

The “Section 301” Rule

Continuing SSI or SSDI Benefits Following a Continuing Disability Review (CDR) or Age 18 Redetermination and a Finding of Not Disabled

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

Section 301 protects the benefits of persons who participate in an approved vocational rehabilitation program. It allows benefits to continue after the beneficiary is found to be no longer disabled, or after he or she is found to be not disabled following an Age 18 Redetermination. The person must meet two requirements:

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

Cash benefits (SSI and/or SSDI) and Medicaid/Medicare continue as long as the person participates in the approved VR program.

What qualifies as an approved VR program? The following would ordinarily meet 301 criteria:

- ◆ Services pursuant to an Individual Plan of Employment (IPE), provided through a state VR agency, like New York’s ACCES-VR 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
- ◆ Services through SSI’s Plan to Achieve Self Support (PASS)
- ◆ Services through an SSA demonstration project where services are expected to lead to employment

During a medical CDR, be sure to inform SSA of any current VR programs/plans. When completing forms, include special education programs, VR plans, an approved PASS plan, and attach copies of the most recent IPE or IEP. (Section 301 issues will be sent to SSA’s Baltimore office for a separate decision.) If a medical decision says benefits will stop despite this information, the person has a right to appeal within 60 days. To have payments continue during the appeal process, the appeal must be requested within 10 days. The first stage of appeal is called Reconsideration. If that appeal is unsuccessful, the next appeal is for a hearing before an Administrative Law Judge. At both stages Section 301 evidence should be considered.

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