

Social Security Administration
Preliminary Plan
Executive Order 13563

Executive Summary

Executive Order (E.O.) 13563 emphasizes the importance of maintaining a consistent culture of retrospective review and analysis throughout the Executive Branch. Before a rule has been tested, it is difficult to be absolutely certain of its consequences, including its costs and savings. E.O. 13563 charges Federal agencies to devise a plan to retrospectively analyze significant rules that meet the review criteria in the Executive Order. The criteria primarily concern the effects of regulations on private-sector businesses, especially small businesses.

The Social Security Administration (SSA) generally does not regulate the private-sector marketplace. Our regulations primarily describe how persons qualify for benefits under the programs we administer. In performing a retrospective review, we can look for opportunities to reduce the burden on the beneficiaries and applicants that we serve. One way to reduce that burden is through reduced complexity. To help facilitate this effort, our plan describes a methodology and schedule to identify significant rules that may need periodic updating and details several initiatives to improve SSA's forms and reduce the paperwork burden on the public.

Scope of Plan

Although our regulations do not generally address economic competitiveness or job creation, our Plan reflects the principles of E.O. 13563. The regulations cited in our Plan embrace public participation (section 2 of the E.O.), objectivity of scientific information (section 5 of the E.O.), and retrospective analysis of rules that may need updating (section 6 of the E.O.). A special priority is increased transparency and simplification.

This preliminary plan focuses on existing medical listings that we use to determine disability under the Social Security and Supplemental Security Income programs. The listings appear in our regulations at 20 CFR Part 404, Subpart P, Appendix 1.

We are also including two initiatives that will reduce paperwork burdens. In the Revised Work Activity Reports project, we are making the Work Activity Reports easier to complete by streamlining instructions and removing unnecessary or duplicative questions. For the SSA-827 e-Authorization initiative, we are expediting the authorization process by developing an electronic alternative to the wet signature currently required. These initiatives represent SSA's continued commitment to help the public transact business with us as quickly and smoothly as possible.

Public Access and Participation

On January 25, 2011, we took the following steps:

- issued a press release announcing we would undertake a retrospective review;
- placed a notice of the announcement on our Internet homepage; and
- established a page on our Open Government website (<http://www.ssa.gov/open/regsreview/>) that requested comments from the public on how well our regulations reflected the principles of E.O. 13563. The website page links to an e-mail box (RegsReview@ssa.gov) especially established to receive public comments for this request.

We have received over 400 messages to the “RegsReview” e-mail box, nearly all of which address issues other than the retrospective review. We received a few messages from persons asking for their circumstances to be added to our regulations (e.g., add their medical impairment to our listings).

Current Efforts Independent of E.O. 13563

The medical listings help ensure disability determinations have a sound medical basis, claimants receive equal treatment based on specific criteria, and disabled individuals can be readily identified and awarded benefits if appropriate. We screen all disability claimants who are not performing substantial gainful activity and have severe impairments to quickly identify individuals who clearly meet the definition of disability.

We routinely update the listings to reflect our program experience, advances in medical knowledge, and comments we receive from medical experts, advocacy groups, patients, adjudicators, and at public outreach policy conferences. We also update the listings to reflect the universal standard of care in the medical field. For example, we update our listings to reflect the standards and types of medical evidence we receive nationwide, making our requests for medical evidence more targeted.

Routine updates of our medical listings benefits claimants because they receive decisions faster and file fewer appeals. We can allow claims earlier in the sequential evaluation process using the medical listings step based on updated and accurate medical criteria.

We already have a detailed process in place to review our medical listings. Since 1985, we have established “sunset” dates in the rules for the medical listings that we use as part of the sequential evaluation process we use to determine if persons are disabled under the Social Security and Supplemental Security Income programs. We organize the medical listings by body system and use the schedule of the sunset dates to periodically analyze whether the existing medical listings need updating to reflect advances in medical knowledge, practice, and treatment, and our program experience.

Our business plan for updating the listings provides for:

- Systematic early input from the public, through such methods as public outreach meetings and advance notices of proposed rulemaking. We organize the outreach meetings by specific topic within a body system. We invite speakers, such as clinicians in private or hospital practice, advocates, adjudicators, and patients, to provide information to us;
- Medical and academic review, by the Institute of Medicine (a component of the National Academy of Sciences), of the existing medical listings to determine whether they remain current; and
- Reviewing the new listings, one year after we publish final rules, to retrospectively analyze if the new listings resulted in the effects we had expected.

