



Social Security Action Alert:

Everything You Need to Know about a New Rule to Review Disability Benefit Eligibility More Frequently

On November 16, 2019, the Social Security Administration (SSA) released a Notice of Proposed Rulemaking (NPRM) – a new proposed regulation. The proposed rule would change how often most people receiving Social Security disability benefits would have their disabilities reviewed. **SSA is collecting public comments on the proposed rule through January 31, 2020.**

It can take years to qualify for disability benefits. Once people qualify, they face continuing disability reviews (CDRs), or routine reviews to see if they still meet the disability standard. If medical improvement is *expected*, SSA will review the claim in six to 18 months. If medical improvement is *possible*, SSA will review the claim every three years. If medical improvement is *not expected*, SSA will review the claim every five to seven years.

Under the proposed rule, SSA would review most people every two years instead. SSA plans to conduct an additional 1.1 million full medical reviews over the next ten years, and additional 1.5 million smaller-scale reviews, over and above their normal CDR reviews. Altogether, SSA would conduct 19.3 million reviews in the next decade. **Disability policy experts calculate that 2.6 million people could be at risk of losing benefits due to this new policy.**

Below are some answers to frequently asked questions about the new rule.

Who Is Affected by the Proposed Rule?

The proposed rule would disproportionately harm two groups of people: adults nearing retirement age and children. It would also affect people with serious behavioral health conditions, and people who have cancer.

There are two ways that adults can get disability benefits: (1) they can meet some narrow medical criteria, called the Listings, or (2) they can show that they cannot work. Most older adults get benefits the second way, because as people with disabilities age, it becomes much more difficult to work. The proposed rule specifically targets people who get benefits that second way, so **older adults who cannot work because of their disabilities would be disproportionately harmed.**

The proposed rule also targets children. It would mandate automatic reviews as children reach school age (age 6) and adolescence (age 12), and it targets impairments that particularly affect children and youth, like speech disorders, attention-deficit hyperactivity disorder, eating disorders, and asthma.

The proposed rule further targets certain serious behavioral health conditions, like major depressive disorder, bipolar disorder, generalized anxiety disorder, and panic disorder. **It also targets people who have disabilities due to cancer.**

What's Wrong with More Frequent CDRs?

Qualifying for disability benefits is difficult and stressful. It is not uncommon for eligible people to apply several times, and wait for years, to qualify.

The CDR process can be equally hard to navigate. People who undergo full medical reviews have to fill out extensive paperwork and provide medical evidence. In some cases, they have to visit SSA doctors. If they miss a step, their benefits can be cut off for non-cooperation. Throughout the process, the threat of losing needed income hangs over their heads. For people with conditions like anxiety or depression, the process exacerbates existing disabilities. **More frequent disability reviews makes the process even worse for people.**

Even worse, SSA regularly does not follow the law for CDRs. In conducting CDRs, SSA is supposed to look at whether people have “medically improved” – a very specific legal standard. Advocates have been complaining to SSA for years that it does not follow its own law for CDRs. **More frequent CDRs mean that SSA has more opportunities to disregard the law.**

SSA has tried to use CDRs to terminate large groups of people once before, with disastrous results. Between 1981 and 1984, SSA undertook mass eligibility reviews of disability benefits recipients with the goal of saving money, and nearly 485,000 recipients were cut off (judges later reinstated about 60% of the recipients). After a massive public outcry, Congress forced SSA to adopt the “medical improvement” standard for CDRs.

How Many People Will Be Harmed?

SSA refuses to say how many people it expects to cut off benefits due to the proposed rule, despite inquiries by advocates and policymakers.

Here is what we do know: SSA plans to conduct 2.6 million more CDRs over the next ten years, and SSA expects to pay people \$2.6 billion fewer in disability benefits as a result.

Altogether, 2.6 million people could be at risk of losing benefits. Based on the existing CDR cut-off rate, hundreds of thousands of people will stop receiving disability benefits as a result of this new rule.

How Will SSA Handle So Many New CDRs?

SSA already struggles to manage its existing caseload. People can wait months to have their initial applications reviewed and years for hearings with judges to plead their cases. The proposed rule would push more people into the system, likely **slowing it down for everyone.**



SSA does plan to spend an additional \$1.8 billion on administration under the new rule, to make sure that the infrastructure is in place to conduct an additional 2.6 million reviews over ten years.

But disability experts doubt whether even that huge increase in federal spending will be enough to prevent new slowdowns in SSA review processes. For example, the new spending does not appear to take into account the costs of processing brand new applications for people who get cut off benefits and need to reapply from scratch.

How Can I Stop the Proposed Rule?

SSA is collecting comments on the proposed rule through January 31, 2020. Under federal law, it will have to read and consider every single comment that gets submitted. The most important thing that opponents of the proposed rule can do is to submit a comment by the deadline, [at this link](#).

A helpful comment might include some or all of the following points:

- How the proposed rule would harm adults reaching retirement age, children, people with serious behavioral health conditions, and/or people who have disabilities due to cancer;
- How stressful and flawed the disability application and CDR processes are already;
- How SSA refuses to say how many people would be harmed, but its cost savings indicated that the number is massive;
- How the proposed rule would slow down the disability benefits system for everyone who tries to navigate it.

For more information about the comment process, some sample language you can adapt, and other ways you can take action, please visit www.clsphila.org/nonewburdens.

