



BAY AREA LEGAL AID

WORKING TOGETHER FOR JUSTICE

April 14, 2025

Leeland 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 address the proposed revision of the SSA-789 Request for Reconsideration – Disability Cessation. This comment is submitted on behalf of Bay Area Legal Aid (“BayLegal”), the largest provider of free civil legal services in the San Francisco Bay Area. We represent people with applications and appeals for Social Security disability benefits and Supplemental Security Income (“SSI”), including in continuing disability reviews.

BayLegal welcomes revisions to streamline and incorporate plain language to SSA forms. The SSA-789 in its current form omits language regarding the beneficiary’s Statutory Benefit Continuation (SBC) election. 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. 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 allow the beneficiary to elect SBC. Instead, the beneficiary must complete a separate form – the SSA-795 Statement of Claimant or Other Person – in order to elect SBC. In revising the SSA-789, we urge SSA to consolidate the SSA-789 and SBC election statement. Consolidation will support the reduction of agency administrative inefficiencies in processing the cessation appeal and SBC election, while also reducing administrative burdens experienced by beneficiaries in filing their appeal and request for SBC.

Consolidating SBC Election with SSA-789 Appeal Form Reduces SSA’s Administrative Inefficiencies

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. In addition, Agency staff can also locate important appeal and SBC election information on a single document.

SBC language can easily be standardized for inclusion on the SSA-789 Appeal Form. The SBC election language that is currently used on the SSA-795 has not been standardized by the

Agency, although this language is included in the POMS. *See* POMS DI 12095.171. In 2024, SSA considered standardized SBC 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 SBC elections, such as submission of incomplete SBC requests that did not specifically address SBC elections, 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 SBC 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. *See* DI 12027.010 Processing Statutory Benefit Continuation.

Lastly, SSA should consider an online version of a consolidated medical cessation appeal request and SBC election. This process improvement will reduce beneficiary interaction with field office staff while also allowing for automated processing of the appeal and SBC 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 a bit easier and ease some of the administrative burden. In addition, some beneficiaries may not understand their right to request SBC. Including all the necessary information regarding the SBC process on the medical cessation appeal form will ensure more beneficiaries understand their right to SBC in addition to making it easier to request.

Consider Increasing the Time Period to Elect SBC

Currently, a Claimant must request SBC no later than 10 days after the date they receive the notice of medical cessation. 20 CFR §404.1597a (f)(1); 20 CFR § 416.996(c)(1). While the period to elect SBC is subject to good cause for late filing, we recommend that SSA consider issuing a Notice of Proposed Rulemaking to extend the election period for SBC to 60 days from the date of disability cessation notice. The Social Security Act gives the Commissioner of Social Security discretion to define the SBC period. *See* Social Security Act §§ 223(g)(7)(C), 1631(a)(7)(A)(iii). Separate deadlines for requesting SBC 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. By extending the period to request SBC to the full appeal period of 60 days, SSA would have far fewer claimants whose good cause for late election would need be evaluated by SSA staff, further saving administrative time.

Without changes to the medical cessation appeal and SBC election process, beneficiaries will face confusion, and agency resources will be wasted on an inefficient procedure. The recommendations herein aim to streamline the medical cessation appeal process, benefiting both

the SSA and beneficiaries by reducing paperwork to save time for all stakeholders, ensuring clear communication of due process protections so cash and health insurance benefits can be maintained, and by mitigating conflicting deadlines between the SBC election and disability cessation appeal.

Thank you for your consideration of these comments.

Respectfully submitted,

/s/Eduardo E. Blount, J.D., M.P.A.

Senior Staff Attorney for
Bay Area Legal Aid