

Understanding Section 301

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What is Section 301?

Continued payment of disability or blind benefits (SSI and Title II) to individuals who have been medically ceased but continue to receive benefit payments because of their participation in an “appropriate program of voc rehab services, employment services, or other support services”.

Why is it Important?

- Allows certain individuals to retain cash payments and medical insurance while preparing for employment, even though they no longer meet SSA’s disability definition

Why is it Important?

- Preparing for a better career helps prevent former beneficiaries from having to come back on benefits later
- An “investment” in a person’s future and is smart social policy

What Does Section 301 Refer To?

Continued payments are often called “section 301 payments” because the original authority for such payments is contained in section 301 of the Social Security Disability Amendments of 1980.

What Does Section 301 Refer To?

Sections 225(b) and 1631(a)(6)(A) of the Act contain the statutory authority for continued benefit payments under this "301" provision.

Several other pieces of legislation expanded and refined the original provisions.

Requirements

1. Beneficiary no longer meets medical requirements for disability benefits
2. Participation in approved program
3. Participation in the program began BEFORE the date the disability ended

Requirements

4. Completion of or continuation in the program for a specified period of time increases the likelihood that the individual will not have to return to the disability or blindness benefit rolls.

Payment Facts

- Payment may be made to both SSI and title II disability beneficiaries (SSDI, CDB, DWB)
- Payments include applicable State supplements and auxiliary benefits

Payment Facts

- Medicare and/or Medicaid coverage continues as applicable
- Section 301 ONLY waives the disability requirement - all other eligibility provisions continue to apply

Approved Programs

- Program carried out under an IPE with an approved EN under the Ticket to Work
- Program carried out under an IPE with a State VR agency or an organization administering a VR Services Project for American Indians with Disabilities;

Approved Programs

- Other programs carried out under a plan for employment provided by a federal agency (Veteran's Affairs, One-Stop Center, etc)

More Approved Programs

Appropriate program of voc rehab services, employment services, or other support services provided under an individualized plan by:

- Private or public community organizations or agencies
- Public, private or parochial schools

Approved Program for Transitioned Aged Youth

For beneficiaries aged 18 - 21, an IEP developed under policies and procedures approved by the US Sec of Ed for assistance to States for the education of individuals with disabilities under the IDEA is considered an approved program!

What Does SSA Mean by "Participation"?

- Taking part in the activities and services as outlined in the plan – whether an IWP, an IPE, an IEP, or other similar individualized plan.
- Removed old references to VR agency status codes and the phrase "actively involved"

NEW Rule for Temporary Interruptions!

- Section 301 payment may continue during a temporary interruption in participation
- No longer than 3 months
- Must resume participation in the program after the temporary interruption
- New rule began June 25, 2005

When did Program Participation Begin?

- Section 301 requires that program participation began BEFORE date of medical cessation, not just date of CDR completion
- CDRs are sometimes delayed

When did Program Participation Begin?

- Program participation start date is measured by the individualized plan.
- For age 18 re-determination cases, program participation must begin prior to 18th birthday

What About “Likelihood” Determination?

For Section 301 payments, SSA must determine that continuation in the Program will increase the likelihood that the individual will not return to the disability or blindness benefit rolls.

How does SSA make this determination?

Likelihood Determinations

- Program is expected to provide work experience such that the individual would be more likely to be able to perform past relevant work in spite of possible future reduction in residual functional capacity.

Likelihood Determinations

- The work must last long enough that the person is able to:
 - learn to do it
 - provide earnings of at least SGA level and have physical or mental requirements that could still be met if the disabling condition got worse.

Likelihood Determinations

- Completion of the program is expected to result in an improvement in any of the vocational factors of education, or skilled or semi-skilled work experience

Likelihood Determinations

- ...which would make the individual more likely to be able to adjust to other work in the national economy, in spite of a possible reduction in residual functional capacity.

Special Rule for Students 18-21!

- SSA will assume that continuation in or completion of the educational program provided under the IEP will increase the likelihood that there would be no need to return to the disability rolls....

Special Rule for Students 18-21!

- ...This means that students who cease due to a medical CDR or an adverse age 18 re-determination avoid having to pass case-by-case "likelihood" determinations!

If Section 301 is Denied?

- If extended payments are allowed, the medical cessation decision will not be processed.
- If extended payments are not allowed, the cessation decision will proceed and benefit payments will stop.

If Section 301 is Denied?

- Decisions to deny or discontinue benefits under the section 301 requirements are subject to administrative and judicial review.
- Appeals processed in the usual manner.

Section 301 & Appeals

- Beneficiaries may get section 301 payments and simultaneously appeal the medical cessation decision
- The outcome of the appeal is unrelated to section 301 status - section 301 payments do not affect the appeal decision

Section 301 & Appeals

- Regular payments may be retained if appeal made within 10 days, but must be paid back if determination is withheld.
- Section 301 payments do not have to be paid back no matter how the appeal turns out.

When Do Section 301 Payments Stop?

When ONE or more of the following occurs:

- Beneficiary completes the approved program
- Beneficiary stops participating in the approved program

When Do Section 301 Payments Stop?

When ONE or more of the following occurs:

- SSA determines that continued participation will NOT increase the likelihood that the person will be permanently removed from the disability rolls.

Section 301 Reviews

- Section 301 cases are “diaried” for regular review
- Beneficiary and VR program provide info to FO, but ODO makes determination
- If VR participation has ceased or program is completed, payments will stop

Section 301 Reviews

- If participation continues, ODO will check other requirements (likelihood issue)
- Payments may be suspended if information not provided

Section 301 & Employment

- Paid employment likely to cause termination of section 301 status
- TWP/EPE not provided to Title II beneficiaries in section 301 status

Section 301 & Employment

- Some paid internships or work study programs may be permitted if part of individualized plan
- For students 18-21, work transition programs would not cause termination if included under the IEP

Section 301 & Ticket

- People receiving section 301 payments cannot use or assign a Ticket to Work.
- Beneficiaries with a Ticket in use typically do not need section 301 as medical CDRs are not initiated after assignment

Section 301 & Ticket

- If Ticket is not in use, a medical CDR may occur. Section 301 payments may be provided if the individual meets all criteria

Section 301 & Self Employment

- Beneficiary must be able to conduct the business considering all relevant physical/mental limitations; and
- Business must be expected to result in SGA level earnings or above; and

Section 301 & Self Employment

- All other section 301 requirements must be met (participation in VR program and likelihood of permanent removal from disability rolls)

Limits of Section 301

- NOT a panacea to avoid termination due to medical recovery – only applicable under a finite set of circumstances
- Cases are rare. SSA staff may be unfamiliar with section 301 procedures

Limits of Section 301

- VR involvement is often missed by DDS during the CDR.
- Awareness of section 301 low among VR and public school personnel