

2014 Disability Policy Panel: Continuing Disability Reviews

Report to the Social Security Advisory Board

December 2014

Executive Summary

The Social Security Advisory Board (SSAB) appointed this independent Panel to review the Social Security Administration's (SSA's) Continuing Disability Review (CDR) process, including the Medical Improvement Review Standard (MIRS) that must be applied in conducting CDRs.¹

In general, the Panel found the CDR an effective tool for enhancing DI and Supplemental Security Income (SSI) program integrity. CDRs not only identify beneficiaries who no longer meet program eligibility criteria but also raise awareness of SSA oversight. CDRs are highly cost-effective, providing a nine to one payback ratio of benefit savings to administrative costs. This favorable ratio results in part from SSA's use of statistical profiling and CDR mailers that focus full medical reviews on those cases where it considers medical improvement most likely.

While generally giving the CDR process high marks for fulfilling its core function, the Panel also notes that CDRs are a less useful and appropriate tool for addressing other dimensions of program integrity. Alternative tools include quality control, pre-effectuation reviews, focused reviews, and Cooperative Disability Investigation (CDI) anti-fraud units. Getting the disability determination right the first time is considerably more efficient and equitable than relying on CDRs for subsequent error correction.

Based on its analysis, the Panel formulated recommendations to Congress, SSA, and the SSAB in five issue areas: 1) the funding of CDRs, 2) MIRS, 3) CDRs in relation to SSA's other payment integrity efforts, 4) the integration of CDRs with support for return to work, and 5) CDRs issues specific to SSI children and youth.

PROVIDE CONTINUING DISABILITY REVIEW (CDR) FUNDING THAT IS ADEQUATE, PREDICTABLE, AND SUSTAINED

Among the most pressing CDR issues today is the lack of funding to carry out the reviews. As a result of inadequate appropriations by Congress, the agency has a backlog of over 1.3 million overdue CDRs. This backlog prevents SSA from taking timely action to discontinue payments to beneficiaries who are no longer eligible, thus causing misuse of program resources. It also harms beneficiaries by delaying return to work efforts, which become progressively more difficult with time. Failure to perform CDRs may also create a misimpression that eligibility is permanent, regardless of disability status. Ultimately, the backlog places SSA out of compliance with the Social Security Act, which threatens public support.

For all these reasons, the Panel urges Congress to provide the funding needed to eliminate the CDR backlog in the near-term and prevent its recurrence. One scenario calculated by the SSA actuaries that meets these criteria would eliminate the backlog by 2018 and enable SSA to remain current through 2023.² The administrative cost is \$1.1–\$1.3 billion per year. If initiated in 2015 and sustained through 2023, the present value of lifetime federal benefit savings would be \$42.8 billion.

To ensure that these savings are realized and that CDR backlogs do not recur, CDR funding should be provided exclusively through a mandatory spending account. Since new hires need extensive training and mentoring before

¹ While SSA also conducts CDRs based on evidence of work, the Panel was charged only with reviewing medical CDRs.

² See section [Provide CDR funding that is adequate, predictable, and sustained](#) for further discussion of this topic.

they are able to contribute fully to processing the CDR workload,³ funds credited to this account should be available for a period of at least two years.

RETAIN THE MEDICAL IMPROVEMENT REVIEW STANDARD (MIRS) AND STRENGTHEN ITS IMPLEMENTATION

SSA cannot terminate disability benefits unless it first finds substantial evidence of improvement in the individual's impairment(s) enabling him/her to engage in substantial employment. The 1984 law that established MIRS also provides eight exceptions to the requirement to show medical improvement, including exceptions for cases involving fraud, failure to cooperate, and errors on the face of the record of the original allowance.

Congress enacted MIRS in response to widespread dissatisfaction with the Administration's use of CDRs to terminate large numbers of Disability Insurance (DI) and Supplemental Security Income (SSI) beneficiaries in the early 1980s. These terminations caused severe hardship and shook public confidence in the agency. Congress enacted MIRS unanimously to end the crisis and reestablish the integrity of the disability program.

The Panel strongly supports MIRS, and believes that it provides an essential guarantee of fairness in the DI and SSI programs. Under MIRS, a person's benefits cannot be ceased to reflect updates in SSA disability criteria, nor can adjudicators who perform CDRs substitute their own judgment for that of the original decision maker. These restrictions make it more difficult for SSA to terminate eligibility than to continue it. This protection is the core of the MIRS statute.

SSA's use of MIRS exceptions is more difficult to assess. We found that disability examiners report insufficient training in this area, and that SSA coding errors make it difficult to understand CDR adjudicators' relative use of different exceptions. A small, nonrandom sample of cases suggests that benefit cessations based on some exceptions are reversed at high rates on appeal.

