



LEGAL AID SOCIETY
OF MIDDLE TENNESSEE AND THE CUMBERLANDS

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April 14, 2025

Leland Dudek, Acting Commissioner of Social Security
Social Security Administration
6401 Security Blvd.
Baltimore, Maryland 21235

Docket No: SSA–2025–0003

**Re: Comments in response to 90 Fed. Reg. 9488 Agency Information Collection
Activities: Request for Reconsideration—Disability Cessation**

Dear Acting Commissioner Dudek,

Thank you for the opportunity to comment on proposed revisions to SSA-789 Request for Reconsideration – Disability Cessation. This comment is submitted on behalf of Legal Aid Society of Middle Tennessee and the Cumberland. Attorneys and advocate in our firm’s eight offices represent low-income Tennesseans across a 48-county service area. Our firm includes attorneys and advocates who represent clients in Social Security matters including applications, appeals, and continuing disability reviews.

We welcome revisions to streamline and incorporate plain language into SSA forms. We wish to comment specifically on revisions for SSA form 789-Request for Reconsideration-Disability Cessation Right to Appear.

Congress amended the Social Security Act setting forth due process protections for Title II and Title XVI medical cessation determinations allowing beneficiaries the option of continuing their cash and health insurance benefits pending the outcome of their appeal. See Social Security Act §§223(g), 1631(a)(7); *see also* 20 CFR §§ 404.1597a, 416.996.

The current version of the SSA-789 does not include a field for beneficiaries to ask for continuation of their benefits while their appeal processes. Instead, the beneficiary must complete a separate form – the SSA-795 Statement of Claimant or Other Person – in order to elect continuation of benefits.

In revising SSA-789, we urge SSA to add a field for election of statutory benefit continuation.

Allowing beneficiaries to ask for continuation of benefits on the same form where they request reconsideration will reduce the burden on respondents and simplify administrative processing for SSA by reducing the number of forms or phone calls to SSA that are

necessary to appeal cessation of benefits and request continued benefits during the appeal process.

Asking beneficiaries to invoke benefit continuation using SSA-795 creates opportunities for confusion due to the open-ended nature of SSA-795, especially for our client population. Our clients generally have lower levels of educational attainment. Many have only a high school diploma, GED, or less. Many have low literacy or low English proficiency. Additionally, many of our clients live with intellectual disabilities that may minimize their ability to request benefit continuation in a clear way using an open-ended form such as SSA-795. These beneficiaries would be better served by an option on SSA-789 that explains in plain language their right to continued benefits, along with a check box or other means to elect to receive continued benefits during their appeal

Consolidating Benefit Continuation Election with SSA-789 Appeal Form Will Reduce Administrative Inefficiencies for SSA

Consolidating the appeal request and SBC election into one form would result in greater efficiency for SSA. Agency staff will only have to process one form instead of two. SSA staff will be able to locate important appeal and benefit continuation information on a single document.

Statutory benefit continuation language can easily be standardized for inclusion on SSA-789. Though the language to elect continuation of benefits on SSA-795 has not been standardized by the Agency, such standardized language is included in the POMS. *See* POMS DI 12095.171.

In 2024, SSA considered standardized benefit continuation election language under its proposed SSA-792 Statutory Benefit Continuation Election Statement. *See* 89 Fed. Reg. 67141. SSA identified problems with the current practice of using the SSA-795 for benefit continuation elections, such as submission of incomplete requests that did not specifically address continuation of benefits, resulting in burdensome follow-up by field office staff to clarify the beneficiary's election or explain the available options. *See* 89 Fed. Reg. 67142.

Consolidating the appeal request with standardized benefit continuation election language will mitigate these issues. Additionally, having standardized language on the appeal form itself will help to ensure that beneficiaries understand the necessary due process protections.

SSA should also consider an online version of a consolidated medical cessation appeal request and statutory benefit continuation election. This process improvement will reduce beneficiary interaction with field office staff while also allowing for automated processing of the appeal and benefit continuation election.

Consolidating SBC Election with Appeal Request Reduces Administrative Burdens for the Beneficiary

Beneficiaries who have received notice that their benefits will terminate due to a medical cessation are already under significant stress. Only needing to complete one document instead of two in order to file their appeal and continue their benefits will make the process simpler and ease some burden on beneficiaries.

DL an 86-year-old grandmother who is the conservator of her grandson, GG. She contacted our organization for help after GG lost his Social Security at age 18 redetermination. The family's only income was DL's Social Security Retirement and GG's benefits from Social Security.

GG is intellectually disabled, and DL is elderly with limited technological savvy. Many beneficiaries like them may not understand their right to request benefit continuation. Including all the necessary information regarding benefit continuation on the medical cessation appeal form will ensure more beneficiaries understand their right to continuation benefits in addition to making it easier to request.

Ultimately, with the help of an attorney, DL and GG were able to show that GG still qualified for disability payments.

Similarly, TR and his mother contacted Legal Aid after an age 18 redetermination denial. TR is autistic, has a seizure disorder, and recently graduated from high school with a special education diploma. His mother is also disabled. Without continuation of TR's SSI payments, he and his mother would have been unable to pay their rent and would have been made homeless.

Simplifying the process of filing an appeal and requesting benefit continuation would make a significant difference in reducing stress for households such as theirs during a disability cessation.

Consider Increasing the Time Period to Elect Benefit Continuation

Currently, a claimant must request benefit continuation no later than 10 days after the date they receive the notice of medical cessation. While the period to elect benefit continuation is subject to good cause for late filing, SSA should consider issuing a Notice of Proposed Rulemaking to extend the election period for continuation of benefits to 60 days from the date of disability cessation notice.

Separate deadlines for requesting benefit continuation and the medical cessation appeal are confusing for beneficiaries. Additionally, with the ongoing challenges of reaching an SSA representative by phone, and SSA's recent policy which requires the advance setting of an appointment to receive in-person services in the field office, many claimants are delayed –

through no fault of their own - in their effort to file their appeal on the proposed medical cessation.

BB is a client with mental health disabilities who contacted us for help with SSI. Her benefits were terminated because she could not attend consultative evaluations for her CDR due to lack of transportation. She tried to appeal her benefit termination via SSA.gov but could not navigate the website due to her disabilities. By the time she reached SSA via phone to request to appeal, the representative told her that 12 days had passed since her benefits should have been received (i.e. during the 5-day mailing window), so it was too late request continuation of benefits.

With the help of an attorney, she was able to file good cause for a late request for continuation of benefits. If she had had 60 days to request COB, she may not have needed an attorney.

Beneficiaries living with disabilities are especially affected. By extending the period to request benefit continuation to the full appeal period of 60 days, SSA would have far fewer claimants like BB whose good cause for late election would need be individually evaluated by SSA staff, further saving administrative time.

Without changes to the medical cessation appeal and continuation of benefits election process, beneficiaries, particularly those similarly situated to our vulnerable client population, will encounter unnecessary confusion, necessitating more field office calls and visits and requests for good cause for late filing. Agency resources will be wasted on an inefficient procedure.

These recommends aim to streamline the medical cessation appeal process, benefiting both SSA and beneficiaries by reducing paperwork to save time for all involved parties, ensuring clear communication of due process protections so cash and health insurance benefits can be maintained, and by mitigating conflicting deadlines between the benefit continuation election and disability cessation appeal.

Thank you for your consideration of these comments.

Respectfully submitted,

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