

# Supplemental Security Income (SSI) and Age 18 Redeterminations

February 2011

## What is the Age-18 Redetermination?

Passage of the Personal Responsibility and Work Opportunity Reconciliation Act (P.L. 104-193) in 1996 required that all Supplemental Security Income (SSI) recipients who turn 18 years of age must have their eligibility reviewed as if they were applying for adult SSI for the first time, without consideration of previous disability determinations. This review process is called the “age-18 redetermination” and it is performed because the childhood definition of disability varies greatly from the adult standard in the SSI program - with the adult standard being more stringent. Because of the way in which age-18 redeterminations are conducted, an individual can be determined ineligible for SSI benefits as an adult even though there has been no change in medical condition or ability to function since being found eligible for childhood SSI benefits.

*IMPORTANT NOTE: The Age-18 redetermination process only applies to SSI recipients. This is because the SSI program has two different definitions of disability – one for children under age 18 and one for adults aged 18 and above. Title II disability beneficiaries are NOT subject to redeterminations at the age of 18 since there is only one disability standard in the title II program.*

## The Age-18 Redetermination Process

The age-18 redetermination occurs for all childhood SSI recipients at some point after the 18th birthday. It may occur at a regularly scheduled Continuing Disability Review (CDR), or at another point as determined by SSA. In general practice, the age-18 redetermination usually occurs within 12 months after the 18th birthday, although this is not required by regulation. Cases should not be initiated prior to the month before the month the individual attains age 18. An age 18 disability redetermination should never be initiated if the individual wasn't eligible for SSI in the month before the month of the 18<sup>th</sup> birthday.

The process for conducting redeterminations at age 18 includes both the gathering of information on the young adult and determination of eligibility under the adult criteria for SSI. Age 18 redeterminations are considered to be initial eligibility decisions rather than Continuing Disability Reviews or CDRs. This means that the medical improvement review standard (MIRS), which is used in conducting CDRs, is not used for the redetermination. When the MIRS is applied, the burden of proof falls on SSA to document that medical improvement has occurred. Without the application of the MIRS, the burden of proof lies with the individual in establishing

that the adult disability criteria for SSI are met. Consequently, there is a heightened need for youth, their families, school personnel, and others to provide accurate and up-to-date documentation and evidence related to the disabling condition and the person's ability to function and work. The general process is as follows:

### **1. Written Notification of Redetermination**

The local Social Security Field Office begins the process by sending written notification to the individual and parents/guardians that the case will be redetermined. A copy of this initial notice is provided at the end of this document in the "Conducting Independent Research" section.

### **2. Interview at SSA Field Office**

The young person and his/her family members, guardians, or representatives typically go to the local field office to complete an initial eligibility interview. The purpose of the interview is to gather information on the severity of the disability and how it affects the person's ability to function. During the interview, SSA personnel will complete the appropriate initial disability interview forms including Form SSA-3367-F4 (Disability Report Field Office), Form SSA-3368-BK (Disability Report-Adult), and appropriate disability and functional reports. SSA also requests permission to contact physicians, service providers, and teachers who work with the individual. The individual will be asked to sign Form SSA-827 (Authorization for Source to Release Information to the Social Security Administration) for each source of information.

*IMPORTANT NOTE: SSA personnel are specifically instructed to ask the individual if he/she is receiving VR, employment, training, educational, or other support services from any source during the redetermination interview. The answer provided to this question is critically important because it indicates the potential for section 301 continuation of benefits if an adverse determination is possible.*

### **3. Review by the Disability Determination Service (DDS)**

All the information gathered at the interview is forwarded to the state Disability Determination Services or DDS. This is a state agency that reviews medical and non-medical information to determine if the individual is or is not disabled under the law. DDS follows a detailed process (known as the sequential evaluation process) to determine if the youth's impairment is "severe" by SSA's criteria. Keep in mind that the criteria to receive the label of "severe impairment" are more stringent for adults than for children in the SSI program.

The DDS also examines the individual's ability to earn income in future employment by reviewing information gathered from the young adult's teachers regarding his/her abilities. Due to the limited opportunities for community work experiences for adolescents with disabilities, the information gathered often relates more to an individual's performance in school without consideration to their ability to perform in actual work environments. The lack of information on true work performance often leads to an inaccurate assessment of an individual's future ability to earn income.

#### **4. Individual is Notified of the Determination**

A written notice is sent to all individuals who have an age-18 redetermination conducted. If the determination is favorable, the individual continues to receive SSI cash payments and Medicaid with no interruption.

