

# The “Section 301” Rule

## **Continuing SSI or SSDI Benefits Following a Continuing Disability Review or Age 18 Redetermination and A Finding of Medical Improvement or Not Disabled**

Following a Continuing Disability Review (CDR), when a Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) recipient is found to be no longer medically disabled, benefits are ordinarily discontinued. Similarly, following an SSI “Age 18 Redetermination,” if the recipient is found to not meet the adult’s SSI disability standard, benefits are ordinarily discontinued.

**Section 301** protects the benefits of persons who are participating in an approved vocational rehabilitation (VR) program. It allows an SSI or SSDI recipient to continue to receive benefits after it is found that he or she is no longer disabled, or after it is found that the person is not disabled following an Age 18 Redetermination. The person must meet two requirements:

- ◆ The person must be already participating in the vocational rehabilitation (VR) program at the time the disability ends; AND
- ◆ The program must be expected to increase the likelihood of eliminating the future need for disability benefits.

Under this rule, cash benefits and entitlement to Medicaid or Medicare can be continued as long as the person is participating in the vocational program.

**What qualifies as an approved VR program?** Under the Social Security Administration’s most recent policy changes, the following programs would ordinarily meet the 301 criteria:

- ◆ Services pursuant to an Individual Plan of Employment (IPE), provided through a state VR agency, like New York’s VESID or the Commission for the Blind
- ◆ Services through a private VR agency
- ◆ Services through an employment network pursuant to the Ticket to Work program
- ◆ Special education services pursuant to an Individualized Educational Plan (IEP), even if there is no current vocational component (new in 2005)
- ◆ Services through an approved SSI Plan for Achieving Self Support (new in 2006)

If a claim is being medically reviewed, it is very important that the Social Security Administration’s claims representative be informed of any current vocational programs or plans. Be sure to include special education programs, vocational plans, and approved Plans for Achieving Self Support in any report forms being completed, as well as attaching copies of most recent IPE or IEP. (If Section 301 is found to be an issue, the case will be sent to Social Security’s Baltimore office for a separate payment decision.) If a medical decision indicates benefits will stop despite this information, the individual has a right to appeal the decision. In order to have checks continue during the appeal process, appeal must be requested within 10 days. The first stage of appeal is called Reconsideration. If that appeal is unsuccessful, the next stage is a hearing before an Administrative Law Judge. At both stages Section 301 evidence should be considered.