states that this new policy will make it easier for beneficiaries requesting expedited reinstatement by allowing the agency to forward the individual's file immediately for a medical determination. This is expected to reduce wait times and the potential for gaps in benefit payments.

The undersigned organizations support making this change to the EXR rules. This change should provide greater assurance to beneficiaries who want to attempt a return to work that they will not be penalized by program complexities in the event they cannot sustain employment. For example, an individual whose impairment worsens and must leave a job in the first week of the month (and earned SGA in that week), would have neither income nor benefits to rely upon to meet basic expenses in that month under current rules. This has the potential to make someone less willing to attempt to go to work for fear of being left destitute under such a scenario. The proposed changes would simplify the rules (an individual can apply for EXR as soon as they are no longer working) and remove the possibility that an individual would be left without means of support for the month in which they become unable to continue to work due to their impairment. The undersigned organizations wholeheartedly support this change.

Thank you for considering our comments. We appreciate the opportunity to comment on these proposed rules.

Sincerely,

ACCSES

Association of University Centers on Disabilities

Easter Seals

The Jewish Federations on North America

Lupus Foundation of America

National Alliance on Mental Illness

National Committee to Preserve Social Security and Medicare

National Disability Institute

National Association of Disability Representatives

National Disability Rights Network

National Organization of Social Security Claimants' Representatives (NOSSCR)

Paralyzed Veterans of America

The Arc of the United States

United Spinal Association

¹ 1 20 CFR 404.1574(c)(4) and 416.974(c)(4).

² 5 20 CFR 404.1592c and 416.999a