

# SSI and Age-18 Redeterminations

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## 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. Social Security refers to this review process is called the “age-18 redetermination” and it’s 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 Social Security conducts age-18 redeterminations, 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.

Based on 2016 Social Security data, approximately 52% of all childhood SSI recipients are initially determined ineligible for adult SSI during the age-18 redetermination (From the 2017 SSI Annual Report at <https://www.ssa.gov/oact/ssir/SSI17/ssi2017.pdf>).

**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 Social Security. In general practice, the age-18 redetermination

usually occurs within 12 months after the 18th birthday, although this is not required by regulation. Social Security doesn't initiate age-18 redeterminations prior to the month before the month the individual attains age 18. Social Security doesn't initiate an age 18-disability redetermination 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. Social Security considers age-18 redeterminations to be initial eligibility decisions rather than CDRs. This means that the Medical Improvement Review Standard (MIRS), which Social Security uses when conducting CDRs, is not used for the redetermination. When the MIRS is applied, the burden of proof falls on Social Security 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. You will find a copy of the standard notice used in age-18 redetermination cases in the POMS here:

<https://secure.ssa.gov/apps10/poms.nsf/lnx/0411070105>

### **2. Interview at the Social Security 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, although in some cases the interview may be conducted by phone. 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, Social Security 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. Social Security 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:** Social Security personnel are specifically instructed to ask the individual if he/she is receiving vocational rehabilitation, 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 Social Security'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 sometimes leads to an inaccurate assessment of an individual's future ability to earn income.

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

Social Security sends a written notice 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/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 18th birthday month. Social Security 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, Social Security personnel are required to advise the individual that an unfavorable determination on the disability redetermination would trigger a medical CDR on the Title II claim.

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

While there's 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, CWICs must discuss how information will be gathered that contributes to the part of the redetermination that examines the young person's future ability to earn income through paid employment.

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

It's 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 tends to affect youth with certain disabilities more than others. Students with certain learning disabilities and behavioral disorders tend to be more likely NOT to meet the adult disability standard than other youth. For a detailed discussion of this issue, go to <http://www.socialsecurity.gov/policy/docs/rsnotes/rsn2012-04.html>

In addition, students who were required to appeal their initial SSI disability 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 CDR may also be at risk of an adverse redetermination.

It's 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.

### **Strategy 3 - Start Planning Early for the Age-18 Redetermination**

Schools and other involved professionals should provide students and families with detailed, understandable information about 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, WIPA personnel should address the following points early on:

- Discuss how Social Security will gather information 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 Social Security will gather information 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's possible that disability benefit payments may continue for a limited period of time even though the student isn't 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.

#### **Strategy 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 and 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 doesn't 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 Social Security 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 Social Security's website: [SSA 5665- Teacher's Questionnaire](#)

#### **Strategy 5 – Help Involved Parties Understand the Purpose of Questions Asked by Social Security**

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.

#### **Strategy 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 participating in an "appropriate program of vocational rehabilitation services, employment services, or other support services" prior to the disability determination. This could include receiving services under an Individual Plan for Employment (IPE) through the state VR agency or

from an Employment Network (EN) through the Ticket to Work Program. Under the most current Section 301 regulations, an appropriate 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). Finally, an appropriate VR program now includes individuals who have an approved Plan to Achieve Self-Support (PASS).

With Section 301 cases, Social Security is looking to see that the VR program will provide transferable work skills or experience so the person's vocational capability would support a decision of "not disabled". In other words, will completing the VR program result in the likelihood that the individual would be permanently removed from the disability rolls? Under the current regulations, for students aged 18-22, Social Security 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 personnel need to understand that most VR counselors and school personnel are unaware of the Section 301 provisions. Students at risk of termination due to 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 special education services under an IEP/ITP in order to use Section 301 protections.

CWICs 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. CWICs may need to act as coordinators to facilitate a successful Section 301 determination since the local Social Security 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.

### **Strategy 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 Social Security if redetermination results in a loss of benefits. Involved professionals can also help in documenting additional evidence for the appeal process. While Social Security doesn't permit WIPA personnel to represent individuals during an appeal, they should assist by providing information about the 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's 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, he or she may also file an appeal.

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 don't 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 – Subchapter Table of Contents

<https://secure.ssa.gov/apps10/poms.nsf/lnx/0411070000>



POMS DI 23570.000 Title XVI Childhood and Age 18 Disability Redetermination Cases (Public Law (P.L.) 104-193 as Modified by P.L. 105-33) – DDS - Subchapter Table of Contents

<https://secure.ssa.gov/apps10/poms.nsf/lnx/0423570000>

POMS DI 14505.000 Background of Continued Payments to Individuals Participating in a VR or Similar Program - Subchapter Table of Contents

<https://secure.ssa.gov/apps10/poms.nsf/lnx/0414505000>

POMS DI 14510.000 Procedures for Cases Involving Participation in a VR or Similar Program - Subchapter Table of Contents

<https://secure.ssa.gov/apps10/poms.nsf/lnx/0414510000>

Form SSA-5665 Teacher's Questionnaire. Found online at: [SSA 5665- Teacher's Questionnaire](#)

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