**Continuing Disability Review (CDR) FAQs**

***“SOAR Representation with Continuing Disability Reviews (CDRs)”* Webinar**

Webinar archive: http://soarworks.prainc.com/article/soar-representation-continuing-disability-reviews-cdrs

1. **How did CDRs come about?** In 1980, legislation created a requirement that SSA conduct CDRs every 3 years for beneficiaries whose impairment(s) were not considered permanent. The CDR review had a particularly harmful impact on beneficiaries with severe mental illness. In just 2 years, more than 80,000 had their benefits terminated. For many, this was their only source of income and many experienced extreme hardship. Courts ordered SSA to apply a “medical improvement review standard [MIRS]” before terminating disability benefits. In April 1984, SSA stopped all CDRs until a revised law could be established which was called Social Security Disability Benefits Reform Act of 1984. The intent of the standard was that benefits should be continued if the individual’s condition remains the same as or worse than it was when benefits were first granted. In 2014, the Social Security Advisory Board Disability Policy Panel made the following recommendations: 1) Retain MIRS, and 2) but, evaluate exceptions. The SOAR TA Center continues to monitor and will provide timely guidance on any policy changes.

[See <http://www.ssa.gov/policy/docs/ssb/v48n4/v48n4p5.pdf>.]

1. **What is “medical improvement”?**  “Medical improvement” is defined as: A decrease in the medical severity of your impairment(s) which was present at the time of the most recent favorable medical decision that you were disabled or continued to be disabled.

[See 20 C.F.R §§404.159(b)(1)(i)]

1. **Are there any exceptions to the application of MIRS?** Yes, SSA’s regulations set forth the sequence of review for determining whether disability has ended. These are divided into 2 groups. Note that if one of the exceptions in the second group applies, a finding of “no disability” will result and benefits terminate, even if there has been no medical improvement and the individual cannot currently engage in Substantial Gainful Activity (SGA).
	1. *First Group*
		1. SGA
		2. Advances in medical or vocational technology or therapy
		3. Vocational therapy
		4. New or improved diagnostic techniques or evaluations
		5. The prior disability decision was in error
	2. *Second Group*
		1. Fraud
		2. Failure to cooperate
		3. Inability to locate
		4. Failure to follow prescribed treatment

[See 20 C.F.R §§404.159(b)(1)(i)]

4. **When do benefits terminate?** SSA will find disability ended in the earliest of the following months:

* The month evidence shows the individual is no longer disabled and the individual was disabled only for a specified period of time in the past;
* The month the evidence shows the individual is no longer disabled but not earlier than the month in which SSA notifies the individual;
* The month in which the individual returns to full-time work with no significant medical restrictions and acknowledges that medical improvement has occurred and SSA expected medical improvement;
* The month in which the individual fails without good cause to follow prescribed treatment;
* The first month the individual was told by his/her physician that s/he could return to work, in the absence of substantial conflict between the physician’s and the individual’s statements concerning the individual’s awareness of capacity for work and the earlier date is supported by substantial evidence;
* The first month in which the individual failed without good cause to cooperate.

[See 20 C.F.R. §§ 404.159(g), 416.994(b)(6)]

5. **What is the reversal rate for CDRs?** The reversal rates are very low. Therefore, the SOAR case manager is able to update the medical record with new medical evidence, MSR and other supporting documents to DDS. This process for CDRs as it relates to documenting disability is very similar to using the SOAR process at the initial and reconsideration stages.

6**. Is a CDR for children the same thing as an age 18 review?** No. Remember SSA uses the medical improvement standard for CDRs for children under age 18. However, children who were eligible for SSI prior to turning 18 will not receive a CDR using the medical improvement standard at age 18. Instead, they must be redetermined under the adult disability standard within one year from the date they attain age 18. The timeframes for child reviews are different than adults. SSA will notify a recipient that a review has begun and will invite the recipient to submit evidence of continuing disability. The SOAR case manager can assist DDS with providing updated medical and functional information.

[See 20 CFR 416.994a (f); 416.994a, POMS DI 28005.030(C); 416.994a (i)]

7. **Can you continue to receive benefits during an appeal?** Yes, at both the CDR Reconsideration and ALJ levels. To receive benefits continuing through reconsideration decision, claimants must appeal and elect continuing benefits within 10 days of receipt of the Reconsideration decision. The good cause for late appeal rules also apply to the 10 day continued benefit election period. When electing benefits continuing, claimants will be required to compete a statement of choice. Please go to POMS OS 15010.425 for a current copy of the form.

[See 404.1597a(f)(2)&(g)(3), 416.996( c)(2)&(d)(2); 404.1597(a)(d), 416.996(b)]

8.  **Our SOAR Program does not perform appeals or CDRs.** **How should we proceed in these cases?** If necessary, refer to your local Legal Services program. Also, check your state policy regarding attorney responsibility to provide pro bono “without fee or expectation of fee” legal services. Review the webinar on tips for how you can assist with providing updated medical and functional documentation and aid paid pending appeal.

9.  **Is there anything you can do as the representative to waive an overpayment of continued benefits?** Yes, if the medical termination was appealed in good faith. This means the individual cooperated in connection with the appeal, and SSA recovering these funds would defeat the purpose of the SSA Act, i.e.) claimant would be unable to pay rent, buy food, etc.

[See 20 CFR 404.1597a (j), 416.996(g), POMS GN 02250.036, SI 00260.0070]

10. **Does the CDR follow a sequential evaluation analysis similar to the initial application for SSI and SSDI benefits?** Yes, there is a 7 Step Medical Improvement Review Standard (MIRS) analysis for adults. Note: Step 4 is where you determine First and Second Group exceptions.

[See 20 CFR 404.1594(f), 416.004(b)(5); POMS DI 13000.000, POMS DI 28000.000]

For additional questions on CDRs, please speak to your local SSA contact or the SOAR TA Center at soar@prainc.com. Thank you!