



SOCIAL SECURITY

The Commissioner

November 22, 2023

The Honorable Jason Smith
Chair, Committee on Ways and Means
United States House of Representatives
Washington, DC 20515

Dear Committee Chair Smith:

The purpose of this letter is to inform you that for fiscal year (FY) 2023, I have exercised my authority under sections 221(i)(2) and 1633 of the Social Security Act (Act) to waive the three-year time frame under section 221(i)(1) of the Act to complete certain continuing disability reviews (CDR). This action defers the completion of certain CDRs by our agency and all of the State Disability Determination Services (DDS) for the one-year period beginning October 1, 2022, and ending September 30, 2023.

Section 221(i)(1) of the Act requires the Social Security Administration (SSA) to conduct CDRs at least once every three years for all Title II beneficiaries with nonpermanent impairments. This section also requires that SSA review the eligibility of beneficiaries classified as having permanent impairments at such times as the Commissioner determines to be appropriate. In accordance with the Commissioner's authority under sections 1614(a)(4) and 1633 of the Act, SSA has extended these periodic reviews to recipients receiving Supplemental Security Income (SSI) payments under Title XVI. In addition, section 1614(a)(3)(H) of the Act requires SSA to conduct CDRs for children whose low birth weight is a contributing factor material to the finding of disability and for children who are eligible for SSI because of an impairment that is likely to improve (or, at the option of the Commissioner, which is unlikely to improve). Finally, in accordance with section 1614(a)(3)(H) of the Act, SSA also performs age-18 redeterminations using the disability criteria for adult initial claims for SSI childhood disability.

Section 221(i)(2) of the Act limits the periodic review requirements of section 221(i)(1) of the Act. Under this section, the requirement that SSA review cases at least every three years will not apply to the extent that the Commissioner determines, on a State-by-State basis, that the requirement should be waived to ensure that SSA reviews only the appropriate numbers of such cases. Section 221(i)(2) also applies to CDRs conducted under Title XVI of the Act by virtue of the authority in section 1633 of the Act. The Commissioner determines the appropriate number of cases to review in each State after consultation with the State DDS. In addition, the DDS must make a good faith effort to meet proper staffing requirements and process case reviews timely.

I find that in FY 2023, each State has made a good faith effort to meet staffing requirements and process case reviews timely; therefore, each State is eligible under section 221(i)(2) of the Act for a waiver of the three-year time period to perform certain CDRs.

My decision to grant the waiver was necessary due to the continued challenges faced by the DDSs to maintain adequate levels of disability examiners capable of processing CDRs. Despite the DDSs efforts to increase hiring and improve retention in FY 2023, the record-breaking volume of disability examiner losses from the prior two fiscal years, especially those who were trained to process CDRs, was too significant to fully recover from in one year. In addition, I acknowledged the need to balance our available resources to perform our stewardship responsibilities along with service. With that in mind, I committed to setting appropriate CDR workload targets in order to regain currency, while also recognizing the need to commit DDS resources to address the high number of initial disability claims pending.

After carefully reviewing budgeted resources, the backlog of pending reviews, the projected number of new applications, the staffing levels in each State DDS, and the availability of medical and other resources, I determined that the DDSs could complete 550,197 CDRs nationally in FY 2023. As a result, we deferred 287,655 CDRs. While the Program Integrity funds that we were unable to use will remain available to us through March 31, 2024, we will need sustained Program Integrity resources to regain currency.

If you have any questions, or if I can be of further assistance, please contact me, or your staff may contact Tom Klouda, our Deputy Commissioner for Legislation and Congressional Affairs, at (202) 358-6030.

We are also sending this information to the Senate Committee on Finance.

Sincerely,

A handwritten signature in black ink that reads "Kilolo Kijakazi". The signature is written in a cursive, flowing style.