An individual who is NOT determined eligible for SSI benefits as an adult will get a written notice stating that he or she is no longer qualified to receive benefits. These individuals are entitled to receive two more months of payments after the date of this notice. Overpayment may occur if an ineligible individual continues to receive payments after the two-month grace period. The good news is that individuals found ineligible under the adult rules, are NOT required to pay back of all SSI payments received after the birthday month! SSA will only seek to recover those payments received after the determination is made and the two grace months are over.

*IMPORTANT NOTE: When initiating an age 18 disability redetermination involving a concurrent claim, SSA personnel are required to advise the individual that an unfavorable determination on the disability redetermination would trigger a CDR on the title II claim.*

### **Strategies for Managing the Age 18 Redetermination**

While there is nothing a childhood SSI recipient can do to avoid the age-18 redetermination process, there are several strategies that students, parents, teachers, WIPA project personnel, and other professionals can apply to make sure that the age 18 redetermination process is as accurate and fair as possible.

#### **Strategy 1 - Educate Young SSI Recipients and Their Families about the Age 18 Redetermination Process**

A significant problem related to the age-18 redetermination is that SSI recipients and their families typically have no idea that this process occurs, nor how it differs from the regularly scheduled CDRs. First and foremost, students, families, school personnel, and VR staff should be given detailed, understandable information about the redetermination process and how it works. In particular, the CWIC must discuss how information will be gathered that contributes to the part of the redetermination that examines the recipients' future ability to earn income through paid employment.

#### **Strategy 2 - Identify Individuals Most at Risk of Benefit Loss upon Redetermination**

It is important to understand that not all childhood SSI recipients are at risk of losing SSI eligibility during the age-18 redetermination process. Youngsters with the most severe disabilities are most likely to meet the more stringent adult disability criteria and would have little to fear from the redetermination process. Unfortunately, the age-18 redetermination process impacts some disabilities more than others. For example, students with certain behavioral, respiratory, endocrine, and cardiovascular disabilities

tend to be more likely NOT to meet the adult disability standard than other youth. In addition, students who were required to appeal their initial SSI medical determination in order to be awarded benefits as children may logically be assumed to be at risk during redetermination since they struggled to meet even the less stringent child's standard. Finally, youngsters who have experienced an improvement in their medical condition since their last Continuing Disability Review may also be at risk of an adverse redetermination.

It is important to identify which youth may be at risk of an adverse re-determination in advance of the review so that a contingency plan can be developed in case SSI eligibility is lost. Being prepared in advance may make the difference between having a gap in critical benefits and health insurance and having benefits either continue unabated, or having alternate sources of support in place.

### Step 3 - Start Planning Early for the Age-18 Redetermination

Schools and other involved professionals should provide students and families with detailed, understandable information on the redetermination process during the earliest stages of transition planning. At the very least, planning should occur during the 17<sup>th</sup> year. Specifically, the following points should be addressed early on:

- Discuss how information will be gathered that contributes to the medical review under the more stringent adult disability standard. Gather contact information for various doctors, therapists, disability professionals, teachers, or others who have information to share on how the young person functions.
- Discuss how information will be gathered that contributes to that part of the redetermination process examining the individual's future ability to earn income through paid employment.
- Develop a contingency plan if the potential for loss of SSI benefits and Medicaid exists. This should include alternative plans for meeting the young adult's anticipated support needs for work or community living that are currently tied to SSI eligibility and receipt of Medicaid.
- It is possible that disability benefit payments may continue for a limited period of time even though the student is not found to meet the adult definition of disability if eligibility can be established for "section 301" status. Section 301 is a phrase which refers to several parts of the Social Security Act that allow continued disability payments to be made to certain individuals who have medically improved – meaning they no longer meet the disability standard – under certain prescribed circumstances. Since section 301 status is contingent upon meeting several important criteria when the redetermination is performed, it needs to be prepared for in advance! More detailed information on section 301 provisions is provided below.

### Step 4 – Help Involved Parties Understand How Past or Current Work Affects the Age-18 Redetermination

Fear of the age-18 redetermination process creates significant uncertainty regarding the impact of work/earnings on the disability determination. Many young people and their families are under the mistaken impression that SSI recipients must not be working at any level when the redetermination occurs. In fact, the Substantial Gainful Activity (SGA) step of the sequential evaluation process does not apply to these disability redeterminations. This means that a youth may be employed above the current SGA guideline and still be found eligible for SSI under the adult rules during the age-18 redetermination as long as the disability standard and all other SSI eligibility criteria are met. There is no reason to hold back on paid employment until after the student successfully completes the age-18 redetermination. There is no reason not to engage in paid employment before, during or after the redetermination!

