



**CONSORTIUM FOR CITIZENS  
WITH DISABILITIES**

January 3, 2006

Jo Anne B. Barnhart  
Commissioner of Social Security  
Social Security Administration  
P.O. Box 17703  
Baltimore, MD 21235-7703

Via email: [regulations@ssa.gov](mailto:regulations@ssa.gov)

**Re: Comments on Notice of Proposed Rulemaking on Age as a Factor in Evaluating  
Disability, 70 Federal Register 67101 (November 4, 2005)**

Dear Commissioner Barnhart:

The Consortium for Citizens with Disabilities (CCD) is a working coalition of national consumer, advocacy, provider, and professional organizations working together with and on behalf of the 54 million children and adults with disabilities and their families living in the United States. The CCD Social Security Task Force focuses on disability policy issues in the Title XVI Supplemental Security Income program and the Title II disability programs. We appreciate the opportunity to comment on the notice of proposed rulemaking that SSA issued on November 4, 2005, regarding changes in the age categories used for disability determinations.

SSA has proposed to change the age categories in the Medical-Vocational Guidelines (“the Grids”), raising them by two years. This change would make it harder for persons in affected age categories to qualify for benefits. Disability advocates are extremely concerned about the impact of this change on vulnerable people with disabilities. **We urge you to rescind these proposed rules and not make the changes final.**

SSA argues that since there is evidence that the average health of older workers has improved and many older persons are working, the age categories in the disability grids should be adjusted upward. However, while the proposed regulation cites much evidence that might justify an increase in the *retirement* age, this evidence has little to do with the ability to work of persons with severe health problems or disabilities, who are not working and have applied for disability benefits. That is, the *average* health of a population reveals little about the *individuals* who apply for disability benefits, who by definition are not enjoying the average health of the population at large.

Not all segments of the population have benefited from improvements in health and working conditions. In particular, those individuals with lower incomes and less education might be especially disadvantaged by these changes, since these groups have benefited the least from overall improvements in the health of the population. They also are also more likely to have the kinds of adverse vocational factors that SSA must consider in deciding whether they are eligible for benefits. Individuals with lower educational attainment also are more likely to have disabilities. These are the very individuals who most benefit from the current grid rules.

The preface to the proposed rule offers a number of reasons for the change but they do not provide a reasonable basis for the age increase. SSA describes the change as a “minimal increase,” but for many people the change will be extremely detrimental. In addition, the estimate of cost savings indicates that the proposed changes are far more than “minimal” (\$1.8 billion in savings over five years; \$5.8 billion over 10 years). Our main concerns are discussed below.

- **SSA says that the “average” health of the elderly population is improving. But this ignores the fact that improvement has not been uniform and there is great disparity in disability rates for many older individuals with disabilities.**

**Education.** Individuals with lower levels of education (high school or less) have higher disability rates than those with a college education. Education influences the likelihood of having a disability and having a disability can influence opportunities for higher education.

**Income.** Individuals with lower income levels have higher disability rates. Lower income leads to poorer health. As a result, disability rates for the lower socioeconomic groups, the individuals who benefit most from the Grids, lag behind the rates for higher socioeconomic groups.

**Race.** Some racial/ethnic groups have higher disability rates and, as a group, they have lower educational and income levels. For them, disability, not voluntary retirement, is the main reason they leave the labor force. As a result, the proposed age change would have a disparate impact on certain groups, primarily blacks and Native Americans. For example, the level of disability that blacks experience in their early 50’s is not experienced by whites until their mid to late 60’s. As a result, the impact of raising the age categories will lead to a perception of discrimination.

- **SSA says that work opportunities have increased for older adults. But the shift towards white collar and knowledge-based jobs does not benefit older workers who do not have the education, skills, or ability to work in these occupations.**

Having a disability is a significant factor in determining work status. The main reason that workers under age 62 leave the labor force is due to poor health and disability. Disability prevents them from continuing to work or returning to work. SSA should not generalize regarding the ability of people with disabilities to work. Not everyone has equal access to medical and technological advances and labor market improvements, which tend to benefit individuals with higher education levels and/or skilled work experience. These advances also may not work for those with severe cognitive or mental disabilities.

- **SSA says that the increase in the Social Security retirement age justifies an increase in the disability age categories. But SSA should not infer that Congress' reasons for increasing the retirement age apply to increasing the disability age categories.**

SSA says that by increasing the retirement age, Congress has acknowledged that “it is both reasonable and necessary for people to work longer before retiring.” But Congress has spoken on the relationship of age and disability. In the law, widows and widowers between the ages of 50 and 59 are eligible for benefits if they are disabled. Congress has chosen **not** to change these age limits. Also, more years of life expectancy do not necessarily translate into more years living without a disability. For some groups – blacks, Native Americans, persons with low education and income levels -- longer life expectancy does not mean better health.

By describing the proposed change as “minimal,” SSA diminishes the critical importance of the Social Security and SSI disability programs to disabled workers and their families. Millions of families face disability and adults with serious disabilities have a very low employment rate. While disabled workers have a higher poverty rate than workers who choose to retire, their circumstances would be even worse without Title II and SSI disability benefits, which are their main sources of income.

- **SSA says that its own experience in deciding disability claims suggests that there are “many jobs” that older individuals can perform and adjust to. This ignores the fact that the Grids are calibrated to benefit those persons with disabilities who have the most adverse vocational characteristics.**

SSA infers that the Grid rules are too liberal in who will be found “disabled.” But a closer look shows that those persons who would be found disabled have the most adverse vocational characteristics – low education, lack of work skills, and limited residual functional capacity. When these factors are combined, the Grids recognize that the occupational opportunities are so restricted that a finding of “disabled” is warranted. SSA also says that there are more jobs to which people can adjust, regardless of their age. But the proposed change provides no explanation of how persons with such adverse vocational factors are better able to adjust to other work. In fact, there are other regulations and policy statements that suggest just the opposite.

**SSA indicates that the proposed change will save billions of dollars in federal benefit outlays. We do not believe that such a change is justified when it will hurt some of the most vulnerable persons with disabilities.**

Thank you for considering our comments.

Sincerely,

Marty Ford  
The Arc and United Cerebral Palsy Public  
Policy Collaboration

Ethel Zelenske  
National Organization of Social Security  
Claimants' Representatives

Co-Chairs, CCD Social Security Task Force