Kilolo Kijakazi, Ph.D., M.S.W.
Acting Commissioner

cc:
The Honorable Richard Neal, Ranking Member



SOCIAL SECURITY

The Commissioner

November 22, 2023

The Honorable Ron Wyden
Chair, Committee on Finance
United States Senate
Washington, DC 20510

Dear Committee Chair Wyden:

The purpose of this letter is to inform you that for fiscal year (FY) 2023, I have exercised my authority under sections 221(i)(2) and 1633 of the Social Security Act (Act) to waive the three-year time frame under section 221(i)(1) of the Act to complete certain continuing disability reviews (CDR). This action defers the completion of certain CDRs by our agency and all of the State Disability Determination Services (DDS) for the one-year period beginning October 1, 2022, and ending September 30, 2023.

Section 221(i)(1) of the Act requires the Social Security Administration (SSA) to conduct CDRs at least once every three years for all Title II beneficiaries with nonpermanent impairments. This section also requires that SSA review the eligibility of beneficiaries classified as having permanent impairments at such times as the Commissioner determines to be appropriate. In accordance with the Commissioner's authority under sections 1614(a)(4) and 1633 of the Act, SSA has extended these periodic reviews to recipients receiving Supplemental Security Income (SSI) payments under Title XVI. In addition, section 1614(a)(3)(H) of the Act requires SSA to conduct CDRs for children whose low birth weight is a contributing factor material to the finding of disability and for children who are eligible for SSI because of an impairment that is likely to improve (or, at the option of the Commissioner, which is unlikely to improve). Finally, in accordance with section 1614(a)(3)(H) of the Act, SSA also performs age-18 redeterminations using the disability criteria for adult initial claims for SSI childhood disability.

Section 221(i)(2) of the Act limits the periodic review requirements of section 221(i)(1) of the Act. Under this section, the requirement that SSA review cases at least every three years will not apply to the extent that the Commissioner determines, on a State-by-State basis, that the requirement should be waived to ensure that SSA reviews only the appropriate numbers of such cases. Section 221(i)(2) also applies to CDRs conducted under Title XVI of the Act by virtue of the authority in section 1633 of the Act. The Commissioner determines the appropriate number of cases to review in each State after consultation with the State DDS. In addition, the DDS must make a good faith effort to meet proper staffing requirements and process case reviews timely.

I find that in FY 2023, each State has made a good faith effort to meet staffing requirements and process case reviews timely; therefore, each State is eligible under section 221(i)(2) of the Act for a waiver of the three-year time period to perform certain CDRs.

My decision to grant the waiver was necessary due to the continued challenges faced by the DDSs to maintain adequate levels of disability examiners capable of processing CDRs. Despite the DDSs efforts to increase hiring and improve retention in FY 2023, the record-breaking volume of disability examiner losses from the prior two fiscal years, especially those who were trained to process CDRs, was too significant to fully recover from in one year. In addition, I acknowledged the need to balance our available resources to perform our stewardship responsibilities along with service. With that in mind, I committed to setting appropriate CDR workload targets in order to regain currency, while also recognizing the need to commit DDS resources to address the high number of initial disability claims pending.

After carefully reviewing budgeted resources, the backlog of pending reviews, the projected number of new applications, the staffing levels in each State DDS, and the availability of medical and other resources, I determined that the DDSs could complete 550,197 CDRs nationally in FY 2023. As a result, we deferred 287,655 CDRs. While the Program Integrity funds that we were unable to use will remain available to us through March 31, 2024, we will need sustained Program Integrity resources to regain currency.

If you have any questions, or if I can be of further assistance, please contact me, or your staff may contact Tom Klouda, our Deputy Commissioner for Legislation and Congressional Affairs, at (202) 358-6030.

We are also sending this information to the House Committee on Ways and Means.

Sincerely,

A handwritten signature in black ink that reads "Kilolo Kijakazi". The signature is written in a cursive, flowing style.

Kilolo Kijakazi, Ph.D., M.S.W.
Acting Commissioner

cc:
The Honorable Mike Crapo, Ranking Member