

How to Help Individuals with Work and Medical Reviews



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Learning Objectives

1. Distinguish between work reviews and medical reviews
2. Describe the work review process
3. List tips for dealing with work reviews
4. Describe the medical review process
5. Explain the importance of the Ticket to Work and Section 301 for medical reviews
6. Define a Benefit to Work Coach's role regarding work and medical reviews

Continuing Disability Reviews

- ▶ Getting approved for Title II or SSI benefits is just the first step.
- ▶ Social Security reviews a person's eligibility for benefits periodically.
- ▶ If you get Title II benefits and you go to work, or your benefit status may have changed due to earnings, they conduct a "work continuing disability review", also called a "work CDR" or "work review".

Continuing Disability Reviews

- ▶ If you get Title II or SSI, the Social Security Administration (SSA) also checks from time to time to see if you still meet SSA's medical criteria for disability – a “medical continuing disability review”, also called a “medical CDR” or “medical review”.

Exercises

Exercise 1

When Social Security reviews the impact of a person's earnings on Title II benefits, it's called a:

- a. Medical CDR, or medical review
- b. Work CDR, or work review
- c. Redetermination

Exercises

Exercise 1

When Social Security reviews the impact of a person's earnings on Title II benefits, it's called a:

- a. Medical CDR, or medical review
- b. Work CDR, or work review **CORRECT**
- c. Redetermination

Exercises

Exercise 2

When Social Security reviews a person's disability to see if s/he has medically improved, it's called a:

- a. Medical CDR, or medical review
- b. Work CDR, or work review
- c. Bummer

Exercises

Exercise 2

When Social Security reviews a person's disability to see if s/he has medically improved, it's called a:

- a. Medical CDR, or medical review **CORRECT**
- b. Work CDR, or work review
- c. Bummer

Reporting Earnings and Work Incentive Use for Title II

- ▶ When a person starts working, s/he must report earnings to SSA.
- ▶ Initial earnings can be reported by:
 - ▶ Calling the local SSA office or 1-800-772-1213 to make a work report, or
 - ▶ Mailing a letter to the local SSA representative, or
 - ▶ Visiting the local SSA office

Reporting Earnings and Work Incentive Use for Title II

- ▶ Earnings should also be reported periodically, usually by submitting pay stubs to SSA, using the myWageReport option in a my Social Security account, or (for SSI), automated telephone or mobile app wage reporting.
- ▶ Reporting earnings regularly is the best way to avoid (or at least limit) overpayments.
- ▶ People who are using work incentives should document their work incentive use.

Reporting Earnings and Work Incentive Use for Title II

- ▶ Work incentives can be reported:
 - ▶ Using the Work Activity Report (SSA 821 or SSA 820) (for Title II)
 - ▶ With receipts or other proof of payment for Impairment Related Work Expenses (IRWEs)
 - ▶ Using the Work Activity Questionnaire (SSA 3033) for employer subsidies
 - ▶ With statements verifying subsidies for job coaching

Reporting Earnings and Work Incentive Use for Title II

- ▶ ALWAYS GET A RECEIPT WHEN REPORTING EARNINGS OR WORK INCENTIVES OR SUBMITTING ANY OTHER INFORMATION TO SSA.
- ▶ See “Reporting Wages and Work Incentive Use” webinar for more details.

Work CDRs

- ▶ When a beneficiary reports earnings, SSA determines whether a person receiving Title II benefits may be using TWP months or (if the Trial Work Period (TWP) is finished) doing SGA
- ▶ If so, SSA will conduct a work CDR to determine the person's work incentive and benefit status.

Work CDRs

- ▶ If earnings are not high enough to affect work incentive or benefit status, there is no need for SSA to perform a work CDR.
- ▶ Even if earnings have not been reported, SSA will eventually discover the person's earnings once the IRS reports earnings to SSA, and a work CDR may be initiated then.

How Does SSA Do a Work CDR?

- ▶ If earnings for a person who receives Title II appear high enough to possibly use TWP months or indicate substantial gainful activity (SGA), SSA will send a Work Activity Report – Employee (SSA-821 - <https://www.ssa.gov/forms/ssa-821.pdf>) or Work Activity Report – Self-Employment (SSA-820 - <https://www.ssa.gov/forms/ssa-820.pdf>) to the individual to complete.

