



SOCIAL SECURITY

The Commissioner

January 14, 2022

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

Dear Chairman Neal:

The purpose of this letter is to inform you that for fiscal year (FY) 2021, I have exercised 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 (CDR). This action defers the completion of certain CDRs by our agency and all of the State Disability Determination Services (DDS) for the one-year period beginning October 1, 2020 and ending September 30, 2021.

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.

I find that in FY 2021, each State has made a good faith effort to meet staffing requirements and process case reviews timely; therefore, each State is eligible under section 221(i)(2) of the Act for a waiver of the three-year time period to perform certain CDRs.

My decision to grant the waiver was necessary due to the impact of COVID-19 on the CDR workload in FY 2021; most notably, delays in the Consultative Examination (CE) process and in receiving medical evidence, as well as DDS processing capacity limitations caused by high disability examiner attrition and difficulties replacing experienced claims examiners. Historically, 39% of CDRs require a CE to make a decision, and the time to obtain CEs has increased as providers have adjusted their operations in response to the pandemic. In addition, DDSs experienced a significant reduction in the number of qualified candidates in FY 2021 compared to FY 2020. For example, the number of total applicants who applied, interviewed, and passed the screening process dropped by 36%. These complications reduced our ability to process CDRs timely.

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 510,510 CDRs nationally in FY 2021. As a result, we deferred 152,938 CDRs. While the Program Integrity funds that we were unable to use due to the COVID -19 pandemic will remain available to us through March 31, 2022, we will need sustained Program Integrity resources to regain currency.

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

We are also sending this information to the Senate Committee on Finance.

Sincerely,

A handwritten signature in black ink that reads "Ki lolo Kijakazi". The signature is written in a cursive, slightly slanted style.

Dr. Kilolo Kijakazi
Acting Commissioner

cc:
The Honorable Kevin Brady, Ranking Member