



SOCIAL SECURITY

The Commissioner

December 29, 2020

The Consortium for Citizens with Disabilities
820 First Street, NE, Suite 740
Washington, DC 20002

Dear Members of the Consortium for Citizens with Disabilities:

Thank you for your October 23, 2020 letter on the status of continuing disability review (CDR) processing during the COVID-19 national public health emergency. We share your commitment to ensuring that our CDR process is fair and efficient, and we have implemented procedures to safeguard the rights of beneficiaries and respond to the unique challenges presented by COVID-19.

As the national public health emergency continues, we need to balance customer service with our stewardship obligations. As you know, in mid-March, we suspended certain actions, including CDRs, which could result in a benefit reduction, suspension, or termination. Even when we resumed CDRs in May, we continued to suspend CDR cessations until August 31, 2020.

As we proceeded with CDRs, we implemented appropriate public safety measures. We do not require face-to-face contact with the beneficiary during the CDR process at the State Disability Determination Services (DDS) or in our field offices (FO). Under our COVID-19 protocols, the FO and DDS conduct CDR-related business through U.S. mail and over the telephone and will not cease benefits before attempting contact by telephone. We also resumed conducting disability hearings at the reconsideration level in medical cessation cases on August 31, 2020. We are currently conducting these disability hearings by telephone, with the beneficiary's consent to appear in that manner. We are pursuing video technology and policy solutions to allow us to expand options for these hearings further.

We continue to consider mail delays when processing CDRs. Our emergency instructions to the DDS provided a reminder regarding our reopening policies, in the event the DDS received delayed forms, medical evidence or other documents following adjudication, known as "trailer mail." Instructions dictate the DDS must examine trailer mail to determine if it affects the determination and consider the rules for reopening and revising the determination. The Program Operations Manual System, [DI 27505.010](#), identifies new and material evidence as good cause for reopening a prior determination.

Our emergency instructions also included a reminder that the DDS must have current evidence for a CDR medical determination. [DI 28030.020](#) outlines the development of medical evidence requirements, including the requirement for current medical evidence to make a medical determination and that the nature of each impairment determines how current the medical evidence must be. Disability examiners must resolve this issue on a case-by-case basis.

I assure you we are not ceasing benefits due to a beneficiary's inability to attend a consultative examination (CE). COVID-19 related concerns are a good reason to cancel, postpone or reschedule a CE. We instruct the DDS to notify claimants and beneficiaries that they may request to postpone their CE without penalty, if a claimant or beneficiary has concerns with COVID-19 exposure. When the DDS begins to schedule in-person CEs, all CE notices to claimants and beneficiaries must contain the following language:

This provider can provide you with information about the steps it is taking to prevent the spread of COVID-19. If you are concerned about COVID-19 exposure, you may contact us to postpone the examination.

Please be aware that asking us to postpone the examination will delay your determination.

If you ask for a postponement, we will hold your claim until we can reschedule your examination at a future date or until we receive adequate evidence to make a determination.

It further remains our policy that a beneficiary's own medical source is generally the preferred CE source, if the source has the training, license, and is otherwise qualified to be a CE source and is willing to perform the examination or test for the established fee schedule payment. The DDS considers the factors in [DI 22510.010](#) when selecting a qualified medical source to perform a CE.

COVID-19 concerns remain a good reason for failure to cooperate with requests for evidence or action. For example, if a claimant contacts the DDS and indicates he or she needs assistance completing forms, and does not believe he or she can safely receive assistance due to COVID-19 concerns, the DDS is instructed to collect the information by telephone. If the claimant objects to completing the forms by telephone, the DDS is instructed to hold the case until the claimant receives assistance completing the forms, or the agency resumes normal case processing.

While we may make determinations based on the evidence of record when a claimant or beneficiary does not cooperate with our requests for evidence or action, we attempt to re-contact the claimant or beneficiary prior to taking any adverse action. We also apply our good cause policy when we receive untimely requests for statutory continuation of benefits. In doing so, we consider whether COVID-19 related circumstances provide good cause for a late statutory continuation of benefits election, according to our [emergency instructions](#).

I hope this information is helpful. If you have further questions, please contact me, or members of your team may contact Mike Korbey, Deputy Commissioner for Communications, at Mike.Korbey@ssa.gov.

Sincerely,



Andrew Saul
Commissioner