How Does SSA Do a Work CDR?

- ▶ These forms document information about employer or self-employment, monthly earnings and some work incentives (e.g., IRWEs, subsidies and special conditions, unsuccessful work attempts (UWAs)).

How Does SSA Do a Work CDR?

- ▶ SSA will have entered the date the work CDR will go back to – usually either the date work started (if no previous work has been done since entitlement), or the date of the last work CDR.

Work Activity Report – Employee (SSA 821)

Work Activity Report - Employee

Identification - To Be Completed by SSA

Name of Claimant or Beneficiary	Claimant or Beneficiary's Own SSN	<input type="checkbox"/> Blind <input type="checkbox"/> Not Blind
Claim Number(s) & BIC		
Please use this form to describe your work activity since (Insert alleged onset date, date of entitlement, or last determination date, as appropriate)	DATE	

Work Activity Report – Employee (SSA 821)

- ▶ Question 3 asks for information about jobs worked, including earnings.

Attach copies of all your pay stubs from this employer or ask the employer for a wage print-out showing gross monthly earnings **since the DATE** shown in the Identification section.

- I have **ENCLOSED Pay Stubs or Gross Wage Print Outs.**
- I **DO NOT have Pay Stubs or Gross Wage Print Outs.** For any months that you DO NOT have pay stubs or a print-out, use the chart below to tell us how much you earned (before deductions) in each month.

Date Earned MM/YYYY	Amount	Date Earned MM/YYYY	Amount	Date Earned MM/YYYY	Amount
	\$		\$		\$

Work Activity Report – Employee (SSA 821)

- ▶ Question 4 asks about other payments the person received – such as sick, disability or vacation pay – from the employer. Remember sick, vacation, holiday and personal leave pay are deducted from earnings for SGA determinations.

4. Do or did you get any other payment(s) or benefit(s) from an employer **in addition to the regular pay** shown in Question 3?

NO. Go to Question 5.

YES. Please check all that apply below.

Sick Pay

Disability Pay

Vacation Pay

Tips

Bonus

Transportation

Car or Vehicle

Childcare

Meals

Room or Rent

Other (Please explain):

Work Activity Report – Employee (SSA 821)

- ▶ Question 5 documents information about subsidies and special conditions – extra help doing the job or reduced productivity – which may be important for Title II.

5. For any job(s) that you told us about in Question 3, have you worked under any special conditions listed below?

Yes	Special Condition	Employer Name	Date (MM/YYYY to MM/YYYY)	Please Describe
<input type="checkbox"/>	Had extra help, extra supervision or a job coach			
<input type="checkbox"/>	Worked irregular or fewer			

Work Activity Report – Employee (SSA 821)

- ▶ If the individual has reduced productivity or extra help from the employer, it helps to have the employer document this using a Work Activity Questionnaire (SSA 3033 - <https://www.ssa.gov/forms/ssa-3033.pdf>).
- ▶ If a supported employment agency provides job coaching, the agency should provide a letter.

Work Activity Report – Employee (SSA 821)

- ▶ Question 6A addresses possible unsuccessful work attempts. These are work efforts at or above SGA level, but that stop or drop below SGA within 6 months due to the person's disability.

6A. For any job that you told us about in Question 3, did you make any of the changes below since the **DATE shown in the Identification section** (Check all that apply).

Yes	Special Condition	Employer Name	Date (MM/DD/YYYY)	Reasons for Changes in Work Activity
<input type="checkbox"/>	Stopped working			<input type="checkbox"/> My physical and/or mental condition(s) <input type="checkbox"/> Special conditions that allowed me to work were removed <input type="checkbox"/> Other reasons (please explain in 6B)
<input type="checkbox"/>	Reduced my work hours			<input type="checkbox"/> My physical and/or mental condition(s) <input type="checkbox"/> Special conditions that allowed me to work were removed <input type="checkbox"/> Other reasons (please explain in 6B)

Work Activity Report – Employee (SSA 821)

- ▶ Question 7 covers IRWEs. Enter items/services, amounts paid and dates.
- ▶ Receipts, monthly statements or other proof of payment should be submitted with SSA 821.
- ▶ If it's not self-evident that an expense is related to the person's disability, SSA may request verification from a health care provider, and a provider's statement may be sent proactively.