Documentation from teachers and rehabilitation professionals is used to determine the individual's potential to earn income through work. Frequently, the SSA forms only include questions related to school performance. If the student has participated in community based work experiences, supplemental documentation should be provided that states the level of performance in these settings and what supports are required to perform work activities. The SSA-5665 Teacher's Questionnaire can be found online at SSA's website: <http://www.ssa.gov/online/ssa-5665.pdf>

#### Step 5 – Help Involved Parties Understand the Purpose of Questions Asked by SSA

Teachers and others who provide information for redetermination should understand those questions attempting to identify prior fraud or misuse of benefits by families. They should consider the questions carefully, clearly understand what they are communicating by their responses, and be certain that the observations providing the basis for their answers are accurate.

#### Step 6 – Be Prepared to Request Continuation of Benefits under Section 301

CWICs must remember that disability benefit payments may continue even though the young person is not found to meet the adult definition of disability if eligibility can be established for “section 301” status. Payment of benefits under section 301 requires that the beneficiary be actively participating in an approved vocational rehabilitation or be receiving special education services under an IEP prior to the adverse disability determination. For youth under age 22, SSA assumes that continued participation in educational program under an IEP is likely to result in permanent removal from the disability rolls.

Prior to June 25, 2005, payment of benefits under section 301 was highly restrictive. It required that the beneficiary be actively participating in an approved vocational rehabilitation program before the determination of ineligibility was made and SSA had to determine that continued participation in the VR program was likely to result in permanent removal from the disability rolls. SSA revised regulations in two important ways which made section 301 provisions of tremendous value to youth with disabilities.

First, under the old regulations, an approved program only included participation in the Ticket to Work and Self-Sufficiency Program with an approved Employment Network (EN), a state VR program, or other programs of VR or employment services. Under the new regulations, an approved program may also include participation in school for students aged 18 to 22 as long as the student receives services under an Individualized Education Plan (IEP) or an Individualized Transition Plan (ITP). Participation in the educational program is defined as taking part in activities or services outlined in the IEP/ITP.

Second, under the old rules, SSA was looking to see that the VR program would provide transferable work skills or experience so the person's vocational capability would support a decision of "not disabled". In other words, would completing the VR program result in the likelihood that the individual would be permanently removed from the disability rolls? Under the new regulations, for students aged 18-22, SSA simply *assumes* that continuation in the program of special education will increase the likelihood of permanent removal from disability rolls. This makes the "likelihood" decision a great deal easier and simpler.

WIPA project personnel need to understand that most VR counselors and school personnel are completely unaware of the section 301 provisions. Students at risk of termination to due the age 18 redetermination need to receive information about section 301 continuation of benefits from a very early age! These students will need to access vocational rehabilitation services or must continue to stay in school and receive education services under an IEP/ITP in order to use section 301 protections.

The CWIC may need to keep a close watch on youth undergoing an age 18 redetermination as DDS does not always identify those who may be eligible for section 301 benefits. The CWIC may need to act as a coordinator to facilitate a successful section 301 determination since the local SSA Field Office may not have experience with these rather rare cases and the other involved parties (state VR agency, private VR provider, and school) may not know this provision exists.

#### Step 7 – Provide Information about the Appeals Process to Youth who are Determined Ineligible

An individual who is dissatisfied with the disability redetermination under the age 18 provisions of the law will have all normal appeals provided for disability cessations in CDR cases, including the Disability Hearing Office (DHO) hearing. Individuals who appeal an age 18 redetermination are also permitted to retain cash benefits while the appeal is heard if the appeal request is submitted within 10 days of the notice. Individuals need to understand that if the appeal does not result in a favorable decision, the payments received since the date of the original determination will be subject to recovery.

All those involved in the transition process should encourage the youth and their families to file a formal appeal to SSA if redetermination results in a loss of benefits. Involved

professionals can also help in documenting additional evidence for the appeal process. While CWICs are not permitted to represent individuals during an appeal, they should assist by providing information about the SSA appeals process. At present, the American Bar Association provides referrals to attorneys who will help children and youth with disabilities through both the redetermination and appeals process.

*IMPORTANT NOTE: It is possible to appeal the original redetermination decision and request continuation of benefits under section 301 simultaneously. If section 301 requirements are met, CWICs are advised to recommend that the individual request continuation of benefits under these provisions. If the individual disagrees with the disability determination, an appeal may also be filed.*

*If the adverse determination is upheld upon appeal, the individual will still be permitted to retain SSI benefits under section 301 as long as the criteria for this provision are met. If the determination is overturned upon appeal, regular SSI payments will be reinstated and there will have been no interruption of cash payments or Medicaid coverage.*

## **Conclusion**

The age 18 redetermination represents a critically important transition point for young people who receive SSI as children. Unfortunately, many SSI recipients, their family members and teachers are completely ignorant about the age 18 redetermination process and do not prepare themselves for the potential consequences of these reviews. The WIPA projects have a significant role to play in educating concerned parties about the age 18 redetermination process and how to manage this process in order to minimize adverse impact.

