

CLASP

The Center for Law and Social Policy

November 28, 2023

Submitted online via <https://www.regulations.gov>

Social Security Administration
6401 Security Boulevard

Re: Intermediate Improvement to the Disability Adjudication Process: Including How We Consider Past Work

Dear Acting Commissioner Kijakazi:

We are writing in response to the “Notice of Proposed Rulemaking: Intermediate Improvement to the Disability Adjudication Process: Including How We Consider Past Work.” The Center for Law and Social Policy (CLASP) is a national, nonpartisan, anti-poverty advocacy organization advancing policy solutions at the legislative and administrative level to improve economic prosperity for individuals and families with low incomes. We support this proposed rule because it would reduce the administrative burden for applicants of the Supplemental Security Income (SSI) program by revising the definition of past relevant work (PRW).

The proposed rule would change the definition of PRW by decreasing the relevant work period for SSI applicants from fifteen years to five years. Applicants often need to report specific details about their prior work history through the Adult Disability Report (form SSA-3368) when applying for benefits. For prior jobs that an applicant held, the Social Security Administration (SSA) asks them to report the dates they worked in the job, their rate of pay, the work hours per day and week, and descriptions of the jobs, which include details of all duties performed, and any tools that they used in the position. SSA also requests information from applicants of how much walking, standing, sitting, lifting, and carrying was required each day for their prior jobs, and the weight and frequency of lifting required.

These details are difficult to recall, especially given the longer duration of time that is required for applicants to report. Being asked to provide this information may be time-consuming, stressful, and difficult for applicants. Likely, many applicants will not recall this level of detail for prior jobs over a fifteen-year trajectory, and will be forced to guess the information, which risks them underestimating the level of physical activity that was required for the position, or to leave sections of their application blank. In the proposed rule, SSA estimates that only about 30 percent of applications that have fifteen years of employment history include sufficient level of details at the time of their initial application.¹ The burden can fall on SSA to contact applicants, prior employers, and/or third parties to fill in the missing information, causing increased time and burden for the agency. The preamble for the proposed rule

¹ Federal Register, “Intermediate Improvement to the Disability Adjudication Process: Including How We Consider Past Work,” September 2023, <https://www.federalregister.gov/documents/2023/09/29/2023-21557/intermediate-improvement-to-the-disability-adjudication-process-including-how-we-consider-past-work>.

identifies that, “Our task of developing complete information about how a particular job was performed can be difficult and time consuming because individuals, past employers, and other third parties might not recall the details of nor have records for work performed many years in the past.” This is only more difficult when enough time has passed so that prior businesses and employers no longer exist, further complicating the information gathering process. By removing this level of burden for the agency, it can allow the opportunity for SSA to improve other areas of customer support for SSI applicants and recipients.

Reducing the PRW period to five years would reduce the amount of information applicants would be required to report, therefore decreasing the burden and time required for both the applicant and the agency. We believe this proposed rule would ease the application process for all parties involved, while still collecting the most relevant information that is needed for the agency to make an accurate determination based on the work history of the individual.

In addition, the proposed change reflects shifts in employment and our economy, as well as research on the relevance of prior work experience and skills. As the preamble identifies, workers are more likely to switch jobs more frequently today than they were when the SSI program was implemented decades ago. This makes the process of retrieving information about prior jobs harder. In addition, the preamble names that our national economy has shifted enough that it’s no longer realistic to assume that skills acquired in a position fifteen years ago would still be applicable to today’s job market. Over time, work skills can become less relevant. Decreasing the time-period from fifteen years to five years reflects this reality, in addition to reducing administrative burden for applicants.

We support this proposed rule because it would improve the application process for SSI applicants and for SSA, as well as better reflect the realities of our current labor market. Rather than asking SSI applicants to retrieve detailed information about a job from fifteen years prior, such as how heavy of objects they needed to lift each day of their prior job, we should focus applicants’ and the agency’s time and energy on more timely and relevant information.

Sincerely,

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