

October 23, 2020

Commissioner Andrew Saul  
Social Security Administration  
6401 Security Boulevard  
Baltimore, MD 21235-6401

*Sent via email*

Dear Commissioner Saul,

The undersigned members of the Consortium for Citizens with Disabilities (CCD) and allies understand that the Social Security Administration (SSA) has re-started its Continuing Disability Review (CDR) workload and would like to share some ideas and recommendations with you so that CDRs are conducted efficiently and with appropriate regard for the rights and needs of beneficiaries. 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.

First, we seek to clarify whether SSA plans to terminate benefits at this time, whether for medical improvement, insufficient evidence, or failure to cooperate. At a time when it is difficult for beneficiaries to visit or communicate with their usual support networks and medical providers, the postal service is experiencing significant challenges, and it is optimal for people to limit their contact with others outside their household, we believe that SSA should only complete CDRs if the agency can find that disability continues. Other CDRs should be held until the nationwide public health emergency has concluded. We encourage you to publicly state this policy, whether through POMS, Emergency Message, Administrative Message, or SSA's coronavirus web page. Making the policy explicit and publicly available is important so that SSA and state agency staff, beneficiaries, representatives, and others are all aware of it; if there are any violations of the policy, making it publicly available allows it to be enforced.

If SSA sends any notices about CDRs to beneficiaries, these notices should explain that SSA will not terminate benefits at this time. If the state agency believes a consultative examination is necessary, beneficiaries should be advised that they can ask their treating providers to perform the examination and be given contact information for the state agency that their providers can use to learn more about performing such examinations. However, any communications should explain that beneficiaries who feel uncomfortable attending consultative examinations, either with treating or non-treating sources, are not required to do so at this time; those who prefer not to attend will not have benefits terminated for failure to cooperate with the CDR process.

In order to perform CDRs effectively, SSA must ensure that all state agencies are easily accessible by phone and have mechanisms to process documents that are faxed or mailed to them. SSA has provided electronic access to state agency-level claims files, including CDR claims, as promised by the end of Fiscal Year 2020. SSA should expand this improvement, publicize it widely, provide support for SSA and state agency staff and the public in using it, and then enhance it so that it is possible not only to view claims files, but also easier to submit

evidence to them electronically. This is already possible for cases at the Administrative Law Judge (ALJ) and Appeals Council levels.

SSA must also follow its own policies on including the Comparison Point Decision in CDRs. The standard of review in a CDR case is whether there has been medical improvement in the claimant's impairment(s) and, if so, whether this medical improvement is related to the claimant's ability to work. Thus, this standard requires obtaining and examining the complete prior file of the claimant that led to the favorable decision, including the Comparison Point Decision and the original supporting medical evidence. SSA should review a sample of CDRs to ensure that rules on Comparison Point Decisions are adhered to, and provide additional training to staff or offices that fail to follow agency policy.

Any CDRs that SSA puts on hold because it is not possible to determine that disability continues must be re-developed when the hold is lifted. The entire point of placing a hold on such cases is that SSA is aware that the pandemic limits beneficiaries' ability to attend consultative examinations, complete paperwork, and obtain medical evidence. Therefore, beneficiaries will need an opportunity to perform these tasks, and state agencies will need an opportunity to review any information submitted, before making a CDR determination.

SSA and state agencies should improve their procedures for recording address changes and for searching the file for alternative addresses and phone numbers before terminating any benefits for failure to cooperate with a CDR. The number and percentage of CDRs that end with a failure to cooperate determination has increased in recent years, and SSA should make every effort to contact beneficiaries before terminating their benefits.

Holds on CDRs should not be lifted, and no benefits should be terminated, until state agencies are able to perform in-person Disability Hearing Officer (DHO) hearings and SSA is able to hold in-person ALJ hearings on both electronic and paper cases, while meeting all legally mandated processing timelines. While video and telephone DHO and ALJ hearings can be offered as options to beneficiaries, the option of in-person hearings must also be available.

Finally, we encourage you not to finalize the proposed rule regarding changes to CDR scheduling. As [CCD's comments](#) and tens of thousands of other comments make clear, the proposed rule is confusing and poses a significant additional burden on SSA, disability beneficiaries, and those who provide them with medical care and other services. There is no good time to impose an arbitrary and capricious rule but during a pandemic and recession would be among the worst times to do so.

Thank you for your consideration of our suggestions. We would be happy to discuss them with you at any time. Please contact Kate Lang at Justice in Aging ([klang@justiceinaging.org](mailto:klang@justiceinaging.org)) to arrange this discussion.

Sincerely,

Advocacy and Training Center

American Academy of Pediatrics

American Association on Health and Disability

American Association on Intellectual and Developmental Disabilities (AAIDD)

American Physical Therapy Association

Benefits Law Center

Bet Tzedek Legal Services

Center for Public Representation

Community Legal Aid Society, Inc. Delaware

Community Legal Services of Philadelphia

Disability Law Center (MA)

Empire Justice Center

Epilepsy Foundation

Homeless Action Center

Homeless Persons Representation Project

Inner City Law Center

Justice in Aging

Lakeshore Foundation

Legal Aid Society of San Mateo County

Legal Council for Health Justice

Legal Services of Northern California, Inc.

National Disability Rights Network (NDRN)

National Multiple Sclerosis Society

National Organization of Social Security Claimants' Representatives

Pisgah Legal Services

PRC

The Arc of the United States

United Spinal Association

United States International Council on Disabilities