## **Conducting Independent Research**

POMS DI 11070.000 Title XVI Childhood and Age 18 Disability Redetermination Cases (Public Law 104-193 as Modified by P.L. 105-33) FO

POMS DI 33025.075 Age 18 Redetermination Cases Under P.L. 104-193

POMS DI 23570.010 Disability Redeterminations - Age 18 Cases

Form SSA-5665 Teacher's Questionnaire. Found online at: <http://www.ssa.gov/online/ssa-5665.pdf>

## **Acknowledgements**

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# DI 11070.105 Age 18 Notice of Disability Redetermination--Exhibit

Social Security Administration  
**Supplemental Security Income**  
Notice of Disability Redetermination

Street Address:  
City, State, ZIP Code:  
Phone:  
Office Hours:  
Date:  
Claim Number: XXX-XX-XXXX

Jane G. Beneficiary  
101 Main Street  
My City, ST 00001

## **Important Notice - You must contact us or your SSI may stop.**

We must review the cases of people getting Supplemental Security Income (SSI) payments based on childhood disability after they become age 18. We are writing to let you know that we are starting to review your SSI disability case to decide if you are disabled under the disability rules for adults.

### **What You Need To Do**

#### Choice 1

Please call us and ask for \_\_\_\_\_ .

#### Choice 2

We would like you to come to our office on \_\_\_\_\_ .

When you come in, please ask for \_\_\_\_\_ .

If you cannot come in on the date shown or would prefer to talk with us by telephone, please call us as soon as possible.

The office address, telephone number, and office hours are shown above.

See Next Page

XXX-XX-XXXX

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### **If We Do Not Hear From You**

We may stop your SSI if you do not answer this letter by **Month/Day/ Year** or contact us by this date to tell us why we haven't heard from you. Before we stop your SSI, we will send you another letter to explain our decision. The letter will also explain your right to appeal the decision and how to continue getting benefits during the appeal.

### **Information About Medical Assistance**

If your SSI payments stop, any medical assistance you have that is based on SSI may also stop. If this happens, your medical assistance agency should contact you.

### **The Information We Will Need**

When you come in or call, please try to have all of the following things with you. Even if you do not have everything, you still must call us or come in. We will help you get anything you do not have.

- This letter.
- The enclosed form(s). Please be sure to complete as much of the form(s) as you can before you come in or call.
- The names of any medicines you use.
- Any other information that shows your condition, such as information about:
  - hospital stays and/or surgeries, including the dates and reasons;
  - visits to doctors and/or clinics, including the dates and reasons;
  - work activity;
  - counseling and/or therapy;
  - schools and/or special classes or tutoring; and
  - teachers and/or counselors who have knowledge of your condition.

We may ask for further information later.

### **We Will Let You Know What We Decide**

Doctors and other trained staff will decide if you are disabled. When we decide your case we will use the same disability rules we use for adults who file new claims. However, we will not apply the rule that says we must deny your claim if you are working.

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We may decide that you are not disabled under the disability rules for adults and your SSI payments could stop. The disability rules for adults are different than the disability rules for children we used when we last looked at your case. So we may find you are not disabled now even though we found you disabled before.

When we decide, we will write and let you know our decision. Our letter will tell you whether you are disabled under the disability rules for adults. Our letter also will explain your right to appeal the decision. If you appeal the decision you can also choose to have us continue to pay benefits until we decide the appeal.

### **Information About Work**

If you work or want to work but are concerned about losing your SSI or medical assistance, your local Social Security office can tell you more about work incentives and how work and earnings can affect your SSI.

### **If You Have Any Questions**

We will be glad to answer any questions that you have. Whether we talk to you by phone or in person, you can have a lawyer, friend, or someone else help you. **There are groups that can help you find a lawyer or give you free legal services if you qualify.** Our office has a list of groups that can help you. If you get someone to help you, you should let us know.

Remember, if you cannot come in or would prefer to talk to us by phone, please call us right away. Our telephone number is shown on the first page of this letter.

Field Office Manager

Enclosure(s)

[The enclosures may include any of the following:  
Form Number SSA-3368 - Disability Report - Adult  
Form Number SSA-827 - Authorization for Source to Release  
Information to the Social Security Administration]