



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

August 18, 2006

Jo Anne B. Barnhart, Commissioner
Social Security Administration
International Trade Commission Building
500 E Street, SW 8th Floor
Washington, DC 20254

Re: Age as a Factor in Evaluating Disability, 70 Fed. Reg. 67101 (Nov. 4, 2005)

Dear Commissioner Barnhart:

On November 4, 2005, SSA proposed to change the age categories in the Medical-Vocational Guidelines (“the grids”), raising each category by two years. 70 Fed. Reg. 67101 (Nov. 4, 2005). This change would make it more difficult for persons in the affected age categories to qualify for Social Security and SSI disability benefits. As disability advocates, we are extremely concerned about the impact of this change on vulnerable people with disabilities. Approximately 900 comments were submitted, with nearly all opposing the change. In the comments we submitted as co-chairs of the Consortium for Citizens with Disabilities (CCD) Social Security Task Force to the proposed rule, we urged you to rescind the proposed rule and not make the proposed changes final.

We are writing to bring to your attention three documents issued after the close of the comment period for this proposed rule that could have an impact on your decision regarding the final rule. These documents are attached to this letter.

1) *Social Security Administration Proposal to Revise Disability Determinations Is Not Justified*, by Eileen P. Sweeney and Arloc Sherman, Center on Budget and Policy Priorities (April 18, 2006)

This report was one of the last documents written by Eileen before her very untimely death in June 2006. In this report, the authors reviewed occupational data to determine whether one of the key reasons for the proposed change was justified, i.e., that older people are living longer than in the past and that many are able to work longer. They concluded that it was not justified:

The SSA proposal does not appear to be justified by recent data on employment trends of people with disabilities or by data on the skills currently demanded by employers in the national economy, both of which suggest that employment opportunities for many people with disabilities — particularly those of advanced age and with limited education and skills — remain very limited. Moreover, the proposed change would have a highly

disproportionate adverse impact on African Americans, who are more likely than other people to have disabilities and lower education and skill levels.

Id. at 1. The report examines data from the Census Bureau's Current Population Survey (CPS) and finds that the "if the CPS data suggest anything, it is that employment may have become *more* difficult to find for people who have ... self-identified work-limiting disabilities and are 45 or older." *Id.* at 3. In fact, the CPS data show that African Americans with disabilities would be disproportionately affected by the proposed rule since they "are more likely to be employed in physically demanding jobs. They also are more likely to have a history of less adequate health care, greater poverty, and more stressful living conditions." *Id.* at 5.

The report also reviews U. S. Department of Labor efforts in O*NET to quantify minimal job requirements for specific occupations and finds that "for people who have both physical impairments and limited cognitive skills, job options are scarce." *Id.* at 6.

The report is available online at: <http://www.cbpp.org/4-18-06socsec.pdf>.

2) U.S. Census Bureau, Current Population Reports, *Americans with Disabilities: 2002*, by Erika Steinmetz (Pub. No. P70-107, May 2006)

This report was compiled by the U.S. Census Bureau from the Survey of Income and Program Participation (SIPP) and looks more closely at the demographic information for people with disabilities. The report finds that people with disabilities, especially those with severe disabilities, live with substantially more disadvantages than people who are not disabled. Many of the findings do not support the rationale for the proposed changes to the age categories. Some key findings include:

- **A higher poverty rate.** The poverty rate for people with severe disabilities is more than three times that of non-disabled people: Severely disabled: 25.9%; not disabled: 7.7%.
- **A higher uninsured rate.** The uninsured rate for people with severe disabilities is 18.7% vs. 15.9% for non-disabled people.
- **Lower education attainment.** The rate of people who do not complete high school is 26.6 percent for people with severe disabilities versus 10.4 percent for non-disabled individuals. While 43.1 percent of individuals without disabilities graduate from college, only 21.9 percent of individuals with severe disabilities graduate from college.
- **Lower earnings.** People with disabilities who work have lower earnings than people with no disabilities.

The report is available online at: www.census.gov/prod/2006pubs/p70-107.pdf.

3) *Gradient of Disability across the Socioeconomic Spectrum in the United States*, by Meredith Minkler, Dr.P.H., Esme Fuller-Thompson, Ph.D., M.S.W., and Jack M. Guralnik, M.D., Ph.D., *The New England Journal of Medicine*, pp. 695-703 (August 17, 2006)

In our formal comments to the notice of proposed rulemaking, we emphasized the detrimental impact of the proposed changes on individuals who are poor and who are more likely to become

disabled at an earlier age. The results of this study, published yesterday in *The New England Journal of Medicine*, strongly substantiate this point.

Despite a decline in the overall rate of disability over the last two decades, “the rate of decline was smaller among those in the poorest socioeconomic groups.” *Id.* at 696. The study concludes that “functional limitation in Americans between the ages of 55 and 84 years is inversely related to social class across the full spectrum of the socioeconomic gradient.” *Id.* at 695.

The results of this study are particularly relevant to the proposed regulatory change since the researchers looked at adults in the 55 to 64 years old age category and found that the functional limitation differences are more dramatic in that age group than in older age groups:

The [gradient] slope was steepest in the youngest age group. In comparison to respondents between the ages of 55 and 64 who were living at or above 700 percent of the poverty line [\$57, 813 for a single older adult living alone], respondents of the same age who were living in poverty had six times the odds of reporting a functional limitation....

Id. at 699. The income factor, relative to disability, appears to be more “visible” for those in the younger, 55-64 age category, indicating that “each additional increment of income” leads to more of a decline in the rate of functional limitation among this group than among the older group. *Id.* While recognizing the “demonstrated effects of race or ethnic group on health,” another relevant finding of the study shows that “the economic gradient in disability in midlife and among older Americans operates independently of race or ethnic group.” *Id.* at 700.

The article is available online at: <http://content.nejm.org/cgi/reprint/355/7/695.pdf>

Thank you for considering our comments.

Sincerely,

Marty Ford
The Arc and United Cerebral Palsy Disability Policy Collaboration

Ethel Zelenske
National Organization of Social Security Claimants’ Representatives

Co-chairs, CCD Social Security Task Force

Cc: Martin H. Gerry, Deputy Commissioner, ODISP
Glenn Sklar, Associate Commissioner, Office of Disability Programs, ODISP