Work Activity Report – Employee (SSA 821)

7. Do or did you spend any of your own money for items or services related to your physical and/or mental condition(s) that you needed in order to work and for which you did not get reimbursed? (For example; medicines or co-pays, medical devices or procedures, Braille equipment, special telephone or equipment, service animal, attendant care, modifications to a car used for work, or other special transportation.) We may ask you for proof of payment.

- NO.** I did not spend any of my own money for items or services related to my physical and/or mental condition.
- YES.** Please tell us what you paid below. Do not show any expenses that have been or will be paid by an insurance company, other organization, or other person.

Describe Item or Service	Cost	Date Paid (MM/YYYY-MM/YYYY)
Example: <i>Service animal</i>	\$100 per day, week, month, or year	01/2000 - 02/2000
	\$ _____ per _____	
	\$ _____ per _____	

Work Activity Report – Employee (SSA 821)

- ▶ NOTE: If the person does not want SSA to contact the employer (e.g., if the disability has not been disclosed), then this should be noted in the “Remarks” section.

Work Activity Report – Employee (SSA 821)

- ▶ After reviewing the SSA 821 or SSA 820 and supporting documents, SSA will send a letter explaining the results.
- ▶ The letter should indicate:
 - ▶ Whether TWP months have been used and how many (if TWP not previously exhausted)
 - ▶ If TWP is finished, when EPE started (month after TWP ended)
 - ▶ If TWP is finished, whether work after TWP was SGA

Exercises

Exercise 3

Giselle receives CDB and starts her first paid work since she became entitled to CDB. She earns gross wages of \$560/month.

- ▶ Does Giselle need a work CDR?

Exercises

Exercise 3

Giselle receives CDB and starts her first paid work since she became entitled to CDB. She earns gross wages of \$560/month.

- ▶ Does Giselle need a work CDR? **No. Earnings are below TWP amount.**

Exercises

Exercise 4

Gregor receives SSDI. He used his 9th TWP month last year. He starts a new job. He earns gross wages of \$1,560/month. He is not blind.

- ▶ Does Gregor need a work CDR?

Exercises

Exercise 4

Gregor receives SSDI. He used his 9th TWP month last year. He starts a new job. He earns gross wages of \$1,560/month. He is not blind.

- ▶ Does Gregor need a work CDR? **Yes. Gross wages are above non-blind SGA level.**

Exercises

Exercise 5

Gregor receives SSDI. He used his 9th TWP month last year. He starts a new job. He earns gross wages of \$1,560/month. He is not blind. He appears to have \$200/month IRWEs and \$180/month subsidies.

- ▶ Does Gregor need a work CDR?

Exercises

Exercise 5

Gregor receives SSDI. He used his 9th TWP month last year. He starts a new job. He earns gross wages of \$1,560/month. He is not blind. He appears to have \$200/month IRWEs and \$180/month subsidies.

- ▶ Does Gregor need a work CDR? **Yes. SSA needs to determine whether his IRWEs and subsidies will keep his earnings below SGA.**

Will SSA Do More Work CDRs?

- ▶ SSA is supposed to do work CDRs when necessary – e.g., when the person may be doing SGA after the TWP.
- ▶ However, work CDRs rarely happen promptly when they should.

Will SSA Do More Work CDRs?

- ▶ SSA workers are overwhelmed with work and can't keep up.
- ▶ As a result, people often continue receiving Title II payments longer than they should, and overpayments happen despite best efforts.

What Can People on Title II Do?

1. **Report earnings and request work reviews when changes occur that may affect benefit status (earnings go above or below TWP level, above or below SGA after the TWP).** When SSA has entered earnings in their system, it's assumed that earnings will continue at that level until new data are entered.

What Can People on Title II Do?

- 2. Be aware when Title II payments SHOULD stop.** Track TWP, SGA, grace period. If working at SGA level, know when last Title II payment should be received.