The Panel thus recommends that SSA evaluate the use of MIRS exceptions nationwide. On this basis, it should provide any needed clarification or revision to the regulations. The agency should also provide disability adjudicators with additional guidance on their use and include this guidance in core training, which should be the same for all adjudicators. The Panel further recommends that SSA establish a formal process by which adjudicators can clarify the use of exceptions. The Panel offers these recommendations to clarify the current use of exceptions and sharpen adjudicators' ability to use the legislated exceptions in the limited number of cases in which such use would be appropriate.

STRENGTHEN OTHER PAYMENT INTEGRITY TOOLS

As noted, CDRs are one element in a complex system for determining disability. As the components of this system interact, other SSA program integrity efforts influence CDRs and vice versa. One part of the Panel's analysis, therefore, focused on the role of CDRs in a broader organizational context.

SSA's two most relevant complementary programs are the SSA Appeals Council's (AC) quality reviews and efforts by Cooperative Disability Investigation (CDI) units to combat fraud. Both initiatives have the potential to boost the

³ State disability examiners who conduct medical CDRs generally receive 3-6 months of in-class training and achieve journeymen status after 2 years in the position, according to National Association of Disability Examiners (NADE) and other state Disability Determination Service (DDS) experts consulted during the writing of this report.

accuracy of disability awards, which, as noted earlier, should be the centerpiece of efforts to enhance program integrity.

The AC uses the results of its quality reviews to promote the policy compliance of both Administrative Law Judge (ALJ) and Disability Determination Services (DDS) examiners. The AC's main approach is to provide targeted, individual feedback and training. For ALJs, this training consists of modules focusing on specific issues where focused reviews show that a judge's decisions do not comply with law or regulation. As revealed by the AC focused reviews, feedback for DDSs focuses primarily on initial benefit denials that were not policy compliant. In both cases, feedback increases decision makers' adherence to law and regulations and helps to improve the documentation used in the conduct of CDRs.

CDI units coordinate efforts of the Office of the Inspector General (OIG), SSA field operations, and local law enforcement agents to assist state disability examiners who suspect fraud in disability claims. Their effectiveness is evident in a return of \$16 in reduced payments per \$1 in administrative expenditures (2013).

The Panel strongly supports the work of the AC and CDI units, and urges SSA to expand these other efforts and Congress to support them. These efforts help to ensure the policy compliance of disability decisions and reduce the need to correct errors after the fact.

STRENGTHEN LINKS BETWEEN CDRS AND SUPPORT FOR RETURN TO WORK

In principle, DI and SSI beneficiaries whose disability status is terminated after a CDR should be capable of returning to gainful employment and, facing loss of benefits, should be highly motivated to do so. Yet evidence shows that prolonged detachment from the workforce results in significant loss of capacity, whether or not a person is disabled. To help this group return to work, the Panel recommends that Congress extend the employment support services of Ticket to Work for one year beyond benefit cessation so that either state Vocational Rehabilitation or Employment Network services will be available.

The Panel also recommends that SSA target more intensive services supporting return to work for beneficiaries classified as "Medical Improvement Expected" (MIE), coupling these efforts with explicit expectations for improvement.

CDRS FOR SUPPLEMENTAL SECURITY INCOME (SSI) CHILDREN AND YOUTH

Finally, the Panel recognizes that the CDR process has a profound impact on children receiving SSI. In fact, CDR cessation rates for those under 18 are close to 20 times greater than they are for adults. While the majority of the Panel's recommendations apply to individuals of all ages receiving disability benefits, we recognize that several key issues specific to SSI children warrant unique consideration.

For example, while adult return-to-work issues are similar for 18-year olds, they are especially critical for the latter, an age in which the individual might consider enrolling in college or beginning a career. For many of these youth, early intervention before the age-18 redetermination⁴ could make a crucial difference in whether they obtain self-sufficiency or return to public support.

⁴ SSI children's cases are reviewed at age 18 using the adult disability standard. Referred to as age 18 redeterminations, adjudicators treat these cases as new applications for the adult SSI program.

The Panel therefore recasts its recommendations regarding return-to-work for adults to reflect the specific needs of children as follows:

- SSA should communicate expectations of independence to youth beneficiaries whose medical improvement is expected or possible.
- As with the adult population, the Panel recommends that Congress continue the employment support services of the Ticket to Work program for one additional year.
- The training recommended for the medical review standard should be extended to include examples unique to children.

Lastly, the Panel suggests that the SSAB convene future panels on three issues; 1) the lessons of current SSA demonstration projects for redesigning DI and SSI work incentives to make employment more attractive, feasible, and likely; 2) the effectiveness of early action to assist persons with disabilities in obtaining or continuing employment to avoid or delay the need to apply for DI or SSI benefits; and 3) issues pertaining to SSI disability benefits for children, inquiring into the use of benefits by families; the extent to which the receipt of benefits helps children overcome impairments; the risk of developmental setbacks if benefits are terminated; and the social return on SSI investment in children.