We use the Administrative Procedure Act's public-notice-and-comment process to propose and issue changes to the listings.

We provide a more detailed explanation of our business plan for the medical listings in the Appendix to this Plan.

Elements of Preliminary Plan/Compliance with E.O. 13563

Over the next two years, we anticipate reviewing the following medical listings, for which we may issue notices of proposed rulemaking (NPRM) or final rules as appropriate. The listings we expect to review are:

2011:

- Respiratory NPRM
- Growth NPRM
- Hematological NPRM
- Neurological NPRM
- Genitourinary Impairments NPRM
- Impairments that Affect Multiple Body Systems NPRM
- Immune Systems Disorders NPRM
- Skin Disorders NPRM
- Special Senses – Vision NPRM
- Digestive System NPRM
- Malignant Neoplastic Diseases NPRM
- Musculoskeletal System NPRM

2012:

- Mental Disorders final rule
- Cardiovascular System NPRM

- Speech and Language Disorders NPRM

The high-level agency official responsible for retrospective analysis is Dean Landis, Deputy Chief of Staff (Dean.Landis@ssa.gov). The Deputy Chief of Staff position is located in the Office of the Commissioner, which oversees the subordinate components responsible for writing and implementing regulations.

As noted above, we plan our retrospective analysis based on the schedule of approaching sunset dates of the various body system listings. We will use the analysis to determine if we need to revise specific medical listings.

Components of Retrospective Cost-Benefit Analysis (CBA)

We generally do not issue the kind of regulations that require a cost-benefit analysis as defined by the Office of Management and Budget. Nonetheless, when we analyze medical listings one year after we issued them as final rules, we compare the allowance rate before and after we issued the final rules. We use the results of this analysis to make additional revisions to the listings based on our programmatic experience.

Reducing Paperwork Burdens

We are committed to reducing the burden we place on the public to the greatest extent possible. We take seriously our obligation to develop innovative solutions that eliminate unjustified complexity for applications and that reduce the public reporting burden. Initiatives such as the two new activities described below illustrate our commitment to that obligation. They are:

- **Revised Work Activity Reports – Providing Better Instruction and Streamlining** – Social Security disability beneficiaries and Supplemental Security Income (SSI) recipients receive payments based on their inability to engage in substantial gainful activity because of a physical or mental condition. When beneficiaries or SSI recipients resume work, they must report the work so we can evaluate and determine if they continue to meet the disability requirements of the law. We use the SSA-820-F4, Work Activity Report-Self-Employed Person, and SSA-821-BK, Work Activity Report-Employee, to obtain work activity information.

We plan to streamline our Work Activity Reports, the SSA-820-F4 and SSA-821-BK, to provide better instruction and to make them easier to understand and complete. We also plan to revise our procedures to eliminate unnecessary questions in certain self-employment cases. By streamlining the forms and eliminating certain procedures, we anticipate simplifying the process and reducing the current paperwork burden for these collections. We estimate this initiative will save 37,500 hours.

- **Authorization to Disclose Information to SSA, SSA-827 – Electronic Authorization** – When claimants file for Social Security disability insurance or SSI benefits, they must sign form SSA-827 (Authorization to Disclose Information to SSA), which serves as the claimants’ written request to a medical provider or other source to release information to us. Currently, claimants must sign the SSA-827 so we can obtain medical and other records related to the claim. Acquiring a signature on this form can often take weeks, causing unnecessary delays in processing claims for one of the most vulnerable segments of our population.

In fiscal year (FY) 2009, we began developing an electronic authorization process that eliminates the need for a signature on the paper form SSA-827. Our new process will allow respondents to use an electronic signature process similar to the one we currently use in many of our electronic forms systems. An electronic authorization process supports faster processing of disability claims and improves service to the public by eliminating the need to wait for the claimant to sign and return the paper form to us. We estimate this initiative will save 42,166 hours.

In addition to these initiatives, we continue to develop new electronic platforms to reduce the public burden and make working with us easier. Our efforts enable faster and more efficient communication with the public, which is an integral part of our public service mandate. For example, we continue to search for ways to expand the services we offer on-line. We invite public comments about possible new initiatives, also designed to reduce complexity and burdens. It is important to note that although we serve nearly every member of the American public, we account for less than half a percent of the total public reporting burden.

Publishing the Agency’s Plan On-line

SSA will publish the retrospective review plan on its Open Government website.

Appendix:

Business Plan for updating the medical listings