What Can People on Title II Do?

- 3. Don't assume that if Title II payments keep coming that the person **SHOULD** receive them.** If a person on Title II is doing SGA after the TWP and grace period, it may just mean SSA has not caught up yet.

What Can People on Title II Do?

- 4. Know that even if an overpayment is not one's fault, s/he may still be responsible for repaying it.** An overpaid person can be granted a waiver of overpayment, but only if (1) it wasn't his/her fault (i.e., earnings were reported), and (2) it would defeat the purpose of the program for the overpayment to be recovered (generally, the person couldn't afford to pay back even a little at a time).

What Can People on Title II Do?

- 5. If the person continues receiving Title II payments longer than s/he should, don't spend the money.** Make a plan to save the extra Title II funds until SSA sends the inevitable overpayment notice.

What Can People on Title II Do?

- 6. For people who plan to do SGA and have Title II payments stop, get used to living on earnings alone.**
Save the Title II payments received during the TWP and grace period. The person will get in the habit of living on the income s/he will have in the long term – instead of both earnings AND Title II – and will have a nice amount saved from Title II payments.

Exercises

Exercise 6

Stefania receives CDB and used up her 9th TWP month two years ago. She started a job in January earning \$1,040/month gross wages. She reported her wages to SSA. Her earnings increased to \$1,559/month this month. She has possible IRWEs and subsidies that total about \$400/month.

- ▶ What should Stefania do?

Exercises

Exercise 6

Stefania receives CDB and used up her 9th TWP month two years ago. She started a job in January earning \$1,040/month gross wages. She reported her wages to SSA. Her earnings increased to \$1,559/month this month. She has possible IRWEs and subsidies that total about \$400/month.

- ▶ What should Stefania do? **Report her increased earnings to SSA, request a work review, and document her IRWEs and subsidies**

Exercises

Exercise 7

Dimitri receives \$850/month SSDI. He just started his first paid work since he became entitled to SSDI. He earns gross wages of \$2,600/month. He is not blind. He has minimal IRWE's and no subsidies.

- ▶ Name 3 things Dimitri should do.

Exercises

Exercise 7

Dimitri receives \$850/month SSDI. He just started his first paid work since he became entitled to SSDI. He earns gross wages of \$2,600/month. He is not blind. He has minimal IRWE's and no subsidies.

- ▶ Name 3 things Dimitri should do. **Report his wages to SSA and request a work review, save his SSDI and don't spend it, be prepared to repay any SSDI he gets after 12 months.**

Medical CDRs for Title II and SSI

- ▶ SSA reviews a person's disability periodically to see whether s/he has "medically improved" (also known as "medically ceased" or "medically recovered").
- ▶ If the person has medically improved, then benefits usually continue for two full calendar months after the month the notice is dated, then are terminated.

Medical CDRs for Title II and SSI

- ▶ However, there are exceptions when benefits may continue longer – if the person appeals within 15 days of the date on the notice of medical improvement, or is approved for Section 301 (see below).
- ▶ Disability determination service conducts medical CDRs for SSA.

How Often Do Medical CDRs Occur?

- ▶ It depends on how likely SSA determines it is that the disability will improve.
- ▶ Medical CDRs are supposed to be scheduled as follows:
 - ▶ **Medical improvement expected** - every 6 – 18 months.
 - ▶ **Medical improvement possible** - every 3 years.
 - ▶ **Medical improvement not expected** - every 5 – 7 years.

How Often Do Medical CDRs Occur?

- ▶ Medical CDR's are often delayed longer – many are years later - due to SSA's workload and budget issues.
- ▶ GOOD NEWS: If a medical CDR is delayed, there is no penalty to the individual. Even if s/he medically improved before the medical CDR, benefits won't stop until 2 full calendar months after the date of the notice of medical improvement.

What Is the Standard of Proof for a Medical CDR?

- ▶ The “medical improvement review standard” – the disability must have medically improved since the last medical review
- ▶ The burden of proof is on SSA to show that the disability has improved.
- ▶ This is different from the standard used for initial applications, when the applicant must show that s/he meets SSA’s definition of disability.

