



SOCIAL SECURITY

The Commissioner

November 28, 2018

The Honorable Richard Neal
Ranking Member, Committee on Ways and Means
United States House of Representatives
Washington, DC 20515

Dear Mr. Neal:

The purpose of this letter is to inform you that for fiscal year (FY) 2018, I did not exercise 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 (CDRs). This action would normally defer the completion of certain CDRs by our agency and all of the State Disability Determination Services (DDS) for the previous fiscal year. During FY 2018, beginning October 1, 2017 and ending September 30, 2018, we did not defer the completion of any CDRs.

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 to process case reviews timely. Due to sustained program integrity resources over the past several years and continued funding in FY 2018, we eliminated the CDR backlog; therefore, it was not necessary to exercise any State's eligibility under section 221(i)(2) of the Act for a waiver of the three-year time period to perform certain CDRs.

My decision to not exercise the waiver was based on the ability to release all CDRs while ensuring that SSA continues to balance workload expectations with funding and available staff resources. Working collaboratively with our stakeholders at the Office of Management and Budget and in Congress, we have addressed the longstanding backlog of CDR cases.

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 896,508 CDRs nationally in FY 2018. As a result, I decided not to defer any full medical CDRs for FY 2018. This figure assumed we were funded for and were able to complete processing CDR cases that were pending in the State DDS and the field offices as of September 30, 2018.

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

We are also sending this information to Senators Hatch and Wyden, and Representative Brady.

Sincerely,

A handwritten signature in black ink, appearing to read "Nancy A. Berryhill". The signature is fluid and cursive, with a large, stylized initial "N" and "B".

Nancy A. Berryhill
Acting Commissioner