



**CONSORTIUM FOR CITIZENS  
WITH DISABILITIES**

Thank you for arranging a listening session today for the cochairs of the Consortium for Citizens with Disabilities Social Security Task Force.

As noted during the listening session, SSA proposes to schedule beneficiaries for continuing disability reviews differently depending on whether their claims were awarded at Step 3 or Step 5 of the sequential evaluation process. We strongly oppose this for several reasons and believe it to be against Congressional intent.

One reason for our opposition is that SSA has made millions of disability awards in which it does not know the stage at which benefits were included. SSA's own data at [https://www.ssa.gov/policy/docs/statcomps/ssi\\_asr/2019/sect10.html#table73](https://www.ssa.gov/policy/docs/statcomps/ssi_asr/2019/sect10.html#table73) for SSI and [https://www.ssa.gov/policy/docs/statcomps/di\\_asr/2019/sect04.html#table64](https://www.ssa.gov/policy/docs/statcomps/di_asr/2019/sect04.html#table64) for Title II show that a significant percentage of awards are classified as "other," which the agency describes as "Includes applications for which the disability was previously established and those for which the basis for the determination is not available."

The percentage of disabled adult child and disabled widow/er awards classified as "other" has increased fairly steadily in recent decades; from 2014-17, it was over 70% of such awards. However, other types of benefit claims also have large numbers of "other" awards. From 1999-2015, more than a third of all Title II disability awards were categorized as "other." In the same time period, between a quarter and a third of all SSI awards were categorized as "other." Even accounting for concurrent claims, this reflects hundreds of thousands of awards every year.

Although the percentage of awards categorized as "other" appeared to decrease in the most recent years, this is likely not a true decrease but a function of how, as SSA states in its Annual Statistical Reports, "[t]he majority of applications for which the basis of determination is not available are cases allowed at or above the hearing level." Many claims filed in 2017 and 2018 that are appealed to ALJs, the Appeals Council, and federal court were not completed in time for inclusion in the 2019 Annual Statistical Reports.

It is not possible to provide meaningful comments on the proposed rule because SSA's NPRM is so vague as to how often these millions of beneficiaries will have CDRs: it could be every six months, every six years, or somewhere in between. The costs and benefits of the proposed rule to SSA, and the burden placed on beneficiaries and others are therefore impossible to assess. To finalize such a rule would violate the Administrative Procedure Act and we urge OMB to forbid SSA from doing so.

Sincerely,

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