What Is the Standard of Proof for a Medical CDR?

- ▶ The ability to perform SGA is one factor in a medical CDR, but the person must also have medically improved to be found ineligible for benefits.
- ▶ Performing SGA alone will not cause a finding of medical improvement.

How Is a Medical CDR Conducted?

- ▶ SSA usually mails a brief form – the Disability Update Report (SSA-455) - asking some questions about returning to work and medical improvement.
- ▶ If the answers don't suggest medical improvement or increased work activity, the medical CDR may end here.
- ▶ If the answers suggest further investigation is needed, DDS will send longer forms to complete and review medical records.

Exercises

Exercise 8

Luke receives SSDI. SSA has established that it's possible his disability may improve ("medical improvement possible"). Luke's last medical review was 5 years ago.

- ▶ Is Luke due for a medical CDR?

Exercises

Exercise 8

Luke receives SSDI. SSA has established that it's possible his disability may improve ("medical improvement possible"). Luke's last medical review was 5 years ago.

- ▶ Is Luke due for a medical CDR? **Yes. He should have one about every 3 years.**

Exercises

Exercise 9

Luke appears to be performing SGA. There has been no change in his medical disability status since his last medical CDR.

- ▶ When Luke has his next medical CDR, should he likely be determined to have medically improved?

Exercises

Exercise 9

Luke appears to be performing SGA. There has been no change in his medical disability status since his last medical CDR.

- ▶ When Luke has his next medical CDR, should he likely be determined to have medically improved? **No.**
Although he may be doing SGA, his medical status has not improved.

Two Work Incentives Relate to Medical CDRs

- ▶ Ticket to Work
- ▶ Section 301

Ticket to Work

- ▶ SSA program that helps beneficiaries receive services needed to support work at SGA level
- ▶ Ticket is assigned to either a:
 - ▶ State Vocational Rehabilitation (VR) agency (Michigan Rehabilitation Services (MRS) or Bureau of Services for Blind Persons (BSBP)) or
 - ▶ Employment Network (EN) registered with SSA
- ▶ State VR agency or EN provides services to individual

Ticket to Work

- ▶ EN gets payments when individual achieves certain earnings levels (usually SGA)
- ▶ State VR agency gets “cost reimbursement” (bills SSA for all rehab costs for person) if individual works 9 (usually consecutive) months at SGA

Protection from Medical CDRs

- ▶ A beneficiary is protected from medical CDRs if:
 - ▶ His/her Ticket is assigned to a state VR agency or EN, AND
 - ▶ S/he makes “timely progress”

Protection from Medical CDRs

- ▶ Timely progress criteria are very specific, and tied to the year of Ticket assignment.
- ▶ Criteria are generally more difficult the longer the Ticket has been assigned.
- ▶ Timely progress can be met through work at certain earnings, education, or a combination of both.

Protection from Medical CDRs

- ▶ Find timely progress criteria at <http://www.ssa.gov/pubs/EN-05-10062.pdf>
- ▶ Ticket Hotline – 1-866-968-7842 – can verify timely progress status for individual
- ▶ If the person is protected from medical CDRs, then SSA can't find that s/he has medically improved...even if s/he has.

How Long Can Protection from Medical CDRs Last?

- ▶ As long as Ticket is assigned and timely progress is met
- ▶ No specific time limit if Ticket is assigned to state VR agency
- ▶ If Ticket is assigned to EN, medical CDR protection can last until EN has received all possible Ticket payments – usually up to 47 months for Title II and up to 78 months for SSI

Can Medical CDR Protection Continue After State VR Agency Closes Case?

- ▶ Yes
- ▶ After VR closure, beneficiary may assign Ticket to an EN within 90 days
- ▶ If timely progress continues, medical CDR protection will continue
- ▶ NOTE: EN's will usually accept Ticket assignments only from beneficiaries whose goal is SGA level work.

