



14 April 2025

Leland 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 the Urban Justice Center’s Mental Health Program and the Empire Justice Center.

The Mental Health Project (MHP) started in 1994 as a foundational project of the Urban Justice Center (UJC) and its mission today is to disrupt and dismantle the cycle of hospitalization, homelessness and incarceration that traps low-income individuals with mental health concerns in New York City. UJC provides a range of services to low-income individuals with mental health concerns, including representation before SSA in appealing the denial of disability benefits.

The Empire Justice Center is a statewide not-for-profit law firm based in New York. Our mission is to protect and strengthen the legal rights of New Yorkers through direct civil representation, training, technical assistance, and public policy work. As part of our mission, we represent numerous low-income individuals with disabilities before SSA under our Disability Advocacy Program (DAP).

As statewide co-coordinators of New York’s DAP, Empire Justice and MHP work with advocates throughout the State who provide similar services, in particular advocates who are funded by the State of New York under a DAP grant to represent low-income claimants who have

been denied disability benefits. Each year, the DAP program serves thousands of low-income New Yorkers statewide.

We submit these comments on behalf of the DAP program.

Overview

We welcome revisions to shorten, simplify and use plain language in SSA forms. We write to support changes generally to SSA-789 but to suggest one more change: add specific language allowing beneficiaries to elect Statutory Benefit Continuation (SBC) on this form so that beneficiaries do not need to complete a second, separate form.

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 allows the beneficiary to appeal a medical cessation but does not allow the beneficiary to elect SBC nor does it inform the reader of the option to complete a second form to elect SBC if applicable. To elect SBC, the beneficiary must complete a separate form – the SSA-795 Statement of Claimant or Other Person. SSA should take this opportunity to consolidate the two actions into one form, which will be more efficient and also increase the public’s understanding of SBC options.

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

First, consolidating the appeal request and SBC election into one form would result in greater efficiency for SSA because agency staff will only have to process one form instead of two.

Second, consolidating the SBC election will allow SSA to standardize this language and fix deficiencies previously identified. 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 eliminate or 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. The

revised form should also note the SBC election time period (currently 10 days) and leave space for the beneficiary to provide good cause reasons for late election.

One further step toward reducing burden on current staffing would be for SSA to use 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.

Finally, it is worth noting that a consolidated form would make it easier for beneficiaries to complete and submit needed paperwork quickly and completely, reducing the burden on the agency's customers. It will support the agency's goal to provide quality customer service by providing efficient forms and by providing clear notice of SBC rights and options.

Consider Increasing the Time Period to Elect SBC

Currently, a beneficiary 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). A beneficiary may request good cause to excuse a later filing, but that request is discretionary and not uniformly honored in our experience. SSA should consider formal rulemaking to extend the election period for SBC to 60 days (plus 5 days for mailing) 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, it is increasingly difficult to reach Field Office staff by telephone to ask questions about appeals or to file an appeal. SSA also recently changed its policy to reduce or eliminate in-person walk-in services in favor of appointments, and we already have Field Offices telling customers that they have no available appointments and customers must call back in two weeks to try again. Following these directions from FO staff leads to late filing of SBC elections. Finally, as noted above, there is no on-line option to file the SBC form. SSA's own actions have made it much harder for a beneficiary to file an appeal, so SSA should extend the period to request SBC to the full appeal period of 60 days.

Thank you for your consideration of these comments.

Respectfully submitted,

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