

Congress of the United States
Washington, DC 20515

December 19, 2019

The Honorable Andrew Saul
Commissioner
Social Security Administration
6401 Security Boulevard
Baltimore, MD 21235

Dear Commissioner Saul:

We write to request that the Social Security Administration (SSA) extend by an additional 45 days the comment period for the Notice of Proposed Rulemaking, "Rules Regarding the Frequency and Notice of Continuing Disability Reviews" (84 Fed. Reg. 63588, November 18, 2019), from January 31, 2020 to March 16, 2020.

The Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) disability programs provide income for people who, because of a severe and long-lasting medical impairment, are unable to work at a substantial level. The eligibility criteria are extremely strict. Fewer than 4 out of every 10 individuals who apply are found eligible, after all levels of appeal.

Under the proposed rule, SSA will increase the number and frequency of reviews of people who have previously been approved for SSDI and SSI, to see if the person's medical impairment has improved. This process, known as a continuing disability review (CDR), can be extremely complex for beneficiaries to navigate. We are concerned that under the proposed rule, some individuals subject to review will be simply unable to navigate the process and, as a result, lose their benefits even though there is no medical improvement. In addition, the process can create severe and unnecessary stress as beneficiaries fear they will lose their main source of income even though they are still unable to support themselves through work due to their medical impairment.

Over the years, Congress and SSA have sought to balance the need for CDRs to ensure that only eligible individuals receive payments with equitable and humane treatment of disabled workers, who typically see their impairments worsen over time and are at higher risk of death than their peers. Not surprisingly, only a small fraction of beneficiaries who undergo a CDR have their benefits terminated.

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There are four compelling reasons to extend the comment period by an additional 45 days, to March 16, 2020.

First, SSA's proposed rule is incredibly complex and would make sweeping changes to SSA's continuing disability review process, including: creating a new CDR category, increasing the frequency of CDRs, and changing the criteria that SSA follows to determine when each individual will be reviewed. The rule's proposed changes would interact in complicated ways with each other and with SSA's existing procedures. In addition, the proposed changes are based on unsupported assertions in the NPRM about changes in medical treatment and employment opportunities for people with disabilities. Thorough evaluation of how the proposed rule would affect SSDI and SSI beneficiaries, and SSA's service delivery, is a complex undertaking that merits more time.

Second, SSA's proposed rule would have a very significant and potentially harmful impact on Social Security and SSI disability beneficiaries, who typically rely on benefits for most or all of their income. SSA estimates that the proposed rule would lead to a total of \$2.6 billion in benefit cessations.

Third, the rule is a significant economic regulatory action (under Executive Order 12866, section 3(f)(1), as supplemented by Executive Order 12563). The rule would result in significant administrative expenditures by SSA totaling \$1.8 billion over 10 years.

Fourth, Social Security's continuing disability reviews are a sensitive topic with a long and troubled history. In the early 1980s, the Reagan Administration implemented multiple initiatives to reduce the number of people receiving Social Security and SSI disability benefits – including aggressive use of CDRs. The harsh, harmful effects of SSA's CDR actions led to widespread concerns from the public, the states, Federal Courts, and the Congress. In order to reverse the harm SSA inflicted, Congress enacted bipartisan legislation in 1982 and 1984 to set SSA's CDRs on a stable and appropriate course. Since then, SSA has updated its CDR policies to reflect legislative changes, such as the bipartisan Ticket to Work and Work Incentives Improvement Act of 1999, which exempted from CDRs certain beneficiaries who are attempting to work. However, SSA has not considered sweeping changes to its CDR process since the early 1980s. SSA should proceed cautiously, should only act if it can demonstrate a solid evidence base, and should provide the greatest opportunity possible for the public to weigh in.

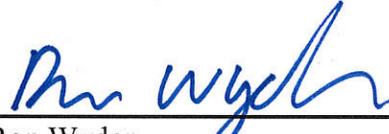
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In closing, we urge SSA to extend by an additional 45 days the comment period for the Notice of Proposed Rulemaking, "Rules Regarding the Frequency and Notice of Continuing Disability Reviews" (84 Fed. Reg. 63588, November 18, 2019), from January 31, 2020 to March 16, 2020, so that Congress and the public have sufficient time to analyze and comment on this complex proposed rule.

Sincerely,



Richard E. Neal
Chairman
Committee on Ways and Means
U.S. House of Representatives



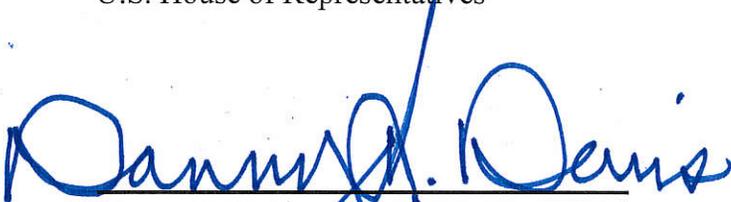
Ron Wyden
Ranking Member
Committee on Finance
U.S. Senate



John B. Larson
Chairman
Subcommittee on Social Security
Committee on Ways and Means
U.S. House of Representatives



Sherrod Brown
Ranking Member
Subcommittee on Social Security,
Pensions, and Family Policy
Committee on Finance
U.S. Senate



Danny K. Davis
Chairman
Subcommittee on Worker and Family
Support
Committee on Ways and Means
U.S. House of Representatives



Robert P. Casey, Jr.
Ranking Member
Special Committee on Aging
U.S. Senate