How to Prepare People for Protection from Medical CDRs

- ▶ If a person is concerned about medical CDRs:
 1. Discuss Ticket and timely progress criteria with them
 2. Call Ticket Hotline at 1-866-968-7842 to verify individual's current timely progress requirement

How to Prepare People for Protection from Medical CDRs

3. If individual wants to perform timely progress to get medical CDR protection, make sure s/he understands the specific criteria s/he must meet
4. Discuss with VR counselor to incorporate in plan for Individualized Plan for Employment (IPE)
5. Encourage individual to think about ENs to assign Ticket to after VR closure – see www.chooseworkttw.net/findhelp

Section 301

- ▶ Work incentive that allows some individuals to keep Title II and Medicare, or SSI and Medicaid, for a period of time after they have been found medically improved through a medical CDR
- ▶ To be eligible, must:
 1. Have been found medically improved through a medical CDR,
 2. Have been participating in a written plan of vocational rehabilitation or similar services since before the month of the notice of medical improvement,

Section 301

- ▶ To be eligible, must:
 3. Continue participating in services for at least two full calendar months after the month of the notice, and
 4. Have SSA determine that participation in services will decrease the likelihood that the person will go back on benefits in the future

Section 301

- ▶ Title II and Medicare, or SSI and Medicaid, can continue until the earliest of the following:
 - ▶ Program participation is completed, or
 - ▶ Individual stops participating in program (except for temporary interruptions of up to 3 months), or
 - ▶ SSA determines that continued participation will no longer decrease the likelihood that the person will go back on benefits in the future

Section 301

- ▶ If a person on Title II does paid work as part of written plan, SSA does NOT determine whether earnings are SGA. Paid work as part of plan has no impact on Title II during Section 301 payments.

Section 301

- ▶ If a person on SSI does paid work as part of written plan, SSA computes SSI payments in the usual way, using all relevant work incentives (SEIE, IRWE, BWE, 1619(b)).
- ▶ A Plan to Achieve Self Support (PASS) that existed before medical improvement may continue while the person receives Section 301 payments, but a new PASS may not be initiated.

Comparing Ticket to Work & Section 301

- ▶ Ticket to Work can provide greater protection than Section 301.
- ▶ If the Ticket is assigned and timely progress is made, SSA can't do a medical CDR.
- ▶ Benefits continue – even if the person has medically improved.

Comparing Ticket to Work & Section 301

- ▶ Delays medical CDRs for as long as Ticket is assigned and timely progress is met – often for several years.
- ▶ Section 301 does NOT protect beneficiaries from medical CDRs.
 - ▶ It only continues benefits for a limited period if a medical CDR shows the person has medically improved.

Exercises

Exercise 10

Sally receives SSI. She has a case open with MRS and her Ticket is assigned to the agency. Her case has been open for 9 months. She started a full-time job last month – her first paid work since she became eligible for SSI.

Sally gets a notice from SSA stating that she is due for a medical CDR.

- ▶ What is Sally's best protection for her SSI?

Exercises

Exercise 10

Sally receives SSI. She has a case open with MRS and her Ticket is assigned to the agency. Her case has been open for 9 months. She started a full-time job last month – her first paid work since she became eligible for SSI.

Sally gets a notice from SSA stating that she is due for a medical CDR.

- ▶ What is Sally's best protection for her SSI? **Ticket to Work. It's assigned and she is making timely progress, so she is exempt from the medical CDR.**

Exercises

Exercise 11

Jasper receives SSDI. He gets services from an American Job Center. He had a medical CDR and just received a letter stating that he has medically improved and his SSDI will continue for two months and then terminate.

- ▶ What is Jasper's best protection for his SSDI?

Exercises

Exercise 11

Jasper receives SSDI. He gets services from an American Job Center. He had a medical CDR and just received a letter stating that he has medically improved and his SSDI will continue for two months and then terminate.

- ▶ What is Jasper's best protection for his SSDI? **Section 301. He can also appeal the medical CDR decision.**

Your Role Regarding Work and Medical CDRs

- ▶ A Benefit to Work Coach should:
 - ▶ Explain to individuals what to expect when they get notice of work or medical CDRs
 - ▶ Advise the person about documents to gather
 - ▶ Refer the person to a Benefit Planner for assistance with a work or medical CDR, and to use related work incentives, such as Ticket